

Agenda
Edina Housing and Redevelopment Authority
City of Edina, Minnesota
Edina City Hall Council Chambers
Wednesday, September 7, 2022
7:00 PMSpecial Meeting- Immediately following the City Council Meeting
Watch the meeting on cable TV or at EdinaMN.gov/LiveMeetings or
[Facebook.com/EdinaMN](https://www.facebook.com/EdinaMN).

Participate in Community Comment

Call 888-504-7949

Enter Participant Passcode 949937

Press *1 on your telephone keypad when you would like to get in the queue to speak.
An operator will introduce you when it is your turn.

- 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.

- A. Executive Director's Response to Community Comments
- 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: Regular, July 21, 2022
- B. Approve Loan Agreement with Brainerd Entertainment LLC dba Mann Theatres
- C. Resolution 2022-09: Authorizing an Interfund Loan for Eden Willson Tax Increment Financing District
- D. Request for Purchase: 5146 Eden Ave Engineering Services for Re-Zoning Application

VI. Executive Director's Comments

VII. HRA Commissioners' Comments

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.

VIII. Adjournment



Edina Housing and Redevelopment
Authority
Established 1974

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

Date: September 7, 2022

Agenda Item #: IV.A.

To: Chair & Commissioners of the Edina HRA

Item Type:
Other

From: Liz Olson, Administrative Support Specialist

Item Activity:
Information

Subject: Executive Director's Response to Community
Comments

ACTION REQUESTED:

None.

INTRODUCTION:

Executive Director Neal will respond to questions asked at the previous council meeting.



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CITY OF EDINA
HOUSING & REDEVELOPMENT
AUTHORITY

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

Date: September 7, 2022

Agenda Item #: V.A.

To: Chair & Commissioners of the Edina HRA

Item Type:
Minutes

From: Liz Olson, Administrative Support Specialist

Item Activity:
Action

Subject: Approve Minutes: Regular, July 21, 2022

ACTION REQUESTED:

Approve the minutes from July 21, 2022.

INTRODUCTION:

ATTACHMENTS:

Draft Minutes from July 21, 2022

**MINUTES
OF THE REGULAR MEETING OF THE
EDINA HOUSING AND REDEVELOPMENT AUTHORITY
JULY 21, 2022
7:30 A.M.**

I. CALL TO ORDER

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

II. ROLL CALL

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

Absent: Commissioner Jackson.

III. PLEDGE OF ALLEGIANCE

IV. MEETING AGENDA APPROVED - AS PRESENTED

Motion by Commissioner Staunton, seconded by Commissioner Pierce, approving the meeting agenda as presented.

Roll call:

Ayes: Anderson, Pierce, Staunton, and Hovland

Motion carried.

V. COMMUNITY COMMENT

No one appeared.

VA. EXECUTIVE DIRECTOR'S RESPONSE TO COMMUNITY COMMENT

None.

VI. CONSENT AGENDA ADOPTED - AS PRESENTED

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

VI.A. Approve Minutes of the Regular Meeting June 30, 2022

VI.B. Approve Payment of Claims for Payment for Check Register Pre-List Dated June 2, 2022, totaling \$1,056,952.97

VI.C. Approve Request for Purchase, Professional Services for Eden Grange Roundabouts, awarding the bid to the recommended low bidder, Short Elliot Hendrickson, \$301,588

Rollcall:

Ayes: Anderson, Pierce, Staunton, and Hovland

Motion carried.

VII. REPORTS AND RECOMMENDATIONS

VII.A. APPROVE 2620 W. 77TH STREET – RECOMMENDED TERM SHEET FOR HRA PUBLIC ASSISTANCE - APPROVED

Affordable Housing Development Manager Hawkinson stated this item pertained to The Solhem Companies' proposal for a 276-unit multi-family development located at 4620 W. 77th St. called the Fred II. To develop this new housing, the developers had identified a gap of up to \$9,351,000. Financial assistance was being requested due to the extraordinary soil conditions caused by a high-water table, public access to the Fred Richards Park, the inclusion of affordable and "attainable" housing, and costs associated with recent passage of Sustainability Guidelines. The identified funding sources would be TIF pooled funds from the Pentagon Park Redevelopment TIF District and SPARC. She noted there was a limit to leveraged debt or equity because the project

was not a luxury building as the proposed rents were attainable and included 28 units of affordable rents and 110 units that would not exceed 120% AMI. She reviewed the site's current conditions that was underutilized but along the transit corridor with road, pedestrian and bike trail access for the public from West 77th Street. She noted the project had not yet gone for bid but was estimated to cost \$85,303,000. Ms. Hawkinson reviewed the term sheet in detail that included a pay-go note of up to \$7.351 million for soil correction, storm water, public streets and sidewalks, and demolition costs and up to \$2 million in a forgivable loan for the road and pedestrian plaza. She stated the proposed timeline included full site plan approvals by April 2023, construction beginning July 2023, and completion in November 2024 and that the project met the "but-for" test then outlined the public benefits of the project further.

Nick Anhut, Ehlers and Associates, spoke about acquisition and efficiencies of obtaining the easement for the road as this would be part of private development and have the ability to impose standards through a development agreement but noted if conveyed as an easement a public improvement would be more costly and less efficient. He clarified all elements were TIF eligible but noted there was a limited amount of available dollars and that staff was not recommending more funds but be open for a broader scope of TIF funds that would be reduced where possible.

The Board asked questions and provided feedback.

Tony Gleekel, attorney, stated Pentagon North/Hillcrest still owned the 4600 building and The Solhem had agreed to grant a permanent easement for the road to go east. He said the agreement for Pentagon South redevelopment agreement would set forth the TIF use and conditions that could convey parking and plaza easements and be worked through as part of private redevelopment or The Solhem would need to deliver that easement. He stated Hillcrest would be a party to the easement and would convey and deliver the easement similar to Pentagon South as a condition of delivery of TIF funds.

Member Staunton made a motion, seconded by Member Pierce, approving the Term Sheet for the Fred II and authorize staff to work with financial and legal advisors to work towards a Redevelopment Agreement as presented.

Rollcall:

Ayes: Anderson, Pierce, Staunton, and Hovland

Motion carried.

VIII. HRA COMMISSIONERS' COMMENTS – Received

IX. EXECUTIVE DIRECTOR'S COMMENTS – Received

X. ADJOURNMENT

Motion made by Commissioner Staunton, seconded by Commissioner Anderson, to adjourn the meeting at 8:14 a.m.

Roll call:

Ayes: Anderson, Pierce, Staunton, and Hovland

Motion carried.

Respectfully submitted,

Scott Neal, Executive Director



Edina Housing and Redevelopment
Authority
Established 1974

CITY OF EDINA

HOUSING & REDEVELOPMENT

AUTHORITY

4801 West 50th Street

Edina, MN 55424

www.edinamn.gov

Date: September 7, 2022

Agenda Item #: V.B.

To: Chair & Commissioners of the Edina HRA

Item Type:
Report / Recommendation

From: Bill Neuendorf, Economic Development Manager

Item Activity:

Subject: Approve Loan Agreement with Brainerd
Entertainment LLC dba Mann Theatres

Action

ACTION REQUESTED:

Approve the Loan Agreement with Brainerd Entertainment, LLC dba Mann Theatres for the Edina Theater Revitalization Project

INTRODUCTION:

This item pertains to the rehabilitation and re-occupancy of the Edina Theater located at 3911 West 50th Street and is a companion to the ARPA Grant Agreement with the property owner JSG Company, LLC that was approved by the City Council.

On October 11, 2021, the Edina HRA expressed support to provide \$500,000 to the property owner and new theater operator so that the aging and vacant facility could be renovated and restored to use.

In February 2022, Brainerd Entertainment LLC dba Mann Theatres entered into a lease with the property owner (JSG Company). Based on the financial support of the HRA and the lease terms, Mann Theatres began to renovate the facility in early spring. The renovations were more extensive and more costly than initially anticipated. When complete, the new operators expect to invest more than \$2.6 million to fully renovate and restore the four auditoriums, the common areas and the historic sign. The facility is anticipated to re-open on September 30, 2022.

Dorsey and Whitney, the HRA's special legal counsel for redevelopment prepared a forgivable loan agreement based on the October 2021 term sheet. The amount of the forgivable loan is \$351,000. The amount the ARPA grant (approved separately by City Council) is \$149,000. Together, the grant and forgivable loan provide the pledged amount. The operator is agreeable to the terms of this agreement.

Staff recommends approval of the Loan Agreement.

ATTACHMENTS:

Edina Theatre Loan Agreement 2022

Term Sheet October 2021

Staff Presentation October 2021

LOAN AGREEMENT

Between

EDINA HOUSING AND REDEVELOPMENT AUTHORITY

And

BRAINERD ENTERTAINMENT, LLC
DBA MANN THEATRES

for the

EDINA THEATER REVITALIZATION PROJECT

Dated as of September 7, 2022

This Document Was Drafted By:

DORSEY & WHITNEY LLP (GIT)
Suite 1500
50 South Sixth Street
Minneapolis, Minnesota 55402

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LOAN AGREEMENT

THIS Loan Agreement (this “Agreement”), made and entered into as of this 7th day of September, 2022, between the Edina Housing and Redevelopment Authority, a political subdivision of the State of Minnesota (the “HRA”), and Brainerd Entertainment, LLC, a Minnesota limited liability company, dba Mann Theatres (the “Borrower”).

WITNESSETH:

WHEREAS, the Edina Theater (the “Facility”) closed to the public in March 2020 due to the COVID-19 pandemic, and the former tenant vacated the premises after challenges in the industry and the pandemic threatened the viability of operations; and

WHEREAS, the Borrower (the tenant), intends to revive and renovate operations at the Facility (the “Project”), and JSG Company, LLC, the landlord, and the Borrower have entered into a multi-year lease (the “Lease”) of the property (the “Property,” as further described herein) located within the City of Edina, Minnesota (the “City”); and

WHEREAS, the Property is located within the boundaries of the 50th & France Commercial Area, and in accordance with Chapter 24, Article V (Sec 24-165 to 24-168) of the Edina City Code, the City has granted access to the public parking facilities, public sidewalks and commercial trash collection facilities to serve the Property while being partially responsible for the costs to maintain and repair the public parking facilities and public sidewalks.

WHEREAS, on October 14, 2021, the HRA approved a Business Term Sheet for Revitalization and Re-Occupancy for the Project that was agreed to by the Borrower (the “Term Sheet”); and

WHEREAS, the HRA believes the Project is in the best interest of the City and desires to assist in providing financial support for the Project; and

WHEREAS, pursuant to the temporary authority for use of increment granted by Minnesota Statutes, Section 469.176, subdivision 4n (the “Act”), on October 28, 2021 the HRA adopted, and on November 16, 2021, the City approved a written spending plan for unobligated tax increment monies for the Southdale 2 TIF District, Pentagon Park TIF District, and 70th and Cahill TIF District (the “Spending Plan”);

WHEREAS, pursuant to the Act, the HRA will, pursuant to the terms set forth in the Term Sheet and herein, provide a loan of unobligated tax increment revenue to the Borrower to assist in financing the Project; and

WHEREAS, pursuant to the Term Sheet, the City and HRA intend to complete improvements to public sidewalks and public parking facilities adjacent and ancillary to the Facility (the “Improvements”), which improvements will be financed by the City and HRA with unobligated tax increment;

NOW, THEREFORE, in consideration of the foregoing premises and the mutual obligations set forth in this Agreement, the parties hereto hereby agree as follows:

ARTICLE 1
Definitions

1.01. Definitions.

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

“Act” means Minnesota Statutes, Section 469.176, subdivision 4n.

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

“Borrower” means Brainerd Entertainment, LLC, a Minnesota limited liability company, dba Mann Theatres.

“Business Subsidies Act” means M.S., Sections 116J.993 through 116J.995.

“Certificate of Completion” means a certification in the form attached hereto as Exhibit C, to be provided to the Borrower pursuant to this Agreement.

“Certificate of Forgiveness” means a certification in either of the forms attached hereto in Exhibit D, to be provided to the Borrower pursuant to this Agreement, representing either full or partial forgiveness of the Loan.

“City” means the City of Edina, Minnesota.

“County” means the Hennepin County, Minnesota.

“Default Notice” means written notice from the HRA to the Borrower setting forth the Event of Default and the action required to remedy the same.

“Event of Default” means as any of the events set forth in Section 7.01 hereof.

“Facility” means the Edina Theater located at 3911 West 50th Street in Edina Minnesota.

“Full Forgiveness Date” means the date on the six year anniversary of the delivery of the Certificate of Completion.

“HRA” means the Edina Housing and Redevelopment Authority.

“Improvements” means the improvements to public sidewalks and public parking facilities adjacent and ancillary to the Facility to be completed by the City and financed by the HRA with unobligated tax increment, as described in greater detail in Exhibit B to this Agreement.

“Indemnified Parties” shall have the meaning set forth in Section 4.01 herein.

“Lease” means the lease agreement between the Owner and the Borrower.

“Legal and Administrative Expenses” means the fees and expenses incurred by the HRA in connection with review and analysis of the development proposed under this Agreement, the preparation of this Agreement including, but not limited to, attorney and municipal advisor fees and expenses.

“Loan” means the loan in the principal amount of \$351,000 from the HRA to the Borrower, to be evidenced by the Note.

“M.S.” means Minnesota Statutes.

“Note” means the Note (Edina Theater Revitalization Project), evidencing the Loan, to be executed by the Borrower and delivered to the HRA, the form of which is attached hereto as Exhibit E.

“Owner” or “Landlord” means JSG Company, LLC, a Minnesota limited liability company.

“Partial Forgiveness Date” means any date before the six year anniversary of the delivery of the Certificate of Completion.

“Project” means the renovation of the Facility, as described in greater detail in Exhibit B to this Agreement.

“Property” means real property located at 3911 West 50th Street, Edina Minnesota aka Parcel Identification No. 1802824410052 and as legally described in Exhibit A.

“Qualified Costs” means costs incurred by Borrower in connection with the Project, which are shown on Exhibit B to this Agreement.

“Renovation Plans” means the plans, specifications, drawings and related documents for the renovation work to be performed by the Borrower on the Property.

“Scope of Work” means the description of the work activities, deliverables, and timeline for the Project approved by the HRA on October 14, 2021.

“Section” means a Section of this Agreement, unless used in reference to M.S.

“Spending Plan” means the written spending plan for unobligated tax increment monies for the Southdale 2 TIF District, Pentagon Park TIF District, and 70th and Cahill TIF District adopted by the HRA on October 28, 2021, and approved by the City on November 16, 2021.

“State” means the State of Minnesota.

“Termination Date” means the earlier of the date (i) a Certificate of Forgiveness is provided to the Borrower from the HRA, or (ii) the date this Agreement is terminated or rescinded in accordance with its terms.

“Unavoidable Delay” means a failure or delay in a party’s performance of its obligations under this Agreement, or during any cure period specified in this Agreement which does not entail the mere payment of money, not within the party’s reasonable control, including but not limited to acts of God, governmental agencies, the other party, strikes, labor disputes (except disputes which could be resolved by using union labor), fire or other casualty, lack of materials, or declarations of any state, federal or local government, pandemics, epidemics (including the COVID-19 virus); provided that within ten (10) days after a party impaired by the delay has actual (as opposed to constructive) knowledge of the delay it shall give the other party notice of the delay and the estimated length of the delay, and shall give the other party notice of the actual length of the delay within ten (10) days after the cause of the delay has ceased to exist. The parties shall pursue with reasonable diligence the avoidance and removal of any such delay. Unavoidable Delay shall not extend performance of any obligation unless the notices required in this definition are given as herein required.

ARTICLE 2
Representations and Warranties

2.01. HRA Representations.

The HRA makes the following representations to the Borrower:

- (a) The HRA has the power under State law to enter into this Agreement and carry out its obligations hereunder.
- (b) With each payment by the Borrower on the Note, the HRA will provide Borrower with a statement showing the remaining amounts of unpaid interest, if any, and principal.

2.02. Borrower Representations.

The Borrower represents and warrants that:

- (a) Borrower is a limited liability company under the laws of the State of Minnesota and has power to enter into this Agreement and has duly authorized, by all necessary corporate action, the execution and delivery of this Agreement.
- (b) Borrower will, subject to and as required by Agreement, complete the Project in accordance with the terms of this Agreement, and all applicable local, state and federal laws and regulations.
- (c) At such time or times as may be required by law, the Borrower will have complied with all local, state and federal environmental laws and regulations applicable to the Project, and will have obtained any and all necessary environmental reviews, licenses and clearances. The Borrower has received no written notice from any local, state or federal official that the activities of the Borrower or the HRA with respect to the Property may be or will be in violation of any environmental law or regulation. The Borrower has no actual knowledge of any facts the existence of which would cause it to be in violation

of any local, state or federal environmental law, regulation or review procedure with respect to the Property.

(d) Neither the execution or delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented by, limited by, conflicts with, or results in a breach of, any restriction, agreement or instrument to which the Borrower is now a party or by which the Borrower is bound.

(e) The Borrower has no actual knowledge that any member of the Board of the HRA, or any other officer of the HRA or the City has any direct or indirect financial interest in the Borrower, the Property, or the Project.

(f) The Borrower will use commercially reasonable efforts to obtain, in a timely manner, all required permits, licenses and approvals, and will meet, in a timely manner, all requirements of all local, state and federal laws and regulations which must be obtained or met in connection with the Project. Without limitation to the foregoing, the Borrower will request and seek to obtain from the City all necessary variances, conditional use permits and zoning changes related to the Project.

(g) The Borrower would not undertake the Project without the financial assistance to be provided by the HRA pursuant to this Agreement.

(h) Apart from the assistance to be provided under this Agreement, the Borrower shall pay all standard charges and fees due with respect to real estate developments and allocable to the Property under City ordinances and the City code, including but not limited to special assessments for local improvements, maintenance district assessments, commercial waste hauling charges, sewer and water use charges, building permit fees, plat fees, inspection fees, storm water fees and the like charged against the Property.

2.03. Use of Property. The Borrower's use of the Property shall be subject to and in compliance with all of the conditions, covenants, restrictions and limitations imposed by this Agreement, and all applicable laws, ordinances and regulations. The Borrower hereby represents and warrants that to its knowledge there is no existing event or circumstance that would hinder the Project as contemplated by this Agreement.

2.04. Damage or Destruction. Upon any damage or destruction of the Facility, or any portion thereof, by fire or other casualty, during the term of the Lease and before the Termination Date, should the Owner decide to commence or cause to be commenced the process required to repair, reconstruct and restore the damaged or destroyed Facility, or portion thereof, the Borrower shall use commercially reasonable efforts to remain a tenant in the Facility. If, upon such damage or destruction of the Facility, Borrower decides not to remain a tenant in the Facility, and vacates the Facility prior to delivery of a Certificate of Completion, the HRA shall not be required to provide the Loan contemplated herein.

ARTICLE 3
The Project

3.01. Timing; Scope of Work and Renovation Plans. At the HRA's request, the Borrower shall make available to the HRA for review Renovation Plans for the Project.

(a) Subject to Unavoidable Delay, Borrower shall cause the Project to be substantially completed in accordance with the terms of the Scope of Work and this Agreement by November 1, 2022. In order to provide the Loan contemplated herein, the Act requires (i) the Loan of unobligated incremental property taxes to be provided by December 31, 2022; and (ii) commencement of the Project before December 31, 2025. In no event and under no circumstances will the HRA provide the Loan, if the Certificate of Completion is delivered after December 31, 2022.

(b) All work with respect to the Project shall be in substantial conformity with the Scope of Work.

(c) The Borrower shall not interfere with, or construct any improvements over, any public street or utility easement without the prior written approval of the HRA. All connections to public utility lines and facilities shall be subject to approval of the HRA (in accordance with City code) and any applicable private utility provider. Except for public improvements, which are undertaken by the HRA or other governmental body and assessed against benefited properties, all street and utility installations, relocations, alterations and restorations shall be at the Borrower's expense and without expense to the HRA. The Borrower, at its own expense, shall replace any public facilities or utilities damaged during the Project by the Borrower or its agents or by others acting on behalf of or under the direction or control of the Borrower.

3.02. Certificate of Completion.

(a) Upon the Borrower's request following the HRA's certification that the Project is completed to the reasonable satisfaction of the HRA, the HRA will furnish the Borrower with a Certificate of Completion for the Project, in substantially the form attached hereto as Exhibit C, as conclusive evidence of satisfaction and termination of the agreements and covenants of this Agreement with respect to the obligations of the Borrower to complete the Project. The furnishing by the HRA of such Certificate of Completion shall not constitute evidence of compliance with or satisfaction of any obligation of the Borrower or Owner to any Mortgagee. Such Certificate of Completion shall not serve as conclusive evidence of satisfaction and termination of the Loan.

(b) If the HRA shall refuse or fail to provide a Certificate of Completion following the Borrower's request, the HRA shall, within ten (10) days after the Borrower's request, provide the Borrower with a written statement specifying in what respects the Borrower has failed to complete the Project in accordance with this Agreement, or is otherwise in default, and what measures or acts will be necessary, in the reasonable opinion of the HRA, for the Borrower to obtain the Certificate of Completion.

3.03. Certificate of Forgiveness.

(a) Upon the Borrower's request following the earlier of the Partial Forgiveness Date or the Forgiveness Date, the HRA will furnish the Borrower with a Full or Partial Certificate of Forgiveness for the Loan, in substantially the forms attached hereto in Exhibit D, as conclusive evidence of satisfaction and termination of the agreements and covenants of this Agreement with respect to the obligations of the Borrower related to the Loan or such portion thereof.

(b) If the HRA shall refuse or fail to provide a Certificate of Forgiveness following the Borrower's request, the HRA shall, within ten (10) days after the Borrower's request, provide the Borrower with a written statement specifying in what respects the Borrower has failed to comply with the Agreement, the Loan, or is otherwise in default, and what measures or acts will be necessary, in the reasonable opinion of the HRA, for the Borrower to obtain the Certificate of Forgiveness.

3.04. Progress Reports. Until the Certificate of Completion is issued for the Project, the Borrower shall make, in such detail as may reasonably be required by the HRA, and forward to the HRA, upon demand by the HRA (provided such demand shall not be made more frequently than monthly in the absence of an Event of Default hereunder), a written report as to the actual progress of construction.

3.05. Access to Property. The Borrower agrees to permit the HRA and any of its officers, employees or agents access to the Property at all reasonable times for the purpose of inspection of all work being performed in connection with the Project; provided, however, that the HRA shall not have an obligation to inspect such work.

3.06. Modification; Subordination. The HRA agrees to subordinate its rights under this Agreement to the Lease.

ARTICLE 4
Defense of Claims; Insurance

4.01. Defense of Claims.

(a) The Borrower shall indemnify and hold harmless the HRA, its governing body members, officers, and agents including the independent contractors, consultants, and legal counsel, servants and employees thereof (hereinafter, for the purposes of this Section, collectively the "Indemnified Parties") for any expenses (including reasonable attorneys' fees), loss (excluding consequential, special or punitive damages except to the extent payable to third parties by any Indemnified Parties), damage to property, or death of any person occurring at or about, or resulting from any defect in, the Project; provided, however, the Borrower shall not be required to indemnify any Indemnified Party for any claims or proceedings arising from any negligent, intentional misconduct, or unlawful acts or omissions of such Indemnified Party, or from expenses, damages or losses that are eligible to be reimbursed by insurance. Promptly after receipt by the HRA of notice of the commencement of any action in respect of which indemnity may be sought against the Borrower under this Section 4.01, such person will notify the Borrower in writing of the

commencement thereof, and, subject to the provisions hereinafter stated, the Borrower shall assume the defense of such action (including the employment of counsel, who shall be counsel reasonably satisfactory to the HRA) and the payment of expenses insofar as such action shall relate to any alleged liability in respect of which indemnity may be sought against the Borrower. The HRA shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall not be at the expense of the Borrower unless the employment of such counsel has been specifically authorized by the Borrower. Notwithstanding the foregoing, if the HRA has been advised by independent counsel that there may be one or more legal defenses available to it which are different from or in addition to those available to the Borrower, the Borrower shall not be entitled to assume the defense of such action on behalf of the HRA, but the Borrower shall be responsible for the reasonable fees, costs and expenses (including the employment of counsel) of the HRA in conducting their defense. The Borrower shall not be liable to indemnify any person for any settlement of any such action effected without the Borrower's consent. The omission to notify the Borrower as herein provided will not relieve the Borrower from any liability which they may have to any Indemnified Party pursuant hereto, otherwise than under this Section.

(b) The Borrower agrees to protect and defend the Indemnified Parties, and further agrees to hold the aforesaid harmless, from any claim, demand, suit, action or other proceeding whatsoever by any person or entity arising or purportedly arising from the actions or inactions of the Borrower (or other persons acting on its behalf or under its direction or control) under this Agreement, or the transactions contemplated hereby or the acquisition, construction, installation, ownership, and operation of the Project; provided that this indemnification shall not apply to the warranties made or obligations undertaken by the HRA in this Agreement or to any actions undertaken by the HRA which are not contemplated by this Agreement but shall, in any event, apply to any pecuniary loss (excluding consequential, special or punitive damages except to the extent payable to third parties by any of the Indemnified Parties) or penalty (including interest thereon from the date the loss is incurred or penalty is paid by the HRA at a rate equal to the prime rate) as a result of the Project, as constructed and operated by the Borrower, or to violate limitations as to the use of the revenues therefrom as set forth in the Act.

(c) All covenants, stipulations, promises, agreements and obligations of the HRA contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the HRA and not of any governing body member, officer, agent, servant or employee of the HRA, as the case may be.

4.02. Insurance. The Borrower will, at its expense, carry such type and amount of insurance concerning the contents of the Facility as is required under the Lease.

ARTICLE 5

Loan for Partial Reimbursement of Expenses

5.01. Development Costs. The Borrower has agreed to and shall be responsible to pay all of its respective costs of the Project, as herein provided. However, the HRA, in order to encourage the Borrower to proceed with the Project, and to assist the Borrower in paying the costs

thereof, is willing to provide the Loan for partial reimbursement of Qualified Costs, as permitted by the Act, that the Borrower has incurred for the Project.

5.02. Loan for Qualified Costs.

The HRA agrees to loan the Borrower unobligated incremental property taxes for the Borrower to reimburse Qualified Costs the Borrower has incurred for Project. The HRA shall loan such funds to the Borrower upon re-occupancy of the Facility and issuance of the Certificate of Completion, and such Loan shall be evidenced by the Note, with said payments of principal and interest to be made by the Borrower on the dates (the "Payment Dates") specified in the Note, subject to the following terms and conditions:

(a) The total principal amount of the Loan will be three hundred fifty one thousand dollars (\$351,000).

(b) If the Borrower ceases operations, as determined by the HRA, before the Forgiveness Date, the unpaid principal of the Loan shall bear simple non-compounding interest from the date operations are ceased, at four percent (4.00%) per annum. Interest shall be computed on the basis of a 360 day year consisting of twelve (12) 30-day months.

(c) The Loan shall not be made by the HRA to the Borrower unless and until the Borrower has provided written evidence reasonably satisfactory to the HRA that (i) Qualified Costs in the amount to be reimbursed have been incurred for the Project and paid by the Borrower as demonstrated by paid invoices and lien waivers and (ii) the Certificate of Completion has been issued for the Project as contemplated in Section 3.03 hereof.

(d) The HRA shall not be obligated to provide the Loan to the Borrower subsequent to the termination of this Agreement as provided in Section 8.06 hereof.

(e) The Borrower may assign its rights under this Agreement to secure financing incurred by the Borrower to pay costs of the Project, or, after Certificate of Completion has been issued by the HRA, to third parties.

5.03. Conditions Precedent to Provision of Loan.

Upon payment by the Borrower of Qualified Costs for the Project, the Borrower will deliver to the HRA an instrument executed by the Borrower (i) specifying the amount and nature of the Qualified Costs of the Project to be reimbursed and (ii) certifying that such costs have been paid to third parties unrelated to the Borrower, or if any costs have been paid to third parties related to the Borrower, that such costs do not exceed the reasonable and customary costs of services, labor or materials of comparable quality, dependability, availability and other pertinent criteria and that such costs have not previously been contained in an instrument furnished to the Borrower pursuant to this Section 5.03.

Together with such instrument, the Borrower shall deliver to the HRA evidence reasonably satisfactory to the HRA of the payment by the Borrower of such costs. Thereafter, the HRA will provide to the Borrower the full amount of the Loan.

5.04. Satisfaction of Conditions Precedent. Notwithstanding anything to the contrary contained herein, the HRA's obligation to reimburse the Borrower for Qualified Costs shall be subject to satisfaction, or waiver in writing by the HRA, of all of the following conditions precedent:

- (a) the conditions precedent in Section 5.03 hereof have been satisfied;
- (b) the Borrower shall not be in default under the terms of this Agreement beyond any applicable cure period;

In the event that all of the above conditions required to be satisfied as provided in this Section 5.04 have not been satisfied by December 31, 2022, either the HRA or the Borrower may terminate this Agreement if such conditions are not satisfied within thirty (30) days following notice to the non-terminating party by the terminating party. Upon such termination, the provisions of this Agreement relating to the Project shall terminate and, except as provided in Article 8, neither the Borrower nor the HRA shall have any further liability or obligation to the other hereunder.

5.05. Forgivable Loan; Requirements.

(a) The Loan from the HRA to the Borrower will be forgiven and a Certificate of Forgiveness will be provided in accordance with Section 3.03, if the Facility remains operating in good standing through the Partial Forgiveness Date or Full Forgiveness Date. The Loan forgiveness will be prorated if the Borrower ceases operations before the six year anniversary of the delivery of the Certificate of Completion (i.e., on a Partial Forgiveness Date) as follows:

- i. 25% forgiven after one year anniversary of the delivery of the Certificate of Completion;
- ii. 50% forgiven at 2 years;
- iii. 60% forgiven at 3 years;
- iv. 70% forgiven at 4 years;
- v. 80% forgiven at 5 years;
- vi. 100% forgiven at 6 years (i.e., the Full Forgiveness Date).

No further proration will be considered by the HRA.

(b) The authority for the HRA to transfer or loan unobligated incremental property taxes under the Act expires on December 31, 2022. As such, to minimize the amount of increment that the HRA would be required to "return" under the Act, if the Loan is not fully forgiven, any amounts paid repaid to the HRA by the Borrower shall be from sources of funds of the Borrower other than the loaned unobligated incremental property taxes.

5.06. Additional Conditions. The following are additional conditions the Borrower must abide by for the term of this Agreement. Failure to abide by these conditions, without a written consent or waiver from the HRA, shall constitute an Event of Default under Section 7.01:

(a) All brick and mortar improvements funded with HRA or City monies must stay with the facilities throughout the term of any lease unless written consent is received from the City Manager to remove them.

(b) The Borrower shall be a member of the 50th & France Business Association.

(c) The Borrower shall participate in shared commercial recycling and composting programs.

(d) The Borrower shall cooperate with the City and Twin Cities-based non-for-profits to allow community events, film festivals and similar special events to be offered in the facilities, subject to the terms set forth in Exhibit F herein.

5.07. Notice of Default. Whenever the HRA shall deliver any notice or demand to the Borrower with respect to any breach or default by the Borrower in its obligations or covenants under this Agreement, the HRA shall at the same time forward a copy of such notice or demand to each investor, lender, or holder of any permitted mortgage, lien or other similar encumbrance at the last address of such holder shown in the records of the HRA. Each such investor, lender, or holder shall have the right, at its option, to cure or remedy such breach or default and to add the cost thereof to the mortgage debt and the lien of its mortgage; provided that if the breach or default is with respect to construction of the Project, nothing contained in this Agreement shall be deemed to permit or authorize such holder, either before or after foreclosure or action in lieu thereof, to undertake or continue the construction or completion of the Project without first having expressly assumed the obligation to the HRA, by written agreement satisfactory to the HRA, to complete the construction the Project in accordance with the plans and specifications therefor and this Agreement. Any such holder who shall properly complete the construction of the Project shall be entitled, upon written request made to the HRA, to a certification by the HRA to such effect in the manner provided in Section 3.03.

5.08 Legal and Administrative Expenses. The HRA agrees to pay all Legal and Administrative Expenses that are incurred in connection with the negotiating, approval and documentation of this Agreement.

ARTICLE 6 Prohibitions Against Assignment and Transfer

6.01. Transfer of Property and Assignment. Borrower will not assign its interest in the Lease to any third party without the prior consent of the City. Provided that no Event of Default exists hereunder, any such approved assignment shall release the Borrower from its obligations hereunder upon execution and delivery to the HRA by the transferee or assignee of an instrument in form and substance satisfactory to the HRA by which the assignee assumes the obligations of the Borrower hereunder.

Except as set forth in the immediately preceding paragraph, in the absence of specific written agreement by the HRA to the contrary, no approval of any assignment by the HRA thereof with respect to any assignment shall be deemed to relieve the Borrower, or any other party bound in any way by this Agreement or otherwise with respect to the completion of the Project, from any of their obligations with respect thereto.

6.02. Termination of Limitations on Transfer. The provisions of Section 6.01 shall terminate at such time as the Certificate of Forgiveness has been issued by the HRA under Section 3.03 of this Agreement with respect to the Project; provided, however, that any assignment of the payments to be made to the Borrower under Section 5.02 may only be assigned as permitted under Section 5.02 hereof.

ARTICLE 7 Event of Default; Fees

7.01. Events of Default. Subject to Unavoidable Delay, the following shall be “Events of Default” under this Agreement and the term “Event of Default” shall mean, whenever it is used in this Agreement (unless the context otherwise provides), any one or more of the following events which occurs and continues for more than thirty (30) days after written notice by the defaulting party of such default (and the term “default” shall mean any event which would with the passage of time or giving of notice, or both, be an “Event of Default” hereunder):

- (a) Failure of the Borrower to complete the Project as required hereunder.
- (b) Failure of the Borrower to pay to the HRA any amounts required to be paid by the Borrower hereunder.
- (c) Failure of the Borrower or the HRA to observe and perform any other material covenant, condition, obligation or agreement on its part to be observed or performed hereunder.
- (d) Filing of any voluntary petition in bankruptcy or similar proceedings by the Borrower; general assignment for the benefit of creditors made by the Borrower or admission in writing by the Borrower of inability to pay its debts generally as they become due; or filing of any involuntary petition in bankruptcy or similar proceedings against the Borrower which are not dismissed or stayed within sixty (60) days.
- (e) Failure of the Borrower to abide by the additional conditions set forth in Section 5.06.

7.02. Remedies on Default. In the event the HRA desires to exercise any of its rights or remedies as provided herein or otherwise available to the HRA at law or in equity, the HRA shall first provide written notice to Borrower setting forth with specific particularity the Event of Default and the action required to cure or remedy the same (the “Default Notice”). Borrower or any transferee or assignee under Section 6.01 hereof, shall have thirty (30) days from receipt of a Default Notice to cure or remedy the Event of Default specified in the Default Notice, or such longer period as may be reasonably required to complete the cure as soon as reasonably possible under the circumstances. If, following Borrower’s receipt of a Default Notice, Borrower does not

cure or remedy the Event of Default therein specified within the time provided above, the HRA may take any one or more of the following actions at any time prior to Borrower's curing or remedying the Event of Default:

- (a) Suspend its performance under this Agreement until it receives assurances from Borrower, deemed reasonably adequate by the HRA, that Borrower will cure its default and continue its performance under this Agreement.
- (b) In the case of a material default that is not cured within a reasonable period of time, terminate all rights of Borrower under this Agreement.
- (c) Withhold the Certificate of Completion.
- (d) Withhold the Certificate of Forgiveness.
- (e) Take whatever action at law or in equity may appear necessary or desirable to the HRA to enforce performance and observance of any obligation, agreement, or covenant of Borrower under this Agreement.

In the event the HRA should fail to observe or perform any covenant, agreement or obligation of the HRA on their part to be observed and performed under this Agreement, Borrower may take any one or more of the following actions:

- (a) Suspend its performance under this Agreement until it receives assurances from the HRA deemed adequate by Borrower, that the HRA will cure its default and continue its performance under this Agreement.
- (b) In the case of a material default that is not cured within a reasonable period of time, terminate all rights of the HRA under this Agreement.
- (c) Take whatever action at law or in equity may appear necessary or desirable to Borrower to enforce performance and observance of any obligation, agreement, or covenant of the HRA under this Agreement.

7.03. No Remedy Exclusive. No remedy herein conferred upon or reserved to the HRA, or to the Borrower is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the HRA, or Borrower to exercise any remedy reserved to them, it shall not be necessary to give notice, other than such notice as may be required under this Agreement.

7.04. Waivers. All waivers by any party to this Agreement shall be in writing. If any provision of this Agreement is breached by any party and thereafter waived by another party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

7.05. Agreement to Pay Attorneys' Fees. Whenever any Event of Default occurs and the HRA shall employ attorneys or incur other expenses for the collection of payments due or to become due or for the enforcement or performance or observance of any obligation or agreement on the part of the Borrower herein contained, the Borrower agrees that it shall, on demand therefor, pay to the HRA the reasonable fees of such attorneys and such other expenses so incurred by the HRA.

ARTICLE 8 General Provisions

8.01. Conflicts of Interest; HRA Representatives Not Individually Liable. No member, official, employee, or consultant or employee of a consultant of the HRA shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, consultant or the consultant's employees or employee participate in any decision relating to this Agreement which affects his or her personal interests or the interests of any corporation, partnership, or association in which he or she is directly or indirectly interested. No member, official, consultant or consultant's employee, or employee of the HRA shall be personally liable to Borrower, or any successor in interest, in the event of any default or breach by the HRA or for any amount which may become due to Borrower or successors or on any obligations under the terms of this Agreement. No member, official, consultant or consultant's employee, or employee of the Borrower shall be personally liable to the HRA, or any successor in interest, in the event of any default or breach by the Borrower or for any amount which may become due to the HRA on any obligations under the terms of this Agreement.

8.02. Equal Employment Opportunity. Borrower, for itself and its successors and assigns, agrees that during the construction of the Project it will comply with any applicable affirmative action and nondiscrimination laws or regulations.

8.03. Restrictions on Use. Borrower agrees for itself, and its successors and assigns, and every successor in interest to the Property, or any part thereof, that Borrower, and such successors and assigns, shall devote the Property to, and only to and in accordance with, the uses specified in this Agreement and other agreements entered into between the Borrower and the HRA, and shall not discriminate upon the basis of race, color, creed, religion, national origin, sex, marital status, disability, status with regard to public assistance, sexual orientation, and familial status in the sale, lease, or rental or in the use or occupancy of the Property or any improvements erected or to be erected thereon, or any part thereof.

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

8.05. Business Subsidies Act. The HRA and the Borrower represent that the Loan is being provided for the sole purpose of renovating old or decaying building stock or bringing it up to code and the Loan (\$351,000) and value of the Improvements (\$450,000) is equal to or less than 50 percent (\$1,300,000) of the total cost of the Project (\$2,600,000). Therefore, the Loan and

Improvements are not a business subsidy, and the parties will not enter into a business subsidy agreement pursuant to the Business Subsidies Act.

8.06. Term of Agreement. This Agreement shall terminate on the Termination Date; it being expressly agreed and understood that the provisions of this Agreement are intended to survive the expiration and satisfaction of any security instruments placed of record contemporaneously with this Agreement, if such expiration and satisfaction occurs prior to Termination Date, as stated in this Section 8.06.

8.07. Provisions Surviving Termination. Sections 4.01 and 7.05 hereof shall survive any termination, rescission, or expiration of this Agreement with respect to or arising out of any event, occurrence, or circumstance existing prior to the date thereof.

ARTICLE 9 Administrative Provisions

9.01. Notices and Demands. Except as otherwise expressly provided in this Agreement, a notice, demand, or other communication under this Agreement by any party to another party shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally as follows:

(a) in the case of Borrower, addressed to or delivered personally to:

Brainerd Entertainment, LLC
dba Mann Theatres
900 E 80th Street
Bloomington, Minnesota 55420
Attention: Steve Mann

(b) in the case of the HRA, addressed or delivered personally to:

Edina Housing and Redevelopment Authority
4801 W 50th Street
Edina, MN 55424
Attention: Scott Neal, Executive Director

The HRA and the Borrower, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications should be sent.

9.02. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

9.03. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the HRA and the Borrower and their respective successors and assigns.

9.04. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

9.05. Amendments, Changes and Modifications. This Agreement may be amended or any of its terms modified only by written amendment authorized and executed by the HRA and the Borrower. The Chair and HRA Secretary are authorized to execute and deliver amendments and any documents related to this Agreement on behalf of the HRA.

9.06. Further Assurances and Corrective Instruments. The HRA and the Borrower agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Property or the Project or for carrying out the expressed intention of this Agreement.

9.07. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope of intent of any provisions or Sections of this Agreement.

9.08. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota without giving effect to the conflicts-of-laws principles thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

EDINA HOUSING AND REDEVELOPMENT
AUTHORITY

By _____
James B. Hovland, Chair

And _____
James Pierce, Secretary

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me on this 7th day of September 2022, by James B. Hovland, the Chair, and James Pierce, the Secretary, of the Edina Housing and Redevelopment Authority, a Minnesota municipal corporation, on behalf of the corporation.

IN WITNESS WHEREOF, I have set my hand and my official seal this ____ day of _____, 2022.

Notary Public

BRAINERD ENTERTAINMENT, LLC, A
MINNESOTA LIMITED LIABILITY COMPANY,
DBA MANN THEATRES

By: Stephen Mann

Its: Partner

STATE OF Minnesota)
) ss.
COUNTY OF Hennepin)

The foregoing instrument was acknowledged before me on this 15 day of August, 2022, by Stephen Mann, the Partner of Brainerd Entertainment, LLC, a Minnesota limited liability company, dba Mann Theatres, a Minnesota limited liability company, on behalf of the company.

IN WITNESS WHEREOF, I have set my hand and my official seal this 15 day of August, 2022.

Penny Cody
Notary Public

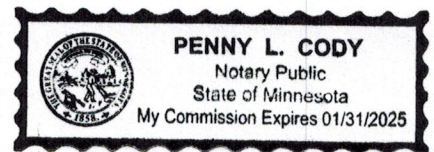
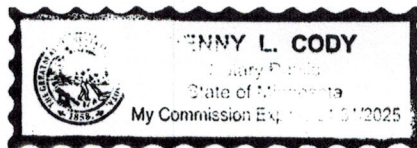


EXHIBIT A

PROPERTY

The real property and interests in such property located in the County of Hennepin, State of Minnesota and described as follows:

Common Address: 3911 West 50th Street

Legal Description

All that part of Lot 45, AUDITOR'S SUBDIVISION 172, Hennepin County, Minnesota, described as follows:
 Commencing at the Northwest corner of Lot 47; thence South to the Southwest corner thereof; thence West 13.90 feet; thence South 1.10 feet; thence West 36.10 feet; thence South 2.40 feet; thence West to a point 7.00 feet East from the West line of Lot 45; thence North 134.75 feet; thence West 4 feet; thence North to the South line of West 50th Street; thence East 87 feet to the point of beginning.

Parcel ID Number
1802824410052

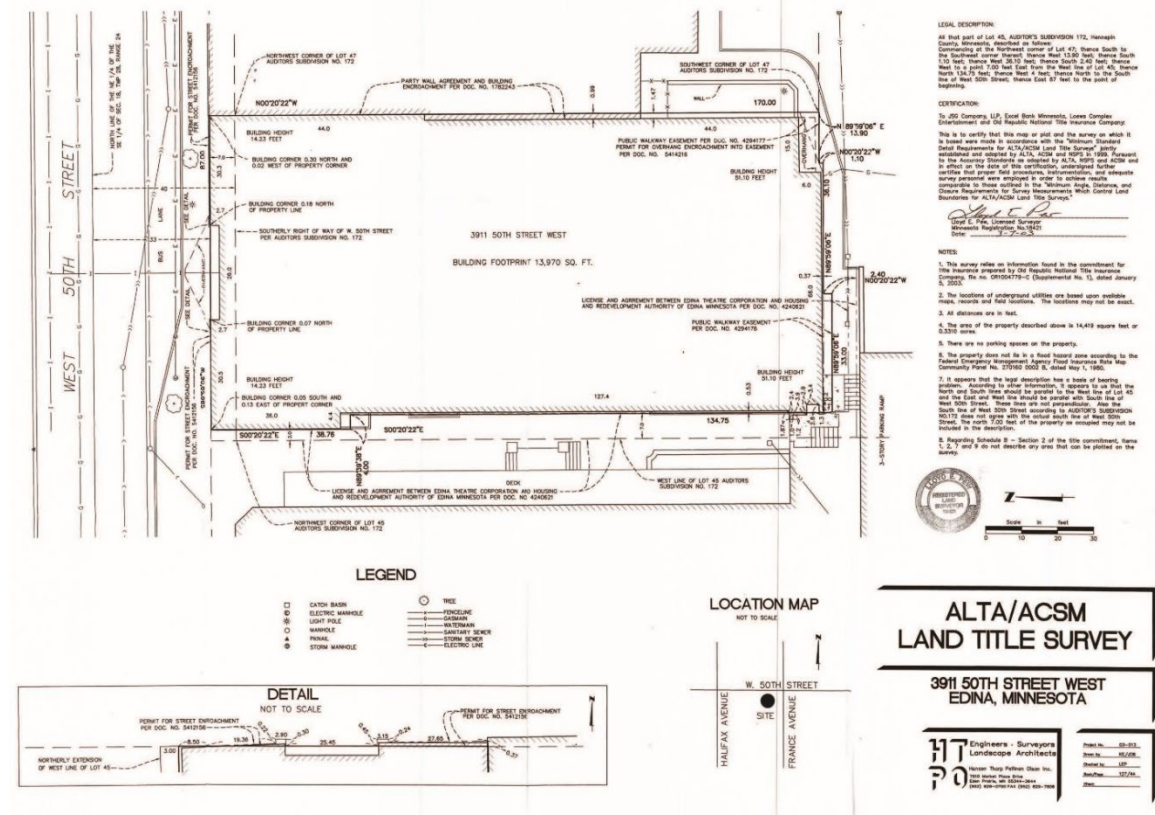


EXHIBIT B

PROJECT DESCRIPTION; QUALIFIED COSTS

Project Description

The Project involves the renovation of the Edina Theater, including:

- improvements to common areas such as flooring, ceiling, lighting, walls and wall coverings, furnishings, decorations and concession stands/ bar areas, as needed to deliver a first rate movie going experience for customers of all ages in the main lobby and entrances, concessions area, mezzanine level toilet rooms and related lounge and upper level café/concessions area;
- improvements to exterior shell of the building, such as doors, lighting, security camera systems and exterior water source
- Re-lamping and associated repairs to the historic sign and marque
- improvements that address indoor air quality and similar public health concerns
- improvements to elevator, toilet rooms and other elements of the accessible routes to better serve people with disabilities
- improvements to the energy efficiency or environmental sustainability

Qualified Costs

The estimated Qualified Costs are listed below that are eligible for reimbursement from the unobligated tax increment. The list below is non-exhaustive and the amounts assigned to each category are estimates only and not independent limitations of Borrower’s Qualified Costs.

Improvements to interior areas and exterior shell, including lighting, plumbing and mechanical systems	\$ _____
Repairs and improvements to historic sign	\$ _____
FFE required for first rate experience	\$ _____
Estimated Total	\$2,600,000*

* Borrower’s Qualified Cost. The total principal amount of the Loan to reimburse the Borrower for Qualified Costs of the Project will not exceed \$351,000.

Improvements by the HRA

The improvements to public sidewalks and public parking facilities adjacent and ancillary to the Facility to be completed and financed by the HRA are as follows:

- Replacement of the sidewalks on the north, west and south sides of the Property;
- Repairs to the South Parking Ramp located immediately adjacent to the Property and providing integral service to the ongoing operations of the Facility.

EXHIBIT C

CERTIFICATE OF COMPLETION

WHEREAS, Brainerd Entertainment, LLC, a Minnesota limited liability company, dba Mann Theatres (“the Borrower”), is the tenant of the facility on the property in the County of Hennepin and State of Minnesota described on Exhibit A hereto and made a part hereof (the “Property”); and

WHEREAS, the Property (shown in Exhibit A) is subject to the provisions of a certain Loan Agreement (the “Agreement”), dated as of September 7, 2022, between the Borrower and the Edina Housing and Redevelopment Authority; and

WHEREAS, the Borrower has fully and duly performed all of the covenants and conditions of Borrower under the Agreement with respect to the completion of the Project (as defined in the Agreement);

NOW, THEREFORE, it is hereby certified that all requirements of the Borrower under the Agreement with respect to the completion of the Project have been completed and duly and fully performed, and this instrument is to be conclusive evidence of the satisfactory termination of the covenants and conditions of the Agreement as they relate to the completion of the Project. All other covenants and conditions of the Agreement, including the covenants and conditions related to the Loan, shall remain in effect and are not terminated hereby.

Dated this ____ day of _____, 2022.

EDINA HOUSING AND REDEVELOPMENT
AUTHORITY

By _____
Chair

And _____
Secretary

Exhibit A

Property

The real property and interests in such property located in the County of Hennepin, State of Minnesota and described as follows:

Common Address: 3911 West 50th Street

Legal Description

All that part of Lot 45, AUDITOR'S SUBDIVISION 172, Hennepin County, Minnesota, described as follows:
 Commencing at the Northwest corner of Lot 47; thence South to the Southwest corner thereof; thence West 13.90 feet; thence South 1.10 feet; thence West 36.10 feet; thence South 2.40 feet; thence West to a point 7.00 feet East from the West line of Lot 45; thence North 134.75 feet; thence West 4 feet; thence North to the South line of West 50th Street; thence East 87 feet to the point of beginning.

Parcel ID Number
1802824410052

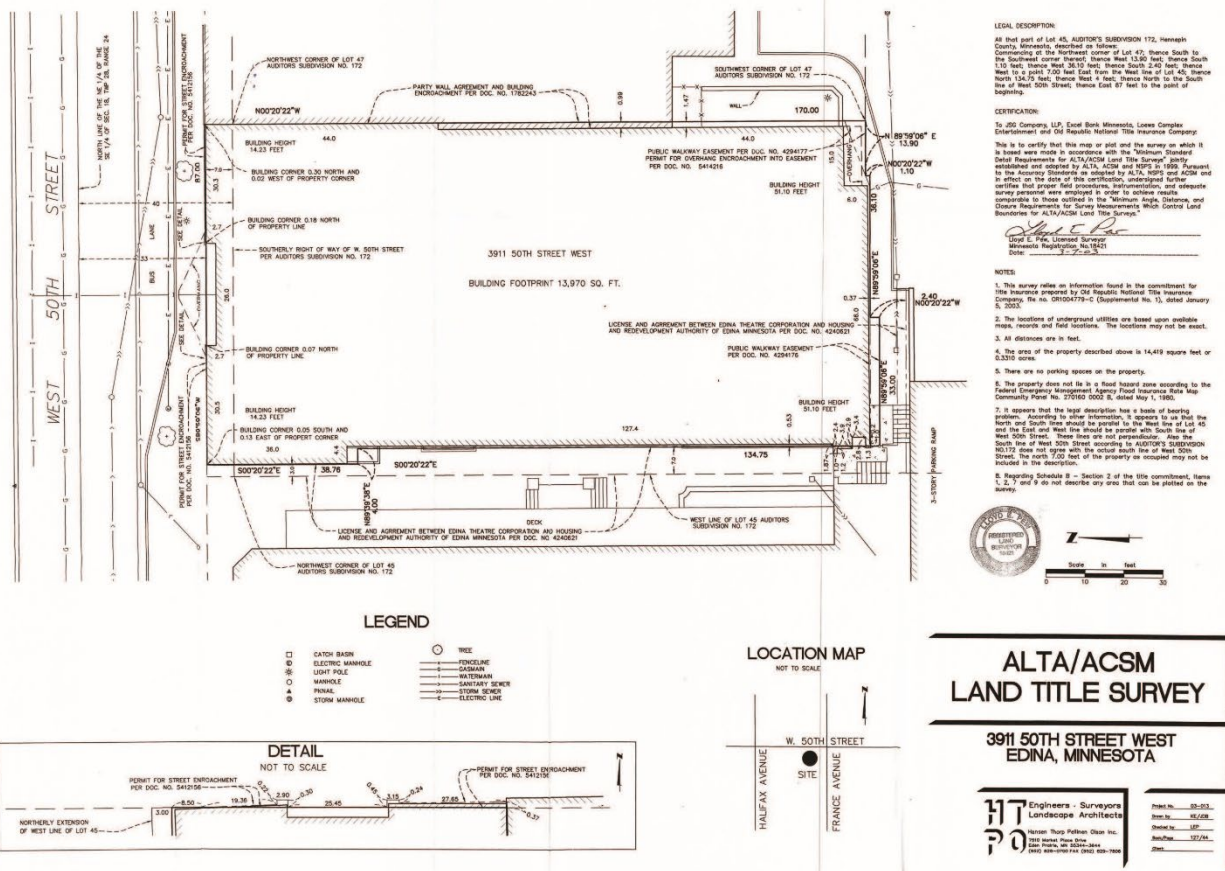


EXHIBIT D

CERTIFICATE OF FORGIVENESS

FULL CERTIFICATE OF FORGIVENESS

WHEREAS, Brainerd Entertainment, LLC, a Minnesota limited liability company, dba Mann Theatres (“the Borrower”), is the tenant of the facility on the property in the County of Hennepin and State of Minnesota described on Exhibit A hereto and made a part hereof (the “Property”); and

WHEREAS, the Property (shown in Exhibit A) is subject to the provisions of a certain Loan Agreement (the “Agreement”), dated as of September 7, 2022, between the Borrower and the Edina Housing and Redevelopment Authority; and

WHEREAS, pursuant the Agreement, the HRA provided a Loan to the Borrower evidenced by a certain Note (as such terms are defined in the Agreement); and

WHEREAS, the Borrower has fully and duly performed all of the covenants and conditions of Borrower under the Agreement with respect to the Project and the Loan, including delivery to the HRA of a Certificate of Completion; and

WHEREAS, the Borrower has continued operations in the facility for six (6) years following the delivery of the Certificate of Completion; and

WHEREAS, based on the number of years operating the facility following the delivery of the Certificate of Completion, Section 5.05 of the Agreement requires the HRA to fully forgive the Loan.

NOW, THEREFORE, it is hereby certified that all requirements of the Borrower under the Agreement with respect to the Project and Loan have been completed and duly and fully performed, and this instrument is to be conclusive evidence of the satisfactory termination of the covenants and conditions of the Agreement as they relate to the Note, and the Note is hereby fully forgiven and satisfied.

Dated this ____ day of _____, 20__.

EDINA HOUSING AND REDEVELOPMENT
AUTHORITY

By _____
Chair

And _____
Secretary

CERTIFICATE OF FORGIVENESS

PARTIAL CERTIFICATE OF FORGIVENESS

WHEREAS, Brainerd Entertainment, LLC, a Minnesota limited liability company, dba Mann Theatres (“the Borrower”), is the tenant of the facility on the property in the County of Hennepin and State of Minnesota described on Exhibit A hereto and made a part hereof (the “Property”); and

WHEREAS, the Property (shown in Exhibit A) is subject to the provisions of a certain Loan Agreement (the “Agreement”), dated as of September 7, 2022, between the Borrower and the Edina Housing and Redevelopment Authority; and

WHEREAS, pursuant the Agreement, the HRA provided a Loan to the Borrower evidenced by a certain Note (as such terms are defined in the Agreement); and

WHEREAS, the Borrower has fully and duly performed all of the covenants and conditions of Borrower under the Agreement with respect to the Project and the Loan, including delivery to the HRA of a Certificate of Completion; and

WHEREAS, the Borrower has continued operations in the facility for [] years following the delivery of the Certificate of Completion;

WHEREAS, based on the number of years operating the facility following the delivery of a Certificate of Completion, Section 5.05 of the Agreement requires the HRA to forgive [] percent ([]%) of the Loan, which percentage is equal to \$[] of the Loan.

NOW, THEREFORE, it is hereby certified that all requirements of the Borrower under the Agreement with respect to the Project and Loan have been completed and duly and fully performed, and this instrument is to be conclusive evidence of the satisfactory termination of the covenants and conditions of the Agreement as they relate to the Note, and the Note is hereby partially forgiven by the amount stated herein and satisfied.

Dated this ____ day of _____, 20__.

EDINA HOUSING AND REDEVELOPMENT
AUTHORITY

By _____
Chair

And _____
Secretary

Exhibit A

Property

The real property and interests in such property located in the County of Hennepin, State of Minnesota and described as follows:

Common Address: 3911 West 50th Street

Legal Description

All that part of Lot 45, AUDITOR'S SUBDIVISION 172, Hennepin County, Minnesota, described as follows:
 Commencing at the Northwest corner of Lot 47; thence South to the Southwest corner thereof; thence West 13.90 feet; thence South 1.10 feet; thence West 36.10 feet; thence South 2.40 feet; thence West to a point 7.00 feet East from the West line of Lot 45; thence North 134.75 feet; thence West 4 feet; thence North to the South line of West 50th Street; thence East 87 feet to the point of beginning.

Parcel ID Number
1802824410052

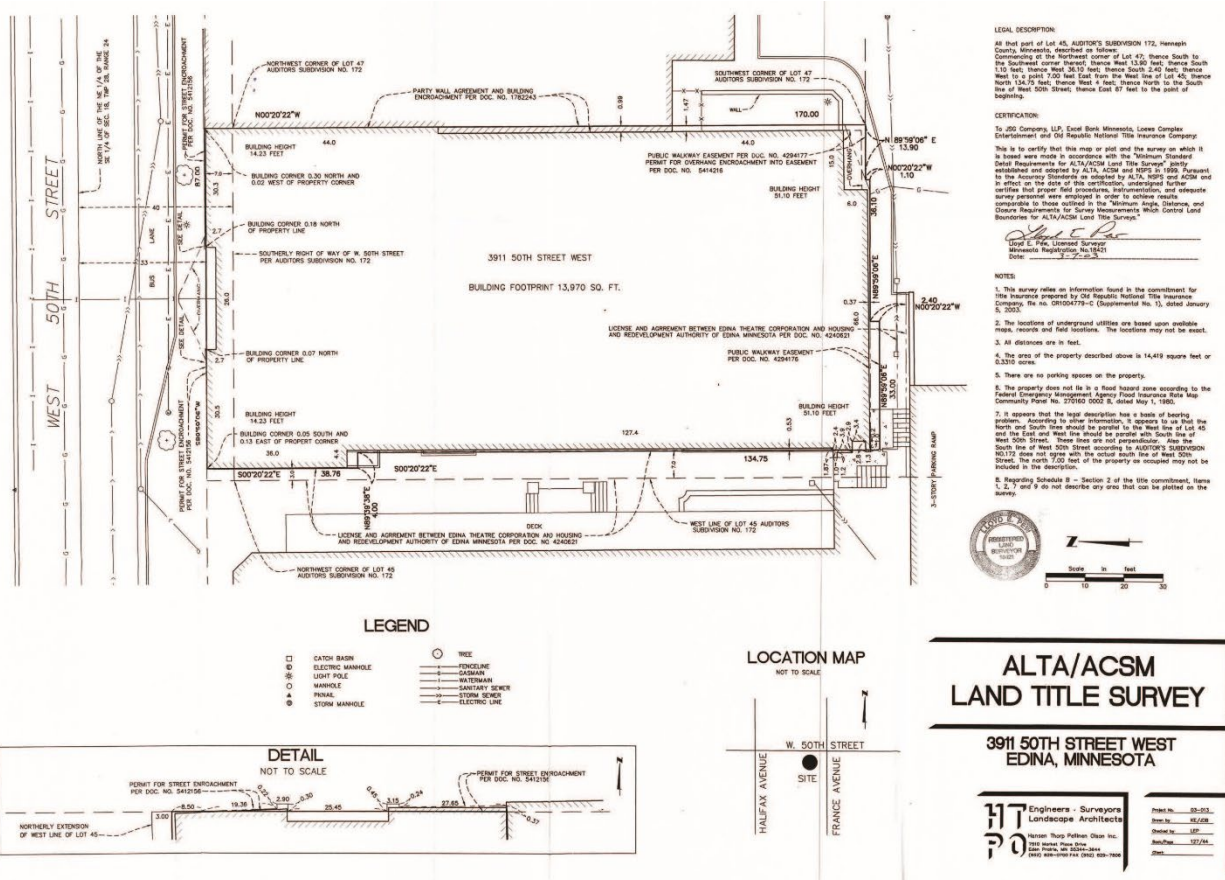


EXHIBIT E

FORM OF FORGIVABLE NOTE

No. R-1

\$351,000

**UNITED STATES OF AMERICA
STATE OF MINNESOTA**

**FORGIVABLE NOTE
(EDINA THEATER REVITALIZATION PROJECT)**

PRINCIPAL AMOUNT: THREE HUNDRED FIFTY ONE THOUSAND DOLLARS

**INTEREST RATE: 0.0%; RESETTING TO 4.0% THE DATE AFTER THE
FORGIVENESS DATE**

This Note is issued pursuant to the provisions of that certain Loan Agreement, dated as of September 7, 2022, as the same may be amended from time to time (the “Loan Agreement”), between the Edina Housing and Development Authority (the “Owner”) and Brainerd Entertainment, LLC, a Minnesota limited liability company, dba Mann Theatres (the “Borrower”).

Terms used herein but not otherwise defined, shall have the meaning attributed to them in the Loan Agreement.

This Note is subject to full or partial forgiveness on the Forgiveness Date by the Edina Housing and Development Authority (the “Owner”) pursuant to the terms of the Loan Agreement.

If the Termination Date has passed and the Owner has not issued a Full Certificate of Forgiveness, the Borrower for value received, promises to pay, to the extent and in the manner hereinafter provided, to the Owner, the principal sum of three hundred fifty one thousand dollars (\$351,000) less that portion of the Loan that has been forgiven, in semi-annual installments payable on each February 1 and August 1 (each being a “Scheduled Payment Date”), commencing the August 1 immediately succeeding the Forgiveness Date, together with interest on the outstanding and unpaid principal balance of this Note (this “Note”) at the rate of four percent (4.0%) per annum, until the Note is paid in full.

Installment payments shall be applied first to interest and then to a reduction of outstanding principal. Interest on the outstanding balance of this Note shall accrue from the date following the Forgiveness Date as simple, non-compounding interest. Each payment on this Note is payable in any coin or currency of the United States of America which on the date of such payment is legal tender for public and private debts and shall be made by check or draft made payable to the Owner and mailed to the Owner at the postal address within the United States designated from time to time by the Owner.

This Note is subject to prepayment on any Scheduled Payment Date at the option of the Borrower, in whole or in part, upon payment to the Owner of the principal amount of the Note to be prepaid, without premium or penalty.

The Borrower shall pay to the Owner on each Scheduled Payment Date all amounts necessary to pay principal and interest then due and any past due installment.

IN WITNESS WHEREOF, the Borrower has caused this Note to be executed by the manual signatures of the _____ of the Borrower and has caused this Note to be dated as of _____, 2022.

BRAINERD ENTERTAINMENT, LLC, A
MINNESOTA LIMITED LIABILITY COMPANY,
DBA MANN THEATRES

By: _____

Its: _____

EXHIBIT F

COMMUNITY USE OF FACILITY

1. Community Use of Facility – Borrower shall provide use of at least one auditorium and related areas within the Facility up to four (4) times per calendar year to not-for-profit and similar community groups with an affiliation to the Edina community at no cost except for reasonable out-of-pocket expenses incurred to staff the Facility. The intention of this provision is to allow community groups to use the Facility to engage, educate or entertain their stakeholders. In situations where the groups intend to hold a ticketed fundraiser, the Borrower shall work in good faith to allow use of the Facility at below-market rates that allow the community fundraising event to occur. This provision is not applicable on Tuesday nights, Friday nights, Saturdays and holidays. This provision shall begin on the date the Certificate of Completion is issued and shall extend through the date that the Certificate of Forgiveness or Certificate of Partial Forgiveness is issued. Both parties agree to make good faith efforts to extend the community use of the Facility as outlined above beyond the term of the Forgivable Loan.

2. Public Service Announcements - Provide the City of Edina with one (1) public service announcement (PSA) or commercial for non-alcohol related public enterprise such as Edina Aquatic Center or Edina’s Braemar Field and Golf Course per viewing per screen at a maximum length of 15-second at no cost. The City shall be responsible for providing the video for playback. This provision shall begin on the date the Certificate of Completion is issued and shall extend through the three (3) year anniversary.

Edina Theater – 3911 West 50th Street

Business Term Sheet for Revitalization and Re-Occupancy

SUMMARY

In business since 1934, the Edina Theater closed to the public in March 2020 due to the COVID-19 pandemic. After a prolonged closure, the former tenant (Landmark Theatres) vacated the premises after challenges in the industry and the pandemic threatened the viability of operations. The former tenant halted all payments and discontinued maintenance in early 2020. They also removed much of the equipment required for a new entity to operate the facility.

The Landlord and Tenant attest that without financial participation by the City, their efforts to revitalize the facility and resume operations would not be possible. The City and HRA have the ability to provide one-time financial support so that operations can continue in the future. Such support will stabilize the tax base and retain a destination for residents and other customers who support other nearby businesses.

PROPERTY OWNER	PROSPECTIVE TENANT
JSG Company 5850 Opus Parkway #108 Minnetonka, MN 55343 Attn: Suzie Haugland	Mann Theatres (or related entity) 900 East 80 th Street Bloomington, MN 55420 Attn: Steve Mann https://manntheatres.com/

LEASE TERMS

The owner and tenant intend to enter into a 5-year lease with at least one 5-year renewal option. Lease execution is contingent upon pledge of financial support from the City and HRA. The lease is anticipated to allow for a re-opening in first quarter of 2022.

OPERATING CONDITIONS

Mann Theatres, the prospective tenant intends to revive operations at the Edina Theater. The renewed operations are anticipated to include a mix of popular films and art films. Live events are also anticipated. The operations will be unique in the Twin Cities metro area, creating a destination for discerning audience members seeking high quality entertainment for all ages.

Several temporary construction jobs will be created during the renovations to the facility. Upon completion, new permanent jobs will also be created.

OWNER AND TENANT INVESTMENT

Extensive renovations are required to return the facility to a condition where it is desirable to customers and capable of sustained profitability. Improvements are necessary to portions of the exterior of the building, interior common areas of the buildings, interiors of the four auditoriums, to the mechanical systems and equipment essential to operations including the historic sign. Both Landlord and Tenant will share in the expenses required to substantially renovate the facility. The cumulative investment is estimated to be approximately \$1.5 million. The work will be carried out over several months.

CITY FINANCIAL CONTRIBUTION

On September 9, 2021, the City of Edina agreed to provide a financial contribution to make the substantial renovation of this facility possible. The City support includes:

- Up to \$200,000 grant to Landlord (using ARPA funds)
- Payment subject to executed grant documents and confirmation of expenses incurred

HRA FINANCIAL CONTRIBUTION

The Edina HRA will provide additional financial contributions to make the substantial renovation of this facility possible. The HRA support includes:

- Up to \$300,000 forgivable loan to Tenant (TIF funds anticipated subject to Public Hearing and formal action)
- Payment subject to executed forgivable loan documents, confirmation of qualified expenses incurred and renewed operations
- Qualified expenses will be formally identified in the loan documents and are anticipated to include items such as:
 - Improvements to common areas such as flooring, ceiling, lighting, walls and wall coverings, furnishings, decorations and concession stands/ bar areas, as needed to deliver a first rate movie going experience for customers of all ages in the main lobby and entrances, concessions area, mezzanine level toilet rooms and related lounge and upper level café/concessions area.
 - Improvements to exterior shell of the building, such as doors, lighting, security camera systems and exterior water source
 - Re-lamping and associated repairs to the historic sign and marque
 - Improvements that address indoor air quality and similar public health concerns

- Improvements to elevator, toilet rooms and other elements of the accessible routes to better serve people with disabilities
- Improvements to the energy efficiency or environmental sustainability
- The loan will be fully forgiven if the facility remains operating in good standing for six or more years after the initial re-opening date. The loan forgiveness will be prorated if the tenant ceases operations before the sixth anniversary as follows: 25% forgiven after 1 year anniversary, 50% forgiven at 2 years, 60% forgiven at 3 years, 70% forgiven at 4 years, 80% forgiven at 5 years. No further proration will be considered.
- All brick and mortar improvements funded with City/HRA monies must stay with the building throughout the term of the lease unless written consent received from City Manager to remove them
- Total Public reimbursement of private investment shall not exceed 50% of the total investment of the Landlord and Tenant.
- Miscellaneous Conditions for Tenant
 - Membership in Business Association anticipated
 - Participate in shared recycling and composting programs
 - Cooperate with Edina and Twin City based non-for-profits to allow community events, film festivals and similar special events to be offered in the Edina Theater. Terms for such activities shall be formally identified in the loan documents and presume that use of the facilities to be provided to eligible groups at below-market rates that cover the tenant's operational costs of the special event. All such special events to be scheduled at mutually agreeable times and the use rates may change depending on the day and time of the special event and any fee charged by the non-for-profit holding the special event.
- Additional funds may also be considered to complete public improvements to adjacent public sidewalks and public parking facilities (TIF Allocation) subject to required Public Hearing
 - Public improvements to be bid, contracted and managed by City and will not be assessed to the 50th & France Maintenance Assessment District
 - Scope limited to public sidewalks, crosswalks and public parking facilities required for access to the Theater and use by Theater customers
 - This work does NOT grant any special use privileges to Theater patrons or staff that are not otherwise available to the general public.
 - Anticipated to be completed no later than 12/31/2022 unless delays beyond the control of City

END



The CITY of
EDINA

Edina Theater – 3911 W. 50th Street Financial Support for Re-Occupancy

Edina Housing & Redevelopment Authority
October 14, 2021

Background



The CITY of
EDINA



Photo Source: Minnesota Historic Society

SUN CURRENT
FEATURED

Historic Edina theater closes indefinitely after operator exit

Updated Jun 3, 2021



Edina Theater closes indefinitely after its operator, Landmark Theatres, closed to Iowa Co. (Sun Current staff photo by Caitlin Anderson)

The Edina Cinema, which has been under the operation of Landmark Theatres since 2003, has remained closed since the start of the pandemic in March. After Landmark decided to drop the theater this spring, that closure could become permanent.

The search is underway to find a new operator, but at this point, the outcome looks discouraging, the owner has said.

The theater was built in 1934. The site was renovated to its current form in 1988, according to Landmark's description of the theater.

Landmark is also facing eviction at its Uptown Theatre location in Minneapolis after owing more than \$340,000 in unpaid rent, operating expenses and late fees, according to Hennepin County District Court documents.

The Edina Heritage Preservation Board decided in 2002 that Edina Theatre's most historically significant architectural feature is its sign, according to the city website.

But it was also determined that the sign's heritage value is not dependent on the theater facade.

If the theater in the future were to be redeveloped, the sign could be relocated.

The owner of the theater received the 2004 Edina Heritage Award for the restoration of the sign after a tornado damaged it in 1981.

The Sun Current reached out to the Landmark Theatres' contact for Edina Cinema but did not receive a response prior to publishing.

- Follow Caitlin Anderson on Twitter @EdinaSunCurrent

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Property Owner

- JSG Properties
- Suzie Haugland
- Long term owner and business operator

Prospective Tenant

- Mann Theatres
- Steve Mann
- Multi-generation family business
- Former owner / operator

These parties intend to revive operations with a unique mix of art films supplemented with popular films and live events. The cost to renovate and re-open the facility is very high. Without support from the City, the parties are unable to make the needed \$1.5 million investment to the facilities.



Scope of Work

- The owner and previous operator suffered negative economic impacts due to the pandemic.
- The existing facility requires substantial renovation before it can be re-opened.
- Updated common areas
 - lobbies on both levels
 - concession areas
 - upper level café area
 - toilet rooms
- Updated auditoriums
 - seats
 - audio equipment
 - video equipment
- Repaired historic sign

Scope of Work

- Landlord and tenant to update facilities in 2021-22
- Re-opening anticipated Q1 2022
- Tenant will make facilities available “at cost” to local community groups to hold community events, film festivals, etc.



The CITY of
EDINA



Recommended Assistance

- \$200,000 grant to Landlord (ARPA)
- \$300,000 forgivable loan to Tenant (TIF or other HRA funds)
 - Funds invested in brick and mortar improvements to building
- Additional public improvements to adjacent sidewalks and parking facilities used by theater patrons
- All funds subject to executed contractual agreements



The CITY of
EDINA

Requested Action

- Approve the Term Sheet and authorize staff to prepare contractual agreements to provide financial support to the landlord and tenant.

- Staff, landlord and tenant available for questions



Edina Housing and Redevelopment
Authority
Established 1974

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

Date: September 7, 2022

Agenda Item #: V.C.

To: Chair & Commissioners of the Edina HRA

Item Type:
Report / Recommendation

From: Bill Neuendorf, Economic Development Manager

Item Activity:

Subject: Resolution 2022-09: Authorizing an Interfund Loan
for Eden Willson Tax Increment Financing District

Action

ACTION REQUESTED:

Approve Resolution 2022-09 authorizing an interfund loan for advance of certain costs in connection with Eden Willson Redevelopment Tax Increment Financing District.

INTRODUCTION:

This item pertains to the financing strategy for future public roadway improvements in the Eden Willson TIF District.

One of the goals of this TIF District is to improve nearby roadways so that the new construction is better connected to points to the north, east, south and west. These improvements are also intended to create better routes for pedestrians, bicyclists and motorists coming from adjacent neighborhoods and passing through the boundaries of the TIF District.

In order to construct the public improvements in a coordinated manner, it is desirable to prepare design and engineering documents in the very near future, even though incremental property taxes will not be collected until 2025.

An interfund loan is proposed using monies that are currently available in the Centennial Lakes TIF fund. These monies will be repaid over time after the private redevelopment is complete and after the City is collecting incremental property taxes from this TIF District.

Staff recommends approval of Resolution 2022-09.

ATTACHMENTS:



EDINA HOUSING AND REDEVELOPMENT AUTHORITY

RESOLUTION NO. 2022-09

RESOLUTION AUTHORIZING AN INTERFUND LOAN FOR ADVANCE OF CERTAIN COSTS IN CONNECTION WITH THE EDEN / WILLSON REDEVELOPMENT TAX INCREMENT FINANCING DISTRICT

WHEREAS, construction has commenced on the private redevelopment located within the boundaries of the Eden Willson Tax Increment Financing District; and

WHEREAS, the City intends to initiate design and engineering services for the future roadway improvements located in and immediately adjacent to the Eden Willson Tax Increment Financing District in the near future so that construction of the roadway improvements can be coordinated with the completion of the private redevelopment and be delivered in a coordinated manner.

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners (the “Board”) of the Edina Housing and Redevelopment Authority (the “HRA”) as follows:

Section I. Background.

I.01. The HRA and City of Edina, Minnesota (the “City”) have heretofore approved the establishment of the Eden / Willson Redevelopment Tax Increment Financing District (the "TIF District") within the Southeast Edina Redevelopment Project Area (the "Project Area"), and have adopted a Tax Increment Financing Plan (the "TIF Plan") for the purpose of financing certain improvements within the Project Area, all pursuant to Minnesota Statutes, Sections 469.174 to 469.1794, as amended (the “TIF Act”).

I.02. The HRA has determined to pay for certain costs identified within the TIF Plan consisting of initial administrative expenses and the design and pre-construction expenses related to the East Grandview Transportation public improvements (the “Qualified Costs”) pursuant to Minnesota Statutes, Section 469.178, Subd. 7 of the TIF Act, which costs may be financed on a temporary basis from HRA or City funds available for such purposes.

I.03. Under Minnesota Statutes, Section 469.178, Subd. 7 of the TIF Act, the HRA or City is authorized to advance or loan money from the general fund or any other fund from which such advances may be legally authorized, in order to finance the Qualified Costs; provided the loan or advance is authorized by resolution not later than 60 days after money is transferred, advanced, or spent, whichever is earliest.

I.04. The HRA intends to reimburse itself for the Qualified Costs from tax increments derived from the TIF District in accordance with the terms of this resolution (which terms are referred to collectively as the "Interfund Loan").

Section 2. Terms of Interfund Loan.

2.01. The HRA hereby authorizes the advance of up to \$500,000.00 from the Centennial Lakes Tax Increment Financing Fund or so much thereof as may be paid as Qualified Costs. The HRA shall reimburse itself for such advances together with interest at the rate stated below. Interest accrues on the principal amount from the date of each advance. The maximum rate of interest permitted to be charged is limited to the greater of the rates specified under Minnesota Statutes, Section 270C.40 or Section 549.09 as of the date the loan or advance is authorized, unless the written agreement states that the maximum interest rate will fluctuate as the interest rates specified under Minnesota Statutes, Section 270C.40 or Section 549.09 are from time to time adjusted. The interest rate shall be 4.0% and will not fluctuate.

2.02. Principal and interest ("Payments") on the Interfund Loan shall be paid annually on each December 31 (each a "Payment Date"), commencing on the first Payment Date on which the HRA has Available Tax Increment (defined below), or on any other dates determined by the Executive Director of the HRA, through the Payment Date following last receipt of tax increment from the TIF District.

2.03. Payments on this Interfund Loan are payable solely from "Available Tax Increment," which shall mean, on each Payment Date, tax increment available after other obligations have been paid, or as determined by the Executive Director of the HRA, generated in the preceding six (6) months with respect to the property within the TIF District and remitted to the HRA by Hennepin County, all in accordance with the TIF Act. Payments on this Interfund Loan may be subordinated to any outstanding or future bonds, notes or contracts secured in whole or in part with Available Tax Increment, and are on parity with any other outstanding or future interfund loans secured in whole or in part with Available Tax Increment.

2.04. The principal sum and all accrued interest payable under this Interfund Loan are pre-payable in whole or in part at any time by the HRA without premium or penalty. No partial prepayment shall affect the amount or timing of any other regular payment otherwise required to be made under this Interfund Loan.

2.05. This Interfund Loan is evidence of an internal borrowing by the HRA in accordance with Minnesota Statutes, Section 469.178, Subd. 7 of the TIF Act and is a limited obligation payable solely from Available Tax Increment pledged to the payment hereof under this resolution. This Interfund Loan and the interest hereon shall not be deemed to constitute a general obligation of the State of Minnesota or any political subdivision thereof, including, without limitation, the City or HRA. Neither the State of Minnesota, nor any political subdivision thereof shall be obligated to pay the principal of or interest on this Interfund Loan or other costs incident hereto except out of Available Tax Increment, and neither the full faith and credit nor the taxing power of the State of Minnesota or any political subdivision thereof is pledged to the payment of the principal of or interest on this Interfund Loan or other costs incident hereto. The HRA shall have no obligation to pay any principal amount of the Interfund Loan or accrued interest thereon, which may remain unpaid after the final Payment Date.

2.06. The HRA may amend the terms of this Interfund Loan at any time by resolution of the Board, including a determination to forgive the outstanding principal amount and accrued interest to the extent permissible under law.

2.07. The HRA shall report in its annual report to the State of Minnesota (1) the amount of the Interfund Loan or advance made in a calendar year; and (2) any amendment of the Interfund Loan or advance made in a calendar year.

Section 3. Effective Date. This resolution is effective upon the date of its approval.

Approved by the Board on September 7, 2022.

ATTEST:

James B. Hovland, Chair

James Pierce, Secretary

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

CERTIFICATE OF EXECUTIVE DIRECTOR

I, the undersigned duly appointed and acting Executive Director for the Edina Housing and Redevelopment Authority do hereby certify that the attached and foregoing Resolution is a true and correct copy of the Resolution duly adopted by the Edina Housing and Redevelopment Authority at its Regular Meeting of September 7, 2022, and as recorded in the Minutes of said Regular Meeting.

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

Executive Director



Edina Housing and Redevelopment
Authority
Established 1974

CITY OF EDINA
HOUSING & REDEVELOPMENT
AUTHORITY

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

Date: September 7, 2022

Agenda Item #: V.D.

To: Chair & Commissioners of the Edina HRA

Item Type:
Request For Purchase

From: Chad Milner, City Engineer & Bill Neuendorf,
Economic Development Manager

Item Activity:

Subject: Request for Purchase: 5146 Eden Ave Engineering
Services for Re-Zoning Application

Action

ACTION REQUESTED:

Approve the Request for Purchase for 5146 Eden Ave Engineering Services for Re-Zoning Application with Loucks for \$38,600.

INTRODUCTION:

This contract is for civil site engineering services related to the preliminary rezoning application. Loucks created preliminary utility, grading, and site plans that are part of the application.

ATTACHMENTS:

Request for Purchase: 5146 Eden Ave Engineering Services for Re-Zoning Application

Proposal for Platting and Preliminary Civil Design Services Grandview Yard Overall Development Application



CITY OF EDINA

4801 W 50th St., Edina, MN 55424
www.EdinaMN.gov | 952-927-8861

Requisition Number

12200197

Request for Purchase

Department: Engineering

Buyer: Chad Millner

Date: 08/31/2022

Requisition Description: 5146 Eden Ave Engineering Services ReZoning App

Vendor: Tom Loucks & Associates

Cost: \$38,600.00

REPLACEMENT or NEW: NEW - NEW

PURCHASE SOURCE: SERVICE K - SERVICE CONTRACT

DESCRIPTION:

Provide engineering services for survey and preliminary civil design services for the proposed Grandview Yard project. We understand that the nature of this project is to provide preliminary design for a new Senior Co-op, a Restaurant and a new park. We have based this proposal on our previous work on this site and conversations with the team.

BUDGET IMPACT:

These services will be funded by proceeds of the property sale.

COMMUNITY IMPACT:

Services will continue to create a connected and vibrant Grandview District in an innovative way to knit the city's values and sustainable approach into the fabric of the site and neighborhood.

ENVIRONMENTAL IMPACT:

NA Service Contract



July 5, 2022

Mr. Bill Neuendorf

Edina HRA

4801 W. 50th St.

Edina, MN 55424

bneuendorf@edinamn.gov

**RE: Proposal for Platting and Preliminary Civil Design Services
Grandview Yard Overall Development Application
PID: 2811721310016
Edina, Minnesota
Loucks Proposal No. P22360.00**

Dear Mr. Neuendorf:

Thank you for your interest in a proposal for survey and preliminary civil design services for the proposed Grandview Yard project. We understand that the nature of this project is to provide preliminary design for a new Senior Co-op, a Restaurant and a new park. We have based this proposal on our previous work on this site and conversations with the team.

Loucks considers this document a contract for the work described below. We will begin our work on receipt of this signed document. Therefore, if there are any items that do not meet your needs, please let us know and we will make the necessary adjustments before we begin.

A. SCOPE OF SERVICES

1. SURVEYING

1.1 Preliminary Plat

Together with a title commitment provided to us by you, we will prepare a 1 lot Preliminary Plat for city submittal to include:

- a. Current and proposed zoning.
- b. Existing conditions and topography.
- c. Proposed lots.
- d. Proposed easements.
- e. Proposed setbacks.
- f. Proposed square footages of lots and parcels.

1.2 Final Plat

We will prepare a 1 lot Final Plat of the property to be submitted to the City and County for review. Proposed lot corners will be set within one year of recording of the Final Plat or after final grading.

2. PRELIMINARY DESIGN DEVELOPMENT

2.1 Civil Engineering

Loucks will:

- a. Prepare a Demolition Plan showing removals of known features including pavement, curbs and utilities.
- b. Prepare a Preliminary Site Plan from the concept plan showing building footprint, drives, loading docks, handicap and regular parking overlaid onto the survey.
- c. Prepare a Preliminary Grading and Drainage Plan indicating proposed grades using existing and proposed one (1) foot contour intervals and preliminary spot elevations.
- d. Attend a Pre-application meeting with the city to review preliminary stormwater treatment.
- e. Design storm water treatment and prepare a Hydrology Report meeting the City and NPDES permit requirements.
- f. Prepare a Preliminary Storm Water Pollution Prevention Plan indicating location of proposed erosion control measures and drainage patterns.
- g. Prepare a Preliminary Utility Plan showing sanitary sewer, storm sewer and water services to the proposed building.
- h. Attend meetings with the city, owner, and/or contractor to review design criteria and plans. We anticipate that two (2) meeting will be held for this purpose.

B. ASSUMPTIONS AND EXCLUSIONS

- 1. This proposal is for preliminary design and does not include construction design, documentation or administration.
- 2. This proposal does not include time for narrative, applications, printing, etc. for the city review process and building permit process. It is assumed that these items will be completed by others; however, we will be happy to assist with this process and can revise our proposal to include this if requested.
- 3. Geotechnical testing and soil borings are not included in this proposal, but will be required to complete design of the project.
- 4. We have assumed that sanitary sewer, water and storm sewer are immediately adjacent to the site.
- 5. The survey will be provided to us in AutoCAD format. This survey will include, one-foot contours, spot elevations on significant structures and features, location of utilities including pipe types, sizes and slopes, and manhole rims and inverts.
- 6. Delays resulting from the project being placed on hold will result in re-start expenses that will be billed as additional services.
- 7. Application or permit fees required for this project are not included in this proposal and are assumed to be the responsibility of the owner. Should Loucks be requested to submit fees, these will be charged as reimbursable costs.

C. COMPENSATION

Compensation for those items described in the Scope of Services above will be for the following amount:

<u>Activity</u>	<u>Fee</u>
1. Surveying	
1.1 Preliminary Plat	\$6,500
1.2 Final Plat	\$3,500

2. Preliminary Civil Design	
2.1 Civil Documents	\$28,600
<hr/>	
Total	\$38,600

- a. Reimbursable expenses such as mileage and delivery service will be billed in addition to the lump sum or unit prices quoted above.
- b. Invoices will be sent once a month based on the percentage of work completed and/or additional services performed through the date of billing. Payments on invoices are due upon receipt. Account balances over 30 days will be charged a late charge of 1.0% per month.

D. CLOSURE

Only the services listed above in the Scope of Services are included in this proposal. If additional services are required, they shall be provided in accordance with the attached hourly rate fee schedule.


Loucks appreciates the opportunity to present this proposal to you. It is being provided via email for you to sign and return via email as written authorization to proceed.

Attached to this proposal are Loucks Hourly Rate Fee Schedule and General Conditions, which are part of this agreement. By signing this contract, you are agreeing that they have been read, understood and accepted.

We would appreciate the opportunity to personally discuss this proposal/contract with you at your earliest convenience.

This proposal is valid for a period of 30 days from the date of this proposal.

Sincerely,
LOUCKS


 Vicki VanDell, PE
 Associate Civil Engineer


 Mike St. Martin, PE
 President & Principal Civil Engineer

Authorization to Proceed:

By: _____
On Behalf Of: _____

Date: _____

Loucks is an Equal Opportunity Employer.

HOURLY RATE FEE SCHEDULE

Effective January 1, 2022



Services performed on an hourly basis will be invoiced based on actual hours worked in accordance with the following itemized staffing descriptions. Reimbursable external expenses including, but not limited to, sub-consultants, duplication, messenger service, travel, postage and expendable field supplies will be billed to the client at the actual rate, plus 10%.

DISCIPLINE	JOB CLASSIFICATION	HOURLY RATE
Planning	Senior Planner	\$212
	Senior Site Designer	156
Landscape Architecture	Principal Landscape Architect	215
	Associate Landscape Architect	195
	Senior Landscape Architect.....	185
	Landscape Architect.....	157
	Site Design Technician	140
Engineering	Principal Engineer.....	230
	Associate Engineer.....	206
	Senior Project Engineer.....	195
	Project Engineer Manager.....	181
	Engineer In Training (EIT).....	151
	Senior Engineering Technician.....	143
	Engineering Technician	120
	Senior Construction Representative	165
Construction Representative.....	114	
Surveying	Principal Surveyor.....	221
	Associate Surveyor	197
	Senior Surveyor	186
	Project Surveyor	160
	Land Surveyor in Training.....	146
	Senior Survey Technician.....	148
	Survey Technician.....	124
	Survey Crew Chief.....	145
	Survey Field Technician	115
	Two Person Survey Crew*.....	260
One Person Survey Crew*.....	187	
Scanning	3D Imaging Crew Chief with Scanner	310
	3D Imaging Technician.....	170
Graphics	Graphic Designer.....	144
	Graphic Artist	125
Administration	Administration Assistance (Clerical).....	110
	*For Projects Requiring Certified Health & Safety Training Add Per Employee	63
Reimbursable Expenses	Mileage.....	per mile 0.64
	Mylar Film	each 28.00

1.0 CLIENT RESPONSIBILITY

- 1.1. The CLIENT shall provide or make available all existing data that could possibly have a bearing on the decisions or recommendations made by Loucks including:
 - 1.1.1. The CLIENT shall provide a copy of an Abstract or Title commitment for the parcel within seven (7) days of agreement date.
 - 1.1.2. The CLIENT shall provide a copy of all staff reports, meeting minutes and pertinent correspondence as they become available. This information shall be furnished as expeditiously as necessary for the orderly progress of Loucks services and of the work.
 - 1.1.3. The CLIENT shall provide, as requested, information regarding requirements for the Project that shall set forth the CLIENT's design objectives, constraints and criteria, including building area, building types and site requirements.
 - 1.1.4. The CLIENT shall examine the documents prepared by Loucks and shall render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of Loucks services.
 - 1.1.5. The CLIENT shall furnish reports and professional recommendations and other services of soil engineers or other consultants when such services are deemed necessary by Loucks. Consultants hired by the CLIENT shall carry liability, errors and omission and other pertinent insurance. The services may include test borings, test pits, soil bearing values, percolation tests, air and water pollution tests, ground corrosion and resistivity tests, etc.
 - 1.1.6. Loucks shall receive copies of all soil borings, compaction tests and reports.
- 1.2. If the CLIENT observes or otherwise becomes aware of any fault or defect in the Project or non conformance with the Construction Documents, prompt written notice thereof shall be given by the CLIENT to Loucks.
- 1.3. The CLIENT shall provide for Loucks right to enter from time to time property owned by the CLIENT and/or others in order for Loucks to fulfill the Scope of Services indicated herein. The CLIENT understands that use of equipment may unavoidably cause some damage, the correction of which is not part of this agreement.

2.0 PAYMENT TO LOUCKS

- 2.1. Invoices will be submitted to the CLIENT from time to time, generally monthly but no more frequently than every two weeks and shall be due and payable within thirty (30) calendar days of the invoice date.
- 2.2. If the CLIENT objects to all or any portion of an invoice, the CLIENT shall so notify Loucks in writing within thirty (30) calendar days of the invoice date, identify the cause of disagreement and pay when due that portion of the invoice, if any, not in dispute. The CLIENT forfeits his objection by failure to respond within thirty (30) days. Loucks and CLIENT shall strive to resolve disputed amounts within 45 days. If the dispute cannot be resolved, either party has the right to suspend or terminate this agreement.
- 2.3. The CLIENT shall pay an additional carrying charge of one (1.0) percent of the invoice amount per month for any payment received by Loucks more than thirty (30) calendar days from the date of the invoice, excepting any portions of the invoice amount in dispute and resolved in favor of the CLIENT.
 - 2.3.1. Payment thereafter shall first be applied to the carrying charges and then to the principal unpaid amount.
 - 2.3.2. Application of the additional carrying charge indicated above as a consequence of the CLIENT's late payments does not constitute any willingness on Loucks part to finance the CLIENT's operation, and no such willingness should be inferred.
- 2.4. Payment of invoices is in no case subject to unilateral discounting or setoffs by the CLIENT.
- 2.5. If the CLIENT fails to pay undisputed invoiced amounts within sixty (60) calendar days of the date of the invoice, Loucks may at any time, without waiving any other claims against the CLIENT and without thereby incurring any liability to the CLIENT, suspend or terminate this agreement.

2.6. (a) ANY PERSON OR COMPANY SUPPLYING LABOR OR MATERIALS FOR THIS IMPROVEMENT TO YOUR PROPERTY MAY FILE A LIEN AGAINST YOUR PROPERTY IF THAT PERSON OR COMPANY IS NOT PAID FOR THE CONTRIBUTIONS.

(b) UNDER MINNESOTA LAW, YOU HAVE THE RIGHT TO PAY PERSONS WHO SUPPLIED LABOR OR MATERIALS FOR THIS IMPROVEMENT DIRECTLY AND DEDUCT THIS AMOUNT FROM OUR CONTRACT PRICE, OR WITHHOLD THE AMOUNTS DUE THEM FROM US UNTIL 120 DAYS AFTER COMPLETION OF THE IMPROVEMENT UNLESS WE GIVE YOU A LIEN WAIVER SIGNED BY PERSONS WHO SUPPLIED ANY LABOR OR MATERIAL FOR THE IMPROVEMENT AND WHO GAVE YOU TIMELY NOTICE.

2.7. In the event that litigation is required to collect undisputed invoiced amounts, Loucks shall be reimbursed by the CLIENT for Loucks legal costs in addition to whatever other judgment or settlement sums, if any, may be due. Such legal costs shall include, but not be limited to, reasonable attorney's fees, court costs, expert witness fees and other documented expenses, as well as the value of time spent by Loucks in researching the issues in question, discussing matters with attorneys and others, preparing for depositions, responding to interrogatories and so on. The value of time spent and the expenses incurred shall be based on Loucks prevailing fee schedule and expense reimbursement policy relative to the recovery of direct project costs. The same considerations apply to the prevailing party, either the CLIENT or Loucks, when litigation or arbitration is needed to resolve properly noticed disputed invoiced amounts.

3.0 ADDITIONAL SERVICES AND/OR EXCLUDED SERVICES

3.1. Unless specifically included in the Scope of Services, the following services are not included in this agreement. They shall be provided if agreed to in writing by the CLIENT and Loucks. In general, tasks not specified within the Scope of Services will be prepared in accordance with the prevailing hourly fee schedule.

3.2. Revisions to plans that are requested by the CLIENT, the CLIENT's architect or representative or required by the city, its consultants, watershed, county surveyor, DNR, Corps of Engineers, or other regulatory agency if it is not clearly demonstrated that the cause for change is an error or omission on Loucks behalf.

3.3. The CLIENT shall also pay all Reimbursable Charges and other costs directly attributable to termination or suspension for which Loucks is not otherwise compensated.

3.4. If the services covered by the Agreement have not been completed within eighteen (18) months of the date of this Agreement, through no fault of Loucks, the amount of compensation shall be equitably adjusted using the prevailing hourly fee schedule.

3.5. If the CLIENT requests a task be completed in a time frame which requires Loucks employees to work beyond 8 hours per working day (Monday through Friday), and it is solely based on the CLIENT's request and not Loucks integral workload, Loucks may negotiate additional compensation for fast tracking a specific task.

3.6. In that it would be unfair for Loucks to be exposed to liability for his or her failure to perform a service the CLIENT has instructed Loucks not to perform, due to the CLIENT's preference or desire to obtain such service from another source, the CLIENT hereby waives any claim against LOUCKS and agrees to defend, indemnify and hold LOUCKS harmless from any claim or liability for injury or loss allegedly arising from Loucks failure to perform a service the CLIENT has instructed Loucks to not perform. The CLIENT further agrees to compensate Loucks for any time spent or expenses incurred by Loucks in defense of any such claim, in accordance with Loucks prevailing fee schedule and expense reimbursement policy.

3.7. The CLIENT has relied on Loucks judgment in establishing the work scope and fee for this project, given the project's nature and risks. The CLIENT shall therefore rely on Loucks judgment as to the continued adequacy of this agreement in light of occurrences or discoveries that were not originally contemplated by or known to Loucks. Should Loucks call for contract re negotiation, Loucks shall identify the changed conditions which in Loucks judgment makes such re negotiation necessary, and Loucks and the CLIENT shall promptly and in good faith enter into re negotiation of this agreement to help permit Loucks to continue to meet the CLIENT's needs. If re negotiated terms cannot be agreed to, the CLIENT agrees that Loucks has an absolute right to terminate this AGREEMENT.

4.0 REIMBURSABLE EXPENSES

4.1. In addition to the Compensation for Basic and Additional Services, the following Reimbursable Charges are due to Loucks from the CLIENT, for reasonable charges incurred or established by Loucks in the interest of the Project:

4.2. Transportation in connection with the Project, out-of-town travel, long-distance communications, blueprints, reproductions, copies, deliveries performed by Loucks or outside delivery services, and fees paid for securing approval by authorities having jurisdiction over the Project.

4.3. The plat check fee and the cost of the plat mylars are reimbursable expenses to be paid by the CLIENT.

5.0 OPINION OF PROBABLE CONSTRUCTION COSTS

5.1. If contained in the Scope of Services or if requested as an additional service, Loucks shall submit to the CLIENT an opinion of the probable cost required to construct work recommended, designed, or specified by Loucks. Loucks is not a construction cost estimator or construction contractor, nor should Loucks rendering an opinion of probable construction costs be considered equivalent to the nature and extent of service that a construction cost estimator or construction contractor would provide. Loucks opinion will be based solely upon his or her own experience with construction. This requires Loucks to make a number of assumptions as to actual conditions that will be encountered on site; the specific decisions of other design professions engaged; the means and methods of construction the contractor will employ; the cost and extent of labor, equipment and materials the CONTRACTOR will employ; CONTRACTOR's techniques in determining prices and market conditions at the time, and other factors over which Loucks has no control. Given the assumptions that must be made, Loucks cannot guarantee the accuracy of his or her opinions of cost, and – in recognition of that fact – the CLIENT waives any claim against Loucks relative to the accuracy of Loucks opinion of probable construction cost.

6.0 CONSTRUCTION MANAGEMENT, OBSERVATION AND TESTING

6.1. Loucks shall render Construction Document interpretations necessary for the property execution or progress of those portions of the Work designed by Loucks with reasonable promptness.

6.2. Loucks will provide periodic observation of grading, utility and street construction activities as specified in under the SCOPE OF SERVICES.

6.3. Loucks will verify field measured quantities for payment to the construction contractor as specified under the SCOPE OF SERVICES.

7.0 SHOP DRAWING REVIEW

7.1. Loucks shall timely review and take appropriate action upon the construction contractor's submittals of Shop Drawings, Products Data and Samples. Such action shall be taken with reasonable promptness to insure job progress. Loucks review of a specific item shall not pass design responsibility for that item to Loucks when the design aspects are the responsibility of other designers. Instead this review would be to verify conformance of that specific item as a component within an entire assembly.

8.0 CONSTRUCTION STAKING

8.1. Loucks shall be notified at least two (2) working days prior to the time that the construction stakes are required. No additional compensation shall be allowed for any claims of crews being held up because of lack of line and grade stakes. If Loucks survey crew arrives at the site to perform construction staking at a specified date and time as requested, but the scheduled work cannot be performed due to circumstances beyond Loucks control, the waiting and/or travel time will be considered additional services.

8.2. After any part of the staking has been completed, the CLIENT and/or contractor shall be responsible for the proper execution of the work such lines and grades and all stakes or other marks given shall be protected and preserved until the work is completed and checked. Restaking shall be considered as an additional service, less it is to correct an error in the original staking.

8.3. The CLIENT and/or contractor shall assist Loucks in staking utility lines by exposing potentially conflicting utility lines for determination of line elevation and location.

8.4. If Loucks is not retained to perform construction observation, the client or his representative shall review the construction staking and/or cut sheets for general conformity to the plans and immediately report any obvious discrepancies to Loucks. If work is performed after knowing a possible staking error exists, it will be at the sole responsibility of the CLIENT or Contractor.

8.5. The cost of resetting lost irons will be invoiced to the CLIENT at Loucks' standard hourly rates.

8.6. Loucks shall be held harmless by the CLIENT for any losses resulting from houses that are staked by other surveyors prior to installation of lot corners.

9.0 JOB SAFETY

- 9.1. Insofar as job site safety is concerned, Loucks is responsible for his or her own and his or her employee's activities on the jobsite, but this shall not be construed to relieve the CLIENT or any construction contractors from their responsibilities for maintaining a safe job site. Neither the professional activities of Loucks nor the presence of Loucks or his or her employees and subcontractors, shall be construed to imply Loucks has any responsibility for methods of work performance, superintendent, sequencing of construction, or safety in, on or about the job site. The CLIENT agrees that the Construction Contractor is solely responsible for job site safety, and warrants that this intent shall be made evident in the CLIENT's agreement with the Construction Contractor. The CLIENT also warrants that Loucks shall be made an additional insured under the Construction Contractor's general liability insurance policy.

10.0 RECORD DRAWINGS

- 10.1. Upon completion of the work, Loucks shall compile for and deliver to the CLIENT, a complete set of record documents using information furnished to Loucks by the construction contractor and as measured by the field representatives. This set of documents shall consist of the original plan sheets altered by striking our original elevation or distance and writing the record information.
- 10.2. In that the record drawings are based partially on information provided by others, Loucks cannot and does not warrant their accuracy beyond that which Loucks is directly responsible.
- 10.3. A reproducible set of the record drawings will be provided for the City's use and the originals retained in Loucks files for future use.

11.0 STANDARD OF PRACTICE

- 11.1. Services performed by Loucks under this agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation, expressed or implied, and no warranty or guarantee is included or intended in this Agreement, or in any report opinion, document or otherwise.

12.0 TERMINATION OF AGREEMENT AND/OR SUSPENSION OF WORK

- 12.1. This Agreement may be terminated by either party upon seven days written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination.
- 12.2. This Agreement may be terminated by the CLIENT upon at least seven days written notice to Loucks in the event that the project is permanently abandoned.
- 12.3. The CLIENT may instruct Loucks to temporarily stop work on the project by giving written notice.
- 12.4. The CLIENT shall pay all costs associated with the suspension or termination of work, including demobilization, modifying schedules, reassigning personnel, etc.

13.0 MISCELLANEOUS PROVISIONS

- 13.1. This Agreement shall be governed by Minnesota Law.
- 13.2. The CLIENT and Loucks waive all rights against each other and against Loucks, agents and employees of the other for damages during construction covered by any property insurance. The CLIENT and Loucks each shall require appropriate similar waivers from their contractors, consultants and agents. Where any property insurance policy requires an endorsement to permit waiver of subrogation, the CLIENT shall obtain such endorsement.
- 13.3. Loucks shall remain the owners of all plans, designs and papers related to the above referenced project. In the event of any nonpayment of invoices, Loucks shall be under no obligation to deliver any such plans, designs or other papers to you, and shall have no liability to you for its retention of such plans unless full and prompt payment is made.

14.0 INDEMNIFICATION

- 14.1. The CLIENT shall indemnify and hold harmless Loucks, from claims resulting from the performance of the work; provided that any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death or to injury to or destruction of tangible property (even to Work itself) including loss of use or resulting therefrom, and (b) is caused in whole

or in part by a negligent act or omission of the CLIENT, anyone directly or indirectly employed by him, or anyone for whose acts he may be liable. Such obligation shall be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph.

14.2. Loucks shall indemnify and hold harmless Client, from claims resulting from the Work performed provided that any such claim, damage, loss or expense is caused in whole or in part by a negligent act or omission of Loucks.

15.0 ASSIGNMENT

15.1. The CLIENT and Loucks, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither the CLIENT nor Loucks shall assign, sublet or transfer any interest in this Agreement without the written consent of the other.

16.0 EXTENT OF AGREEMENT

16.1. This Agreement comprises a final and complete repository of understanding between the CLIENT and Loucks. It supersedes all prior or contemporaneous communications representations or agreements whether oral or written, relating to the subject matter of this agreement. Each party has advised the other to read this document thoroughly before accepting it, to help assure it accurately conveys meaning and intents. Acceptance of this agreement as provided for below signifies that each party has read the documents thoroughly and has had any questions or concerns completely explained by independent counsel and is satisfied. The CLIENT and CONSULTANT agree that modifications to this Agreement shall not be binding unless made in writing and signed by an authorized representative of each party.

16.2. Any notice given hereunder shall be deemed served when hand-delivered in writing to an officer or other duly appointed representative of the party to whom the notice is directed, or if sent by registered or certified mail to the business address identified at the end of this agreement.

17.0 AFFIRMATIVE ACTION

17.1. Loucks certifies that it has received a certificate of compliance from the Commissioner of Human Rights pursuant to Minnesota Statutes, Section 363.074.