



To: Members of the Edina Housing & Redevelopment Authority **Agenda Item #:** HRA V.

From: Bill Neuendorf
Economic Development Manager

Action
Discussion
Information

Date: September 2, 2014

Subject: Resolution 2014-04; Authorize purchase of property – 3944 West 49-1/2 Street

Action Requested:

Approve Resolution 2014-04 to authorize the Chair and Executive Director to execute the Purchase Agreement and other documents necessary to purchase the property.

Information:

The owners of the former Hooten Cleaners property have approached City staff to inquire whether the City remains interested in purchasing the property.

After the City's efforts to purchase the property in 2012-2013, the owners chose to enter into a sales agreement with a private party. That potential sale fell through in spring 2014. While the owners had interest in remodeling and leasing the building to new tenants, they are now interested in selling the property outright.

Background:

The City / Housing and Redevelopment Authority (HRA) has previously studied the public parking availability at the 50th and France business district and found that additional public parking is needed to support continued success. The existing North Parking Ramp at 3936-40 West 49-1/2 Street has the ability to be expanded to provide additional public parking for customers and employees. It is also desired to incorporate street level activity in future parking expansions so that the overall business environment is enhanced.

In summer of 2013, the City commissioned an independent appraisal of the property at 3944 W. 49-1/2 Street to establish the fair market value. At that time, the owners had two signed leases and were anticipating taking out a loan to invest approximately \$300,000 into the property to create a viable building shell for new tenants. The City made offers based on that independently determined value. The City's previous purchase offer (October 2013) included the following key terms:

- \$1,550,000 purchase price (based on enhanced appraised value plus reimbursement for professional services incurred by the sellers).
- Accept property in "as-is" condition.
- Prompt closing (30-days) without financing or environmental contingencies.

- Some funds held in escrow to cover potential costs of environmental remediation (estimated between \$116,000 and \$342,000).
- City to provide letter for IRS Section 1033 exchange.
- Each party responsible for customary closing costs and respective professional fees.
- City to order title insurance and ALTA survey at City expense.
- Seller responsible for taxes, assessments and utilities through the date of closing.
- Seller and any tenants to waive relocation benefits.
- Building must be free of tenants with no active leases prior to closing.
- Clean title required (no liens, no leases, etc).

The owners are now willing to accept these terms, except for the escrow amount to cover potential remediation.

Staff recommends that the Edina HRA honor its previous purchase offer with one modification. It is recommended that the HRA accept the site in 'as-is' condition and not withhold any funds at closing. With due diligence conducted in 2013, the environmental risks are understood and the costs are within reason.

This is a strategic acquisition so that the City and HRA have an opportunity to expand the North public parking facility. A direct purchase is preferred so that the HRA retains the flexibility to divide, sell, or otherwise transfer any portion of the land not needed for public purposes.

Anticipated Funding Source:

Existing funds are available in the Centennial Lakes TIF District for site acquisition and redevelopment purposes. It is not necessary to incur debt or increase the tax levy to acquire this property.

Attachment:

Resolution 2014-04, Purchase Agreement (16 pages)

**RESOLUTION NO. 2014-04
AUTHORIZING PURCHASE AGREEMENT FOR
PROPERTY AT 3944 WEST 49-1/2 STREET**

WHEREAS, the Edina Housing and Redevelopment Authority (HRA) may acquire real property and may operate and maintain public parking facilities in connection with any of its projects pursuant to the authority provided under Minn. Stat. 469.012; and

WHEREAS, the HRA has previously constructed a public parking facility located at 3936-3940 West 49-1/2 Street; and

WHEREAS, studies have confirmed the need for additional parking in the business district as well as the viability of the existing garage to be expanded to provide additional parking; and

WHEREAS, terms of a Purchase Agreement have been reached with the owner of the property located at 3944 West 49-1/2 Street, Edina, Minnesota, 55424.

NOW, THEREFORE, BE IT RESOLVED, the Edina Housing and Redevelopment Authority approves the Purchase Agreement for the property located at 3944 West 49-1/2 Street and authorizes the Chair and Executive Director to execute the documents necessary to purchase the property.

Dated: September 2, 2014.

Attest: _____

Ann Swenson, Secretary

James B. Hovland, Chair

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 2, 2014, and as recorded in the Minutes of said Regular Meeting.

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

Executive Director

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REAL ESTATE PURCHASE AGREEMENT

THIS AGREEMENT (“Agreement”), dated as of the ____ day of _____, 2014 (the **“Contract Date”**), by and between the **HOUSING AND REDEVELOPMENT AUTHORITY OF EDINA, MINNESOTA**, a body politic and corporate under the laws of the State of Minnesota (**“Purchaser”**) and **SOON YONG PARK and JUNG JA PARK**, husband and wife, (**“Sellers”**).

1. PROPERTY. In consideration of the mutual promises, covenants, and agreements hereinafter contained, Seller agrees to sell and convey to Purchaser, and Purchaser agrees to buy the real property, legally described on Exhibit “A” attached hereto from Seller, upon the terms and conditions hereinafter set forth, together with the building constructed thereof (the **“Building”**), the improvements located within the Building (the **“Improvements”**) and all and singular rights and appurtenances pertaining to the real property including, but not limited to all right, title and interest of Seller in and to adjacent streets, rights of way, easements, utility agreements, parking and other shared use agreements and all hereditaments and appurtenances pertaining thereto, if any (hereinafter referred to as the **“Property”**).

2. PURCHASE PRICE AND MANNER OF PAYMENT. The total purchase price (**“Purchase Price”**) for the Property shall be payable by Purchase Price to Seller by wire transfer at Closing (as hereinafter defined) in the amount of One Million Five Hundred Fifty Thousand and No/100 (\$1,550,000.00) Dollars.

3. TITLE TO BE DELIVERED. Seller shall deliver to Purchaser, or cause to be delivered to Purchaser, at Closing, an executed Limited Warranty Deed (**“Deed”**) in recordable form conveying fee simple title to the Property subject to the terms of this Agreement and:

- (a) Reservations of minerals or mineral rights by the State of Minnesota;
- (b) Building, zoning and subdivision laws and regulations consistent with the current use of the Property;
- (c) The lien of real estate taxes and installments of special assessments which are payable by Purchaser pursuant to the terms of this Agreement;
- (d) Applicable laws, regulations, zoning regulations and ordinances, whether federal, state or local; and
- (e) Exceptions to title which constitute encumbrances, restrictions, or easements which have been disclosed to Purchaser and accepted by Purchaser in writing;

(hereinafter **“Permitted Encumbrances”**).

4. RELOCATION BENEFITS. Sellers are aware of Sellers’ rights and payments that Sellers may be eligible to receive pursuant to the Uniform Relocation Assistance Act (the **“Act”**). Sellers acknowledge that Sellers have been given the opportunity to seek and receive the advice of legal counsel with respect to relocation, moving, reestablishment and other costs, if any, that may be available under the Act.

Sellers hereby acknowledge that the payment of the Purchase Price does not include a payment for Relocation Benefits. At Closing and as a condition precedent to Closing, Sellers will waive any right to receive any relocation payments pursuant to the Act (or other federal or state law provisions) with respect to the Property. Sellers acknowledge that Sellers will make such a waiver of Sellers' own volition and with full knowledge of the specific relocation benefits to which Sellers may be entitled.

Sellers and Purchaser agree that this is a voluntary sale by Sellers. Purchaser represents that Purchaser would not acquire the Property in the event that negotiations between Sellers and Purchaser had failed to result in an amicable agreement. Prior to any action by Purchaser indicating intent to acquire the Property, Sellers placed the Property on the market for sale. Thereafter, upon inquiry by the Purchaser, Sellers requested that Purchaser acquire the Property through negotiation. Sellers clearly showed intent to sell the Property on the open market prior to any discussions, inquiries or negotiations by Purchaser.

If the transaction set forth by this Agreement is not completed, Purchaser has no present intent to acquire the property by eminent domain and has not considered the use of eminent domain. If this Agreement is terminated for any reason, Sellers are free to retain ownership of the Property or to sell the Property on the private market.

As Purchaser and Sellers agree that this is a voluntary sale, state and federal law permit the Purchaser to request a waiver of relocation benefits from Sellers, as provided under Minnesota Statute Section 117.521. Prior to and as a condition of Closing, Sellers will be required to sign a relocation waiver, the form of which is substantially the same as shown on Exhibit "B" and the final form will be subject to the approval of Purchaser ("**Relocation Waiver**"). Purchaser will arrange for a relocation consultant to meet with Sellers prior to Closing. If Sellers do not waive relocation benefits, this Agreement will be terminated and Sellers will be free to retain ownership of the Property or sell on the private market.

5. EVIDENCE OF TITLE.

(a) Within twenty (20) days following the date of execution of this Purchase Agreement, Purchaser shall obtain a commitment for an ALTA Owner's Form title insurance policy (the "**Commitment**") issued by Land Title, Inc. (the "Title Company"), pursuant to which the Title Company agrees to issue to the Purchaser upon the recording of the documents of conveyance referred to herein an Owner's title insurance policy insuring the Property in an amount equal to the Purchase Price. The Commitment shall include proper searches covering bankruptcies, state and federal judgments and liens and levied and pending special assessments, which Commitment:

(1) Insures that Purchaser has marketable title of record to the Property, free and clear of all liens, encumbrances, leases, claims and charges, all material easements, rights-of-way, covenants, conditions and restrictions and any other matters affecting title, except for Permitted Encumbrances.

(2) Waives or agrees to insure over the following standard exceptions:

- (A) Facts which would be disclosed by a comprehensive survey of the Property, if Purchaser obtains, prior to the Closing Date, at Purchaser's sole expense, a survey satisfactory to the Title Company for purpose of waiving the standard exception for survey matters;
 - (B) Rights and claims of parties in possession; and
 - (C) Mechanic's, contractor's and material liens and lien claims.
- (b) Purchaser shall have fifteen (15) days after receipt of the Commitment to deliver to Seller written objections to title based on marketability of the Property ("Objections") and Seller shall have sixty (60) days to have such Objections removed or satisfied, during which period the Closing Date shall be postponed, if necessary. If Seller fails or is unable to have such Objections removed within said time, Purchaser may, at its sole election, do any of the following:
- (1) Termination. Terminate this Agreement without any liability on its part in exchange for a quit claim deed for the Property.
 - (2) Escrow for Cure. If the parties agree to an escrow, Seller shall escrow an amount sufficient to assure cure of the Objection(s). Any amount so escrowed will be placed in an escrow with title pending such cure. If such escrow is established, the parties agree to execute and deliver such documents as may be reasonably required by the Title Company, and Seller agrees to pay the charges of the Title Company to create and administer the escrow.
 - (3) Purchaser Cure. To the extent an Objection can be satisfied by the payment of money, Purchaser shall have the right to pay the amount necessary to satisfy such Objection and the amount so applied shall be reimbursed to Purchaser by Seller or, to the extent the amount is less than the Purchase Price, deducted from the Purchase Price at the Closing, provided, that the amount due to the third-party claimant is an undisputed liquidated amount for which Seller's liability is undisputed. Notwithstanding the limitation, waiver, and relinquishment of remedies in Section 16, if Purchaser funds such a cure of monetary objection, and is not reimbursed at Closing by Seller, Purchaser shall have a right of action to recover from Seller an amount equal to the dollar amount of Seller's undisputed and liquidated liability.
 - (4) Waiver. Waive such objections and take title to the Property subject to such objections.

6. REPRESENTATIONS OF SELLER. On information and belief, without special investigation, Sellers hereby represent to Purchaser:

- (a) That Sellers have the requisite power and authority to enter into this Purchase Agreement and the closing documents relating thereto to be signed by it; that the execution, delivery and performance by Sellers of such documents do not conflict with or result in violation of any judgment, order or decree of any court to which Sellers are a party; such documents are valid and binding obligations of Sellers.
- (b) At Closing, there will be no existing claims, actions, suits or other proceedings pending, or to the knowledge of Sellers, threatened by any governmental department or agency, or any other corporation, partnership or entity or person whomsoever against Sellers or the Property, which in any manner or to any extent may detrimentally affect the Property or Purchaser's right, title or interest in and to any part or all of the Property after Closing.
- (c) Other than Sellers, there are no other tenants or occupants of the Property.
- (d) On the Date of Closing there will be no (i) outstanding leases or occupancy agreements, or (ii) outstanding contracts made by Sellers for any improvements to the Property which have not been fully paid for or for which Sellers shall not have made arrangements to pay off, at Closing, or that will affect the Property or be binding upon Purchaser or upon the Property subsequent to Closing without Purchaser's written consent; and Sellers shall cause to be discharged all mechanic's or materialmen's liens arising from any labor or materials furnished to the Property that were made at the request of Sellers, its agents, or contractors, prior to the Date of Closing and any mortgages or other such similar encumbrances.
- (e) Until the Date of Closing, except as otherwise provided in this Agreement, Sellers shall maintain the land associated with the Property in its present condition, reasonable wear and tear and damage by casualty excepted.
- (f) Sellers are not a foreign person; as such term is defined in Section 1445(f) (3) of the Internal Revenue Code of 1986, as amended, and shall deliver an affidavit to that effect at closing, which shall be in form and substance reasonably acceptable to Purchaser.
- (g) To Sellers' knowledge, except as disclosed in the documentation provided to Purchaser pursuant to Section 7 and as documented in the Barr Engineering Phase I ESA (August 9, 2013) and Summary Report of Limited Phase II (September 18, 2013) on behalf of Purchaser, (i) no toxic materials, hazardous wastes or hazardous substances, as such terms are defined in the Resource Conservation and Recovery Act of 1996, as amended (42 U.S.C. §6901, et seq.) or in the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended (42 U.S.C. §9601, et seq.), including, without limitation, any asbestos or asbestos-related products or materials and any oils, petroleum-derived

compounds or pesticides ("Hazardous Materials") have been generated, treated, stored, released or disposed of or otherwise placed, deposited in or located on the Property; and (ii) the Property is free of Hazardous Materials and is not subject to any "superfund" type liens or claims by governmental regulatory agencies or third parties arising from the release or threatened release of hazardous substances in, on, or about the Property.

- (h) To Sellers' knowledge, the conveyance of the Property pursuant hereto will not violate any currently existing applicable statute, ordinance, governmental restriction or regulation, or any private restriction or agreement to which Sellers are a party.
- (i) To Sellers' knowledge, there are no underground storage tanks or wells on the Property, it being understood that the representation as to wells shall be recited in the Deed to be delivered by Seller at Closing.
- (j) To the best of Sellers' knowledge, Sellers represent that methamphetamine production has not occurred on the Property.
- (k) Solely for purposes of satisfying the requirements of Minn. Stat. § 115.55, Sellers certify that, to Sellers' knowledge, there is no "individual sewage treatment system" (within the meaning of that statute) on or serving the Property. Seller certifies that sewage generated on the Property goes to a facility permitted by the Minnesota Pollution Control Agency.

Except as herein expressly stated, Purchaser is purchasing the Property based upon its own investigation and inquiry and is not relying on any representation of Seller or other person and is agreeing to accept and purchase the Property "as is, where is" subject to the conditions of examination herein set forth and the express warranties herein contained. The representations set forth in this section shall be continuing and shall be true and correct as of the Date of Closing with the same force and effect as if made at that time and shall survive the Closing for a period of two (2) years.

7. REVIEW OF DOCUMENTS AND ACCESS TO PROPERTY. Within twenty (20) days of the execution of this Agreement, Sellers agree to provide Purchaser with all of the following documentation:

- (a) True and correct copies of all existing environmental assessment reports, soil reports and results of all soil tests and environmental assessments in Seller's possession;
- (b) Surveys, permits, licenses, leases, complete copies of all contracts currently affecting the Property readily available or Sellers' possession ("**Other Agreements**"), and notices received within the last 90 days from the city, state or other governmental authorities pertaining to uncured violations of any law, ordinance or regulation.

Sellers' obligation to provide the foregoing documentation shall continue for any such documentation that Sellers receive following execution of this Agreement and prior to Closing.

Sellers acknowledge that Purchaser and Purchaser's agents shall have access to the Property without charge and at reasonable times for the purpose of Purchaser's survey, investigation and testing of the Property ("**Investigation**"). Purchaser shall pay all costs and expenses of Investigation and Purchaser shall hold harmless and indemnify the Property and Sellers, their heirs, successors and assigns, from and against any and all claims, suits, losses, liabilities, and expenses (including attorney's fees, expert's fees, and other expenses of litigation) on account of injury to or death of any persons (including Purchaser's) or damage to property or contamination of or adverse effects on the environment or liens against Seller or the Property, caused by Purchaser's entry onto the Property. Purchaser's obligations under this Section 7 shall survive the termination of this Agreement or the Closing. Purchaser shall repair and restore any damage to the Property caused by or occurring during Purchaser's Investigation and return the Property to substantially the same condition as existed prior to any Investigation. Purchaser shall have the right in its sole discretion to contact various public officials and administrators to verify information regarding the status of the Property and to determine that the Property is suitable for Purchaser's intended use.

8. PURCHASER'S CONTINGENCIES. The obligations of Purchaser under this Agreement are expressly contingent upon the following:

- (a) The representations of Sellers contained in this Agreement must be true now and as of the Closing Date, as if made on the Closing Date and Sellers shall have delivered to Purchaser on the Closing Date, a certificate, signed by Sellers, certifying that such representations are true as of the Closing Date (the "**Bring-down Certificate**"), except to the extent that the representations are no longer true and acceptable to Purchaser.
- (b) Title to the Property and easements to be acquired under this Agreement shall be held by Sellers on the Closing Date, and shall be free and clear of all encumbrances except the Permitted Encumbrances.
- (c) Purchaser shall be satisfied, in its reasonable discretion, with the results of any Investigation conducted by Purchaser or Seller on the Property.
- (d) Sellers, as owners of the Property, agree to sign a voluntary waiver of all relocation assistance, services, payments and benefits as set forth in Minnesota Statute Section 117.521, as required under Section 4.
- (e) Sellers shall perform all of the obligations required to be performed under this Agreement, as and when required by this Agreement, except as waived by Purchaser.

- (f) Purchaser having determined that it is satisfied with its review and analysis of all documents required to be provided by Seller under Section 7.
- (g) No suit, zoning change, governmental investigation or other proceeding challenging the transactions contemplated hereby, shall have been threatened or instituted.

If the contingencies set forth herein have not been satisfied or waived by Purchaser by the Closing Date, as otherwise extended, Agreement shall be null and void and neither party shall have any further obligations hereunder, except for Purchaser's indemnity obligations pursuant to Section 7. The contingencies set forth in this section are for the sole and exclusive benefit of Purchaser, and Purchaser shall have the right to waive the contingencies by giving notice to Seller, provided Purchaser abides by the time requirements set forth above.

9. CLOSING. The closing hereof shall take place on or before October 9, 2014, except as otherwise extended or terminated as provided under this Agreement (the "**Closing**" or "**Date of Closing**"). The Closing shall take place at the offices of the Title Company. If Closing does not occur on or before December 5, 2014, this Agreement shall be null and void, Purchaser shall execute a quit claim deed for the Property in favor of Sellers, and neither party shall have any further obligations hereunder, except for Purchaser's indemnity obligations pursuant to Section 7. At Closing, Sellers and Purchaser shall disclose their Social Security Numbers or Federal Tax Identification Numbers for the purpose of completing state and federal tax forms.

10. SELLERS' OBLIGATIONS AT CLOSING. On or prior to the Date of Closing, Sellers shall:

- (a) Execute, acknowledge and deliver to Purchaser the Deed to the Property conveying to Purchaser marketable fee simple title to the Property subject only to the Permitted Encumbrances.
- (b) Execute and/or deliver to Purchaser such other documents as may be required by this Agreement or as may be reasonably required by Title Company, including well disclosures and sewage treatment system disclosures.
- (c) Deliver to Purchaser a standard form affidavit by the Sellers indicating that on the Date of Closing there are no outstanding, unsatisfied judgments, tax liens or bankruptcies against or involving Sellers or the Property; that there has been no skill, labor or material furnished to the Property for which payment has not been made or for which mechanic's liens could be filed; and that there are no other unrecorded interests in the Property.
- (d) Deliver to Purchaser a "bring-down" certificate, certifying that all of the representations made by Sellers in this Agreement remain true as of the Date of Closing, subject to exceptions or events occurring subsequent to this Purchase Agreement that are acceptable to Purchaser.

- (e) Execute and deliver to Purchaser a waiver of relocation benefits as required under Section 4.

11. PURCHASER'S OBLIGATIONS AT CLOSING. At Closing and subject to the terms, conditions, and provisions hereof and the performance by Sellers of their obligations as set forth above, Purchaser shall:

- (a) Deliver to Sellers by wire transfer the balance of the Purchase Price, less any adjustments.
- (b) Execute and/or deliver to Sellers such other documents as may be required by this Agreement or as may be reasonably required by Title Company.

12. CLOSING COSTS. The following costs and expenses shall be paid as follows in connection with the Closing:

- (a) Sellers shall pay:
 - (1) Sellers' attorneys' fees;
 - (2) The cost of preparing the Commitment;
 - (3) The cost of recording the satisfaction of any existing mortgage and any other reasonable document(s) necessary to make title marketable;
 - (4) The cost of preparation of the Deed and other documents of conveyance and the cost for state deed tax;
 - (5) The cost of engineers or other consultants, if any, engaged by Purchaser regarding the Property.
 - (6) Operating expenses relating to the Property incurred for the period prior to the Closing Date; and
 - (7) One-half of the closing fee charged by Title Company for the Closing between Seller and Purchaser.
- (b) Purchaser shall pay the following costs in connection with the Closing:
 - (1) The cost of the premium and endorsements issued pursuant to the Commitment.
 - (2) Filing fee required to record the Deed and costs and filing fees for documents to be recorded that are not required to be paid by Sellers.
 - (3) Purchaser's attorneys' fees.

- (4) One-half of the closing fee charged by Title Company for the Closing between Seller and Purchaser.
- (5) The cost of engineers or other consultants, if any, engaged by Purchaser regarding the Property.

13. UTILITIES, TAXES AND SPECIAL ASSESSMENTS.

- (a) Sellers shall pay all utilities, general real estate taxes and installments of special assessments due and payable in the year prior to the Date of Closing and in years prior thereto. Utilities, real estate taxes and installments of special assessments due and payable in and for the year of closing shall be prorated between Sellers and Purchaser on a calendar year basis to the actual Date of Closing;
- (b) Sellers shall pay all costs charged by the City pursuant to Section 24-167 of the Edina City Code incurred during 2013, due and payable in 2014, and a pro rata portion of costs incurred during 2014 due and payable in 2015 based on the budgeted amount for the Property of \$2,066.74 to the Date of Closing.
- (c) Purchaser shall pay utilities, real estate taxes and installments of special assessments due and payable after the actual Date of Closing.

14. CONTROL OF PROPERTY. Prior to the Date of Closing, Sellers shall have the full responsibility and the entire liability for any and all damages or injuries of any kind whatsoever to the Property, to any and all persons, whether employees or otherwise, except liability arising from the activities of Purchaser, its agents, contractors or employees. Any removable fixtures, equipment or personal property left at the Property after the Date of Closing, shall be considered abandoned by Sellers and Purchaser shall be free to dispose of these items in any manner it chooses at its sole discretion. Except as otherwise provided under the terms of this Agreement, Sellers shall indemnify, defend and hold Purchaser free and harmless from and against any and all claims, obligations and liability (and attorneys' fees and court costs in connection therewith) arising out of the Property or any portion thereof from any event, occurrence, act, or failure to act prior to Closing and Purchaser shall indemnify, defend and hold Sellers free and harmless from and against any and all claims, obligations and liability (and attorneys' fees and court costs in connection therewith) arising out of the Property or any portion thereof from any event, occurrence, act, or failure to act after Closing.

15. POSSESSION. Sellers shall deliver possession of the Property to Purchaser on the Date of Closing.

16. DEFAULT; REMEDIES. If Sellers have performed or are ready, willing and able to perform all obligations required by this Agreement and Purchaser shall fail or refuse to perform this Agreement within the time and in the manner provided, then Sellers' sole remedy shall be termination of this Agreement, in which case the parties shall have no further rights and obligations hereunder other than those rights and/or obligations which are expressly stated to survive expiration or termination of this Agreement.

herein, such waiver may be made only by giving Sellers written notice specifically describing the right waived.

- (e) Survival. Except as otherwise stated herein, all of the terms of this Agreement will survive and be enforceable for a period of two (2) years after the Closing.
- (f) Amendment. This Agreement shall be amended only by a written instrument signed by Sellers and Purchaser.
- (g) Brokerage. Each party hereby agrees to indemnify and hold the other harmless of any claim made by a broker or sales agent or similar party for a commission due or alleged to be due on this transaction on the basis of an agreement with said broker made by the indemnifying party. The parties' obligations set forth in this section shall survive termination or consummation of this Agreement.
- (h) Assignment. Except for an assignment by Sellers to The Park Property, LLC, neither Sellers nor Purchaser shall assign this Agreement or its rights hereunder without the express written consent of the other, which may be withheld by the other in its sole discretion.
- (i) Benefit. This Agreement shall be binding upon and inure to the benefit of Sellers and Purchaser and their respective successors and assigns
- (j) Construction. The captions and headings of the various sections of this Agreement are for convenience only and are not to be construed as defining or as limiting in any way the scope or intent of the provisions hereof. Wherever the context requires or permits, the singular shall include the plural, the plural shall include singular, and the masculine, feminine and neuter shall be freely interchangeable.
- (k) Counterparts. For the convenience of the parties, any number of counterparts hereof may be executed and each such executed counterpart shall be deemed an original, but all such counterparts together shall constitute one in the same Agreement.
- (l) IRC 1033. Purchaser agrees to cooperate with Sellers in Sellers' quest for tax deferral pursuant to Section 1033 of the Internal Revenue Code, as amended. Sellers acknowledge that any exchange shall be at no cost to Purchaser and shall not release or diminish Sellers' obligations and liability under this Agreement.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above, in multiple counterparts, each of which shall be deemed an original and all of which shall evidence but one agreement.

SELLERS:

Soon Yong Park

Jung Ja Park

PURCHASER:

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

By: _____
James B. Hovland, Its Chair

And: _____
Scott Neal, Its Executive Director

EXHIBIT A

Legal Description of Property

The East 85 feet of the West 120 feet of the East 172 feet of the South 150 feet of the North ½ of Lot 36, Auditor's Subdivision Number 172, Hennepin County, Minnesota.

EXHIBIT B

Agreement Regarding Release, Payment and Assignment of Relocation Benefits

THIS AGREEMENT REGARDING WAIVER AND ASSIGNMENT OF RELOCATION BENEFITS (this “Agreement”) is made as of _____, 2014, by and between the **HOUSING AND REDEVELOPMENT AUTHORITY OF EDINA, MINNESOTA**, a body politic and corporate under the laws of the State of Minnesota (“**Purchaser**”) and **SOON YONG PARK and JUNG JA PARK**, husband and wife, (“**Sellers**”).

RECITALS:

Sellers and Purchaser entered into a purchase agreement (the “Purchase Agreement”) dated as of _____, 2014, related to property located at 3944 West 49 ½ Street, Edina, Minnesota.

Sellers have been advised of their rights and payments that Sellers may be eligible to receive pursuant to the Uniform Relocation Assistance Act (the “Act”), including payments for Minimum Compensation under Minn. Stat. 117.87.

Sellers acknowledge they have sought and received the advice of legal counsel and have been specifically advised as to relocation, moving, reestablishment, and other costs that may be available to the Sellers under the Act.

Sellers and Purchaser desire to enter into this Agreement to confirm their understanding of the Sellers’ release, sale and assignment of any claim for any relocation benefits and/or other relocation costs due or payable to Sellers, whether pursuant to the Act or otherwise.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

1. Effective as of the date hereof, Sellers hereby acknowledge that the sale of the Property is voluntary sale and not under threat of condemnation and the payment of the Purchase Price does not include payment for Relocation Benefits and Minimum Compensation Benefits and hereby release Purchaser from any liability for payment of additional relocation payments pursuant to the Act (or other federal or state law provisions) with respect to the Property.

2. Effective as of the date hereof, Sellers hereby sell, transfer and assign to Purchaser any benefits, payments, claims, or other rights due or payable to Sellers pursuant to the Act (or other federal or state law provisions) with respect to the Property.

3. Sellers acknowledge that they have freely waived such rights of their own volition.

4. Sellers acknowledge that they have waived such rights with full knowledge of the specific relocation benefits to which they would otherwise be entitled.

5. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.

6. This Agreement shall be null and void if the Purchase Agreement shall terminate or if Closing under the Purchase Agreement shall fail to occur for any reason.

IN WITNESS WHEREOF, this Waiver of Relocation Benefits Agreement has been executed by the parties hereto as of the day and year first above written.

SELLERS:

Soon Yong Park

Jung Ja Park

PURCHASER:

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

By: _____
James B. Hovland, Its Chair

And: _____
Scott Neal, Its Executive Director