



HOUSING AND REDEVELOPMENT AUTHORITY AGENDA

Wednesday, November 6, 2013

6:50 p.m.

Coon Rapids City Center
Council Chambers

Call to Order

Roll Call

Approval of Minutes of Previous Meeting

October 15, 2013, Regular Meeting

New Business

1. Cons. Development Agreement, Twin Cities Habitat for Humanity, 10121 Quince Street
2. Cons. Purchase Agreement for Single-Family House, 2335 Main Street:
 - a. Approve Purchase Agreement
 - b. Authorize Chair and Secretary to Execute Purchase Agreement
 - c. Authorize Staff to Execute other Closing Documents as Necessary
3. Cons. Revised Loan Agreement, KyleEstates III, LLC, (Simonson's Salon and Spa), 3490 Northdale Boulevard

Other Business

Adjourn



HRA Regular

Meeting Date: 11/06/2013

SUBJECT:

Attachments

10-15-13 HRA Meeting

UNAPPROVED

HOUSING AND REDEVELOPMENT AUTHORITY MEETING OF OCTOBER 15, 2013

A meeting of the Coon Rapids Housing and Redevelopment Authority was called to order by Chair Howe at 7:48 p.m. on October 15, 2013, in the Council Chambers.

Members Present: Chair Tim Howe, Commissioners Denise Klint, Paul Johnson, Ron Manning, Jerry Koch, Bruce Sanders, and Steve Wells

Members Absent: None

CALL TO ORDER

Chair Howe called the meeting to order at 7:48 p.m.

ROLL CALL

All present.

APPROVAL OF MINUTES OF SEPTEMBER 3, 2013, REGULAR MEETING

MOTION BY COMMISSIONER KOCH, SECONDED BY COMMISSIONER WELLS, FOR APPROVAL OF THE MINUTES OF THE SEPTEMBER 3, 2013, REGULAR MEETING. THE MOTION PASSED UNANIMOUSLY.

1. CONS. LOAN AGREEMENT FOR COMMERCIAL LOAN, KYLEESTATES III, LLC (SIMONSON'S SALON AND SPA), 3490 NORTHDALÉ BOULEVARD:
 - A. APPROVE BUSINESS DEVELOPMENT LOAN TO KYLEESTATES III, LLC AND APPROVE LOAN AGREEMENT
 - B. AUTHORIZE CHAIR AND SECRETARY TO EXECUTE LOAN AGREEMENT AND ADDITIONAL DOCUMENTS AS NECESSARY

Community Development Specialist Matt Brown shared the staff report.

MOTION BY COMMISSIONER JOHNSON, SECONDED BY COMMISSIONER SANDERS, TO APPROVE A \$100,000 BUSINESS DEVELOPMENT LOAN TO KYLEESTATES III, LLC AND APPROVE THE LOAN AGREEMENT AND AUTHORIZE THE CHAIR AND SECRETARY TO EXECUTE THE LOAN AGREEMENT AND ADDITIONAL LOAN DOCUMENTS AS NECESSARY FOR CLOSING.

THE MOTION PASSED UNANIMOUSLY.

2. INCREASED FUNDING REQUEST FOR REHABILITATION ADVISOR VISIT SERVICES OF THE COON RAPIDS HOUSING IMPROVEMENT PROGRAM

Community Development Specialist Matt Brown shared the staff report.

MOTION BY COMMISSIONER WELLS, SECONDED BY COMMISSIONER KLINT, TO APPROVE AN INCREASE OF \$5,000 IN ANNUAL FUNDING OF THE REHABILITATION ADVISOR VISIT SERVICES FOR PROGRAM YEARS 2013 AND 2014. THE MOTION PASSED UNANIMOUSLY.

OTHER BUSINESS

There was no other business to come before the HRA.

ADJOURN

MOTION BY COMMISSIONER KOCH, SECONDED BY COMMISSIONER SANDERS, TO ADJOURN THE OCTOBER 15, 2013, MEETING AT 7:55 P.M. THE MOTION PASSED UNANIMOUSLY.

Respectfully submitted,

Cathy Sorensen
City Clerk



HRA Regular

1.

Meeting Date: 11/06/2013

Subject: Consider Development Agreement, Twin Cities Habitat for Humanity, 10121 Quince Street

From: Matt Brown, Community Development Specialist

INTRODUCTION

The HRA is asked to consider a development agreement with Twin Cities Habitat for Humanity and funding for demolition of an existing house and construction of a new house at 10121 Quince Street.

DISCUSSION

The house at 10121 Quince Street is in very poor condition and would be difficult to rehabilitate in a cost effective way. Anoka County acquired the property with federal Neighborhood Stabilization Program funds and has approached Twin Cities Habitat for Humanity about redeveloping the property. Habitat now proposes demolishing the existing house and constructing a new 4 bedroom, 2 bath house. The proposed house would be 1,673 square feet and its design meets the HRA's Design Criteria for Scattered Site lots. Habitat will sell the house to a family earning less than 50% of the area median income that has completed homeownership classes, put 300 to 500 hours of "sweat equity" into the house, and demonstrated an ability to pay Habitat's 0% interest mortgage. Habitat will either use HOME funds from Anoka County or its own private funds for construction. Habitat has approached City staff about providing \$13,000 to assist with demolition costs. Total project cost is estimated at \$195,650.

Staff has reviewed a project pro forma and believes Habitat's proposal represents a good investment in the Woodcrest neighborhood. The proposed house is consistent in design to surrounding houses and includes high-quality exterior materials. Habitat has constructed two other houses in Coon Rapids in the last couple years: 9901 Larch Street and 9911 Larch Street. The HRA provided similar levels of funding for demolition costs for both projects. Habitat has also rehabbed three houses in the City in recent years. Staff recommends approving the attached development agreement with Habitat, which provides \$13,000 in Scattered Site funds to assist with demolition costs. If the new house is not completed by December 31, 2014, funds must be returned to the HRA.

RECOMMENDATION

Staff recommends that the HRA approve the development agreement with Twin Cities Habitat for Humanity, providing an up to \$13,000 grant to assist with demolition and site preparation costs at 10121 Quince Street.

BUDGET IMPACT:

BUDGET IMPACT:

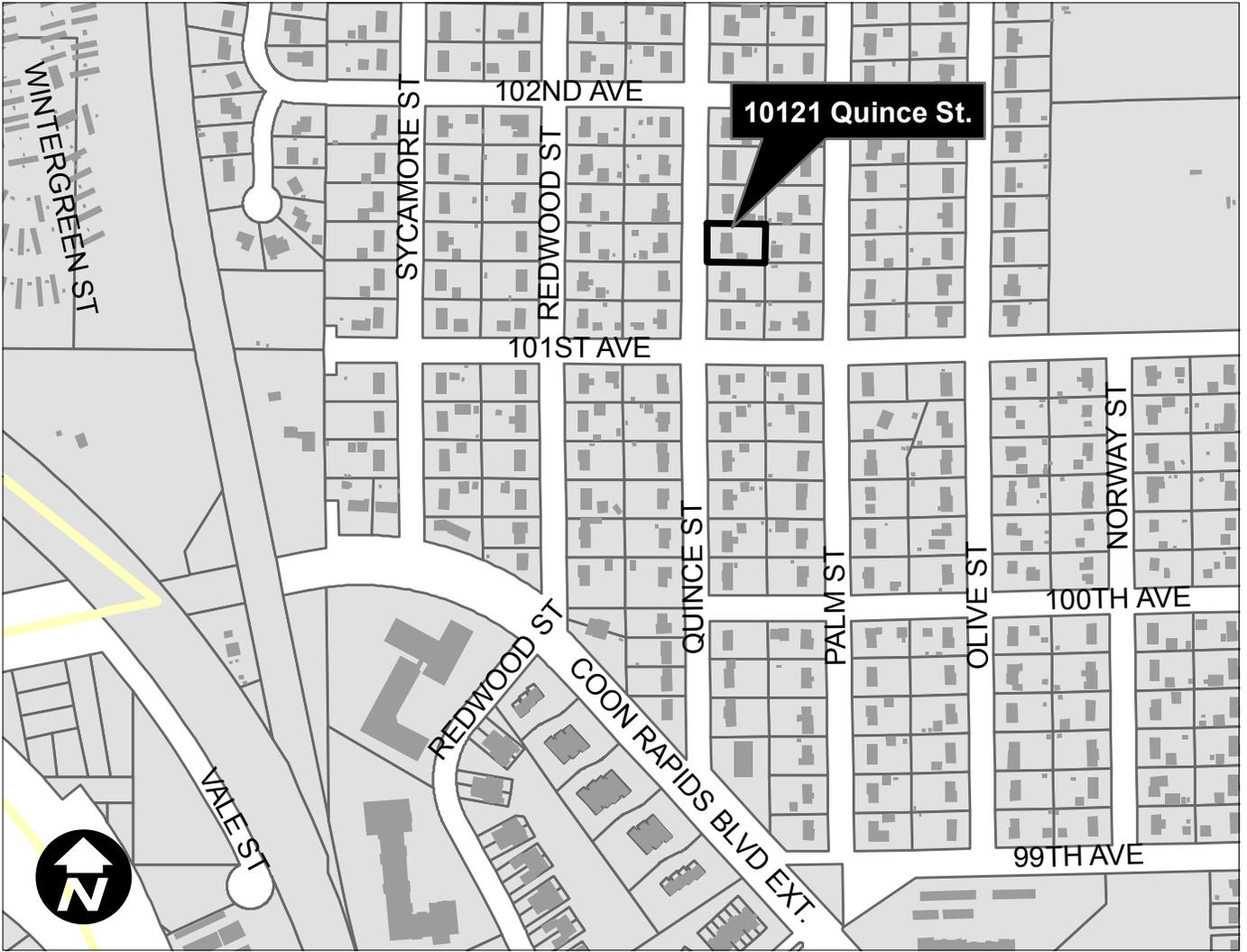
Sufficient funds exist in the HRA account for this project.

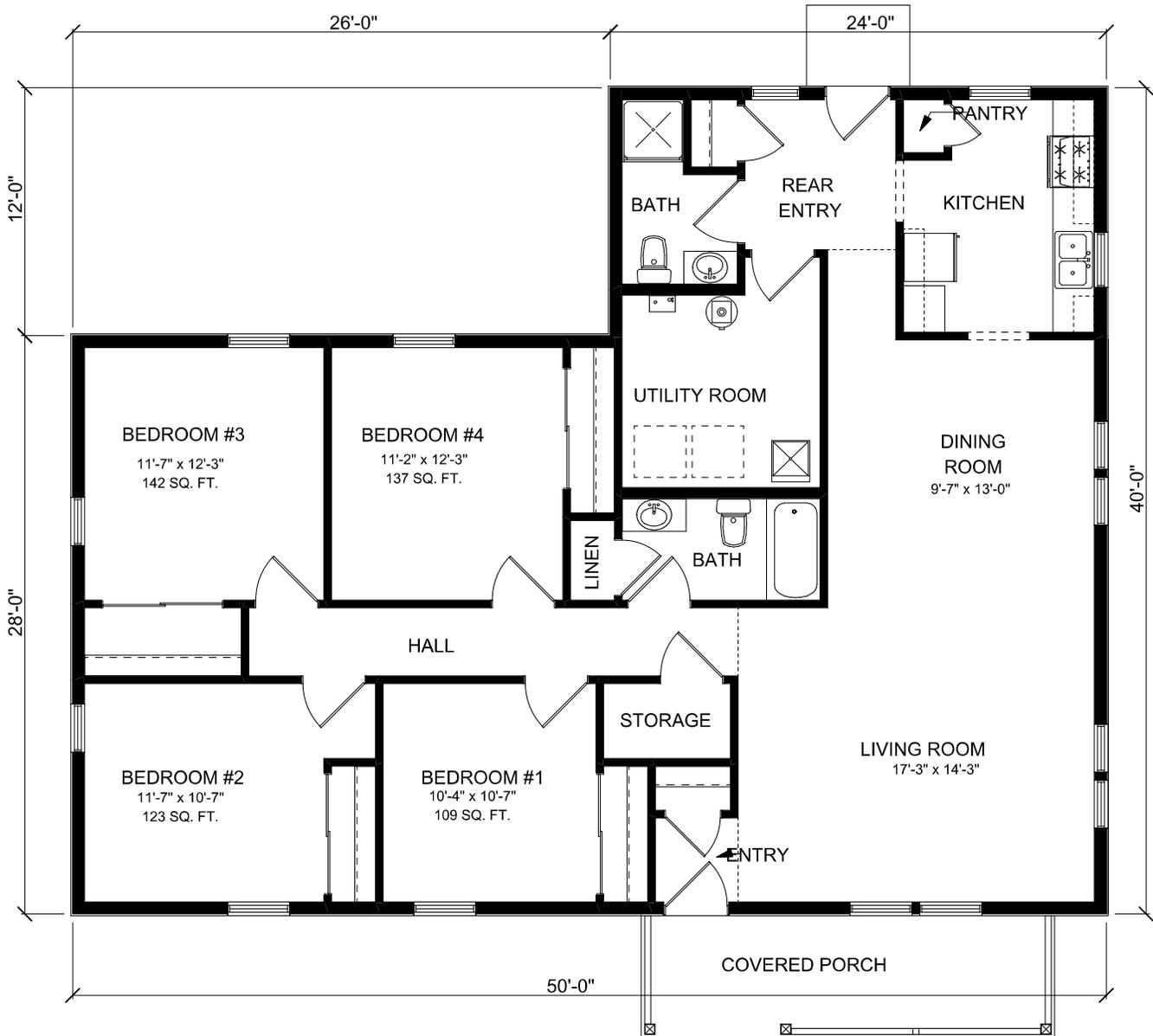
Attachments

Location Map

House Plan

Development Agreement





3001 4TH ST. SE
 MINNEAPOLIS, MN 55414-3301

OFFICE: 612-331-4090
 FAX: 612-331-1540

SINGLE FAMILY DWELLING

MODEL: 19R4-1.75 I

UNFINISHED SQ. FT. = 113
 FINISHED SQ. FT. = 1560
 TOTAL SQ. FT. = 1673

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT is made and entered into as of the ____ day of _____, 2013, by and between the Housing and Redevelopment Authority in and for the City of Coon Rapids (the "HRA") and Twin Cities Habitat for Humanity, a Minnesota nonprofit corporation (the "Developer");

RECITALS

WHEREAS, the HRA has the powers provided in Minnesota Statutes, Sections 469.001 to 469.047 (collectively, the "Act"); and

WHEREAS, pursuant to and in furtherance of the objectives of the Act, the Authority has undertaken to provide financial support to the Developer within the City of Coon Rapids for the demolition of the existing single family home and attached garage and construction of a new single family home on a residential lot that otherwise qualifies as a "scattered site" lot; and

WHEREAS, rather than the HRA acquiring the lot and deeding it to the Developer, the Developer will acquire the lot and the HRA will contribute financially to demolish the existing single family home and attached garage on the lot and ready the site for the construction of a single family home that meets the Developer's program standards; and

WHEREAS, the HRA has approved the financial contribution as being in the best interests of the public and that the terms of this agreement furthers the HRA's and the City of Coon Rapids's (the "City") plans for neighborhood stabilization and economic development; and

WHEREAS, the Developer proposes to construct on the property a single family home with a total project cost of approximately \$195,650; and

WHEREAS, the Developer is willing to purchase the Property and accept the HRA financial contribution in accordance with this Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants and obligations of the

HRA and the Developer, each party does hereby represent, covenant and agree with the other as follows:

ARTICLE 1

Definitions

Section 1.1. Definitions. In this Agreement, unless a different meaning clearly appears from the context:

"Developer" means Twin Cities Habitat for Humanity, a Minnesota nonprofit corporation.

"Development Property" means the real property and improvements thereon located at 10121 Quince Street NW in Coon Rapids, Minnesota.

"Grant" means the funds granted by the HRA to the Developer pursuant to this Agreement.

"Grant Proceeds" means the funds disbursed to the Developer pursuant to this Agreement and any proceeds thereof.

"HRA" means The Housing and Redevelopment Authority in and for the City of Coon Rapids.

"Minimum Improvements" means the Developer's construction of single-family dwelling and retention of the existing detached garage at the Development Property built in a manner substantially similar to the plans submitted to and approved by the HRA on October 11, 2013 and which is attached to this Agreement as Exhibit A. HRA acknowledges that plans are subject to change pending accommodation of homebuyer needs. Substantial modification to the exterior design of the house or change in selected model will be submitted to HRA staff for approval. The Minimum Improvements shall be built in accordance with the Site and Building Standards attached as Exhibit B and have a minimum appraised value of \$150,000.

"Project" means the demolition of the existing single-family house on the Development Property and construction of the Minimum Improvements.

ARTICLE 2

Agreement

Section 2.1. Grant. The HRA will contribute to the project the cost of hazardous material

removal, water and sewer disconnect, and demolition of the existing structure on the Development Property, not to exceed \$13,000. This contribution is consistent with the goals of the City's scattered site acquisition program. The HRA makes no representations as to the condition of the property or as to contamination on the site. The Developer's purchase of the Property is at the sole risk of the Developer.

Section 2.2. Disbursement of Funds. Grant Proceeds will be disbursed upon execution of this agreement, proof by Developer of acquisition of the property, and receipt of invoices for expenses that will be reimbursed by the proceeds. The Developer will provide an accounting of all costs incurred for the Project after the Project is completed.

Section 2.3. Deadline for Construction. Construction of the minimum improvements on the property must be substantially completed by December 31, 2014. The project shall be judged to have been "substantially completed" when the Minimum Improvements have been completed and a final Certificate of Occupancy has been issued by the Building Official.

Section 2.4. Habitat Project. The HRA acknowledges that the Developer intends to construct the minimum improvements in "habitat" fashion, using substantial volunteer labor, donated materials, and contributed funds from various sources. Nonetheless, the Developer acknowledges that the minimum improvements must be constructed in full compliance with the City's building code, zoning and related ordinances and other relevant codes and regulations. The single family residential unit will be sold to a Homeowner who is qualified by income and otherwise as a participant in the Developer's programs.

Section 2.5. Representation as to Redevelopment. The Developer represents and agrees that its undertakings pursuant to the Agreement are for the purpose of development of the Property and not for speculation in landholding. The Developer further recognizes that, in view of the importance of the development of the property to the general welfare of the City and the HRA for the purpose of making development possible, this Agreement is entered into by the HRA on the basis of the qualifications and identity of the Developer.

Section 2.6. Indemnification. The Developer hereby agrees to protect, defend and hold harmless the City and the HRA from and against any loss, cost, fines, charges, damages and expenses, including reasonable attorneys' fees and related litigation expenses arising out of the design, construction, reconstruction, maintenance, repair, marketing, sales or leasing of all or any part of the Property or otherwise arising out of the HRA's obligations under this Agreement. This indemnity shall survive the delivery of the certificate of occupancy. Notwithstanding the foregoing, the Developer shall not be liable for or be required to indemnify against liability caused by any intentional act of the City or the HRA. Nothing contained in this Agreement shall be construed as a waiver or modification of immunity or limitation on liability to which the City or the HRA are entitled pursuant to Minn. Stat. Section 466, or otherwise.

Section 2.7. Exemption from Business Subsidy Act. The Developer and the HRA agree that the provision of decent, safe and sanitary housing to persons who qualify under the Developer's program guidelines make the HRA grant funds exempt from the Minnesota Business Subsidy

Act.

ARTICLE 3

EVENTS OF DEFAULT

Section 3.1. Events of Default Defined. The following shall be deemed Events of Default under this Agreement and the term shall mean, whenever it is used in this Agreement, unless the context otherwise provides, any one or more of the following events:

(a) Failure of the Developer to observe and substantially perform any covenant, condition, obligation or agreement on its part to be observed or performed under any provision of this Agreement;

(b) Failure by the Developer to sell the single family residential unit constituting the minimum improvements to a qualified Homeowner, qualified both by income and other "habitat" program guidelines.

Section 3.2. Remedies. The sole remedy for failure of the Developer to comply with this Development Agreement shall be a return of the Grant Proceeds. If the Minimum Improvements are not completed by December 31, 2014, all Grant Proceeds must be returned to the HRA. If the Grant Proceeds are not returned to the HRA within thirty days of written notice to the Developer the obligation to repay the Grant Proceeds shall become an assessment on the Property.

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

**HOUSING AND REDEVELOPMENT AUTHORITY
IN AND FOR THE CITY OF COON RAPIDS**

By _____

Tim Howe, Chair

By _____

Bruce Sanders, Secretary

APPROVED AS TO FORM

By _____

David Brodie, City Attorney

TWIN CITIES HABITAT FOR HUMANITY, a Minnesota nonprofit corporation

By _____

Name _____

Its _____

Exhibit A - House Plans

Exhibit B - Site and Building Standards

These standards are intended to ensure that new homes will be compatible with the surrounding area and display high-quality design characteristics. In addition, all plans must meet zoning and building code requirements.

1. Interior Building Design

- The home shall be single-family and owner-occupied.
- Minimum of three bedrooms and two full bathrooms, and a full basement, unless precluded by soil conditions.
- Value added amenities such as greatrooms, dens or porches are required.
- Energy efficient products and construction techniques are encouraged. The HRA will consider a reduced sale price for a LEED certified project.

2. Exterior Building Design

- The new structure shall be constructed in a manner, quality, and value equal to or better than the surrounding structures. Height and mass should be as compatible with the scale of the surrounding neighborhood as possible. Two story homes on a block of one story homes can be designed with compatible style and finishes. Architectural details such as roofline, gables, and window detailing shall be as compatible with existing buildings in the neighborhood as possible given the other objectives of this program.
- Windows shall be presented on all building elevations. The front elevation should contain a “feature window” (i.e. large picture window, shutters) to add interest.
- A variety of different exterior materials should be used, such as wood, brick, or stucco, to add contrast. Vinyl siding and similar low maintenance materials are acceptable only in combination with other natural materials.
- The building’s design should emphasize the front door as the focal point, possibly by including a front porch.

3. Garage Design

- The appearance of the garage door should be minimized as much as possible (i.e. separate doors for each stall) and the garage should be located no closer to the street than the house’s front façade line. If a three-car garage is proposed, each stall should have a separate door.

4. Site and Grounds

- The entire ground shall be landscaped to be aesthetically pleasing in all seasons. Land forms and plant materials shall be used to define the site and blend with the adjoining property. Landscaping should shade hardscapes and erosion controls should be installed.
- On lots that contain several mature trees, as many trees as possible should be preserved. Tree wrap reinforcement shall be used on trees directly adjacent to active grading and construction areas.
- If the existing curb cut is not used for a new driveway, it must be removed and replaced with curb.
- Air conditioning units should be located in the rear yard of the house and utility meters should be screened from public view.

Exhibit C – Legal Description of Development Property

Lot 9, Block 8, Woodcrest Plat 2, Anoka County, Minnesota



HRA Regular

2.

Meeting Date: 11/06/2013

Subject: Consider Purchase Agreement for Single-Family House, 2335 Main Street

From: Matt Brown, Community Development
Specialist

INTRODUCTION

The HRA is asked to consider a purchase agreement for a single-family property at 2335 Main Street near Bison Creek Park.

DISCUSSION

On July 2, the HRA directed staff to work with the Twin Cities Community Land Bank to negotiate purchases of properties along the north side of Main Street that abut Bison Creek Park. In September, the HRA acquired one of the properties, 2285 Main Street, which will be demolished this fall. Staff has now negotiated a purchase of the bank-owned property at 2335 Main Street, which is also in poor condition. Because City water and sewer is unavailable at this location, the property relies on well and septic systems. The extension of public utilities to the properties was studied several years ago, but Council determined the costs to be excessive and opted not to extend the utilities. The property is guided "Park, Recreation, and Open Space" by the City's Comprehensive Plan and is currently zoned Conservancy District. Because residential uses are not permitted in the Conservancy District, it is considered a nonconforming use. Staff proposes acquiring and demolishing the property and incorporating the land into the adjacent parkland. This provides an opportunity to improve the trail system that currently dead ends in Bison Creek Park.

The HRA directed staff to negotiate a purchase with a sale price of no more than \$100,000. Staff negotiated a sale price of \$84,000. The property had most recently been listed at \$90,000. The Twin Cities Community Land Bank will purchase the property from the bank and simultaneously sell it to the HRA. This process expedites the sale and has been used for several Scattered Site properties acquired by the HRA.

RECOMMENDATION

Staff recommends that the HRA:

- a. Approve the purchase agreement for the property at 2335 Main Street with a sale price of \$84,000.
- b. Authorize the Chair and Secretary to execute the purchase agreement.
- c. Authorize Staff to execute other closing documents as necessary to close on the property.

BUDGET IMPACT:

Sufficient funds exist in the HRA account for this purchase.

Attachments

Location Map

Purchase Agreement



2335 Main St.



PURCHASE AGREEMENT

Seller: Twin Cities Community Land Bank LLC

Buyer: Housing and Redevelopment in and for
the City of Coon Rapids

Property Address: 2335 Main Street NW
Coon Rapids, Minnesota 55448

Parcel: 03-31-24-33-0049

Effective Date: October 25, 2013

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (“Agreement”) is made as of the 25th day of October, 2013, by and between **TWIN CITIES COMMUNITY LAND BANK LLC**, a Minnesota non-profit limited liability company (“Seller”), and **HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF COON RAPIDS**, a public body corporate and politic under the laws of the State of Minnesota (“Buyer”).

Recitals

A. Seller is a participant in real estate owned purchase program (the “NCST Program”) of the National Community Stabilization Trust (“NCST”) and an expanded property acquisition program operated by Seller (the “TCCLB Program”) that allow Seller to obtain pre-market and targeted bulk purchase post-market access to certain foreclosed and abandoned properties located in certain economically distressed neighborhoods in the greater Minneapolis and St. Paul metropolitan area. Together the NCST Program and the TCCLB Program are referred to herein as the “First Look Program.”

B. Buyer wants to acquire the Property (as defined below), which property is listed in the First Look Program and located at 2335 Main Street NW, City of Coon Rapids, County of Anoka, State of Minnesota.

C. Seller has entered into the purchase agreement attached hereto as **Exhibit A** (the “Lender Purchase Agreement”) to acquire the Property from the seller named therein on or before the date set forth therein (the “First Look Purchase Closing Date”), and Buyer has agreed to simultaneously acquire the Property from Seller on the First Look Purchase Closing Date.

D. The parties wish to define their respective rights, duties and obligations related to the sale/purchase of the Property.

NOW, THEREFORE, in consideration of the mutual promises and the respective agreements contained herein, the parties hereby agree as follows:

SECTION 1. PROPERTY

Seller agrees to sell and Buyer agrees to purchase that certain real property located in Anoka County, Minnesota, legally described on **Exhibit B** attached hereto (the “Real Estate”), together with all hereditaments, improvements, and appurtenances, including: (a) all buildings and improvements now or hereafter constructed or located on the Real Estate (the “Improvements”), and (b) all easements, interests, rights and privileges benefiting or appurtenant to the Real Estate including, but not limited to, all right, title and interest of Seller in, over and to any land lying in the bed of any highway, street, road, avenue, or alley existing or proposed, in front of or abutting or adjoining the Real Estate, and all right, title and interest of Seller in and to any unpaid award for the taking by eminent domain of any part of the Real Estate or the Improvements or for damage thereto by reason of a change of grade of any highway, street, road, avenue, or alley (the “Other Interests”) (the Real Estate, Improvements and Other Interests will be collectively referred to as the “Property”).

SECTION 2. PURCHASE PRICE

The purchase price for the Property shall be Eighty Four Thousand and 00/100 Dollars (\$84,000.00) (the "Purchase Price"), which is due and payable by Buyer to Seller as follows:

- (a) One Thousand and 00/100 Dollars (\$1,000.00) ("Earnest Money") upon execution of this Agreement; and
- (b) The balance of the Purchase Price, subject to any adjustments in Section 7, by certified check, bank check or wire transfer on the Closing Date (as defined in Section 5(a)).

SECTION 3. EFFECTIVE DATE

The "Effective Date" of this Agreement is the date upon which the Seller has executed this Agreement.

SECTION 4. EVIDENCE OF TITLE AND REMEDIES

Within a reasonable time after the date of this Agreement, Seller, at Buyer's expense, will obtain a commitment for an owner's policy of title insurance covering the Property from Old Republic National Title Insurance Company (the "Title Company") and provide Buyer with a copy of the same. The commitment will include copies of all instruments shown as exceptions or referred to therein. Buyer shall have five (5) days after receipt of the commitment for examination thereof and the making of any objections thereto, said objections to be made in writing to Seller within said five (5) day period or deemed to have been waived. If any objections are made, Seller may, but shall have no obligation to, cure such objections. If Seller fails to have cured such objections within fifteen (15) days following Buyer's notice of Buyer's objections, Buyer may elect to do either of the following:

- (a) Waive the objection; or
- (b) Terminate this Agreement by delivering written notice thereof to Seller without further obligation or claim for damages between the parties.

SECTION 5. CLOSING AND POSSESSION

- (a) The closing shall occur simultaneously with the closing under the First Look Purchase Agreement on the First Look Purchase Closing Date. The "Closing Date" shall be the date on which the closing occurs. On the Closing Date, Seller shall deliver marketable or insurable title to and possession of the Property to Buyer. Subject to Section 7(h), the Closing Date may be extended by agreement of Buyer and Seller. Any consent to an extension of the Closing Date by Seller shall not be unreasonably withheld.
- (b) Closing will be at the offices of the Title Company or at such other place mutually acceptable to Buyer and Seller. At closing, Buyer shall deposit with the Title Company sufficient funds to pay the Purchase Price, as adjusted by the Seller Adjustments, as described in Sections 2 and 7. Buyer also shall pay the cost of the title commitment and the premium for a title insurance policy in favor of Buyer, all closing costs charged by the Title Company for conducting the closing and all costs allocated to Buyer under Section 7 below.

SECTION 6. CONVEYANCE OF TITLE AND PERMITTED ENCUMBRANCES

Seller, at its own cost and expense or by application of the funds deposited by Buyer with the Title Company, shall deliver to the Title Company at or prior to closing a quit claim deed (the "Deed") and such other documents as in the Title Company's reasonable opinion will, upon the receipt, filing, recording, or registration thereof, vest in Buyer a marketable or insurable title to the Property, together with lawful ownership of all fixtures, process utilities, or items of immovable property located thereon or pertinent thereto, free and clear of any taxes and liens, special and pending assessments (not assumed by Buyer), or encumbrances of any nature whatsoever, except the following (the "Permitted Encumbrances"):

- (a) Restrictions, reservations, covenants and easements of record on the Effective Date;
- (b) Building and zoning laws, ordinances, state and federal regulations;
- (c) Those encumbrances set forth on Exhibit C attached hereto; and
- (d) Those encumbrances otherwise acceptable to Buyer.

SECTION 7. CLOSING ADJUSTMENTS AND PRORATIONS

The following adjustments and prorations will be made at closing:

- (a) Buyer shall pay all state deed tax or other taxes that must be paid in order to record the Deed for the Property.
- (b) At closing, Buyer shall pay or assume, to the extent paid or assumed by Seller pursuant to the NCST First Look Purchase Agreement, all special assessments levied, pending or deferred against the Property.
- (c) At closing, Buyer shall pay or assume, to the extent paid or assumed by Seller pursuant to the NCST First Look Purchase Agreement, all general real estate taxes and any penalties and interest thereon due and payable with respect to the Property in the year of closing and all years prior thereto. Seller shall not be responsible for any amounts due, paid or to be paid after closing, including but not limited to, any taxes, penalties or interest assessed or due as a result of retroactive, postponed or additional taxes resulting from any change in use of, or construction on, or improvement to the Property, or an adjustment in the appraised value of the Property.
- (d) Buyer is responsible for all real estate taxes due and payable in the year following closing and all subsequent years thereafter, if any.
- (e) Buyer shall reimburse Seller for the cost paid by Seller for an appraisal of the Property, if any.
- (f) Buyer shall reimburse Seller for (i) all actual out-of-pocket costs paid by Seller to purchase the Property pursuant to the NCST First Look Purchase Agreement and resell the Property to Buyer pursuant to this Agreement; such costs shall include the closing fee, the cost of commitment for an owner's policy, the cost of recording all documents necessary to place title to the Property in the name of Seller, and the cost of miscellaneous items as evidenced by the closing statement for the closing of Seller's

purchase of the Property under the First Look Program, and (ii) if the closing does not occur on the First Look Purchase Closing Date, Buyer shall pay to Seller interest on the Purchase Price at the rate of 7 percent from the date of advancement of the purchase price under the NCST First Look Purchase Agreement to the date of repayment by Buyer to Seller, until the full amount owed is recovered (the "Late Payment").

- (g) Seller shall credit Buyer with adjustments/discounts received by Seller from the foreclosing lender under the NCST First Look Purchase Agreement in an amount equal to Zero and 00/100 Dollars (\$0.00) (the "Seller Adjustments").
- (h) Buyer shall pay to the Seller an administrative transaction fee of One Thousand Five Hundred and 00/100 Dollars (\$1,500.00).

SECTION 8. BUYER'S CONDITIONS TO CLOSING

The obligations of Buyer to consummate the transactions contemplated by this Agreement are subject to the fulfillment of the following conditions:

- (a) First Look Closing. On or before the Closing Date, Seller has purchased the Property pursuant to the NCST First Look Purchase Agreement and title to the Property has been delivered to Seller.
- (b) Performance of Seller's Obligations. From the Effective Date until the Closing Date, Seller shall have performed all of Seller's obligations under this Agreement, as and when required by this Agreement, and Seller shall have delivered Seller's Closing Documents (as defined below) to Buyer in accordance with Section 9.

Any and all of the foregoing conditions, except Section 8(a), may be waived, in writing, by Buyer. If any of the foregoing conditions are not satisfied, Buyer shall have the right to terminate this Agreement without further obligation or claim for damages between the parties hereto and any Earnest Money deposit will be returned to Buyer.

SECTION 9. SELLER'S CLOSING DELIVERIES

On the Closing Date, Seller shall execute and/or deliver to the Title Company, with copies to Buyer, of the following (collectively, the "Seller's Closing Deliveries"):

- (a) Deed. A Deed conveying the Property to Buyer in the manner described in Section 6 herein.
- (b) Seller's Affidavit. An affidavit duly executed by Seller indicating that to Seller's knowledge on the Closing Date there are no outstanding unsatisfied judgments, tax liens or bankruptcies against or involving Seller or the Property; that there has been no skill, labor or material furnished to the Property at Seller's request for which payment has not been made or for which mechanics' liens could be filed; and that there are no other unrecorded interests in the Property of which Seller has knowledge except as stated therein, together with such other certifications as may be reasonably required by the Title Company to issue to Buyer an owner's policy of title insurance with respect to the Property (the "Title Policy").

- (c) FIRPTA Affidavit. A non-foreign entity affidavit, properly executed, containing such information as is required by IRC Section 1445(b)(2) and its regulations.
- (d) Other Documents. All other documents reasonably required by the Title Company necessary to transfer marketable or insurable title to the Property to Buyer free and clear of all liens and encumbrances, except the Permitted Encumbrances.

SECTION 10. BUYER'S CLOSING DELIVERIES

On the Closing Date, Buyer will execute and/or deliver to Seller the following (collectively, the "Buyer's Closing Deliveries"):

- (a) Purchase Price. The Purchase Price, as adjusted by the Seller Adjustments, in accordance with Sections 2 and 7.
- (b) Title Documents. Such documents as may be reasonably required by Title Company or Seller in order to complete the transactions contemplated by this Agreement, record the Seller's Closing Deliveries and issue the Title Policy.

SECTION 11. PROPERTY CONVEYED "AS IS"

The Property being purchased by Buyer, including any dwelling, other improvements and fixtures, is not new and is being purchased in its "AS IS" condition, including all defects, known or unknown. Buyer acknowledges the Property may not be in compliance with applicable building, zoning, health or other laws or codes, and that the Property may not be in habitable condition. Buyer further agrees that Seller, its agents, employees, representatives and assignees shall have no liability for any claim or losses Buyer or Buyer's successors in interest and/or assigns may incur as a result of defects which may now or may hereafter exist with respect to the Property, and Buyer shall defend Seller, its agents and assignees from any such claim. Buyer understands and agrees that Seller, his or her agents or assigns, will not, prior or subsequent to the closing, be responsible for the repair, replacement, or modification of any deficiencies, malfunctions or mechanical defects in the material, workmanship, or mechanical components of the structures, improvements, or land.

Buyer accepts any property interest conveyed herein "AS IS WITH ALL FAULTS" and is not relying upon any representations or warranties or promises of any kind whatsoever, express or implied, from Seller. ANY WARRANTIES OF PHYSICAL CONDITION OF THE PROPERTY CONTAINED IN THIS AGREEMENT INCLUDING, BUT NOT LIMITED TO, CENTRAL AIR-CONDITIONING, HEATING, PLUMBING, WIRING, AND CONNECTION TO CITY SEWER AND CITY WATER ARE VOID TO THE EXTENT PERMITTED BY LAW. This provision shall survive delivery of the Deed.

SECTION 12. OPERATION PRIOR TO CLOSING

During the period from the Effective Date to the Closing Date (the "Executory Period"), Seller shall not execute any contracts, leases or other agreements affecting the Property, except the NCST First Look Purchase Agreement.

SECTION 13. CONDEMNATION

In the event that Seller's interest in the Property, or any part thereof, shall have been taken by eminent domain or shall be in the process of being taken on or before the Closing Date, either party may terminate this Agreement and the Earnest Money deposit shall be returned to Buyer and neither party shall have any further rights or liabilities hereunder. If Buyer does not so terminate this Agreement, the Purchase Price will be reduced by any condemnation awards paid to Seller prior to closing and Seller shall, at closing, assign to Buyer all of Seller's right, title and interest in and to any award made or to be made in the condemnation proceedings.

SECTION 14. CASUALTY

In the event of fire, destruction or other casualty loss to the Property after Seller's acceptance of this Agreement and prior to closing and funding, either Party may terminate this Agreement and neither party shall have any further rights or liabilities hereunder except as otherwise provided herein.

SECTION 15. REMEDIES

If Buyer defaults under this Agreement, Seller will have the right to terminate this Agreement by giving written notice to Buyer or Seller will have the right to specifically enforce this Agreement. If Seller defaults under this Agreement, Buyer will have the right to terminate this Agreement by giving written notice to Seller or to seek specific performance of this Agreement. Any action for specific performance must be commenced within sixty (60) days after the First Look Purchase Closing Date.

SECTION 16. CONDITIONS PRECEDENT TO OBLIGATIONS OF SELLER

The obligations of Seller to consummate the transaction contemplated by this Agreement are subject to the fulfillment on or before the Closing Date of the following conditions:

- (a) First Look Closing. Seller has purchased the Property pursuant to the NCST First Look Purchase Agreement and title to the Property has been delivered to Seller
- (b) Covenants and Agreements Performed. Buyer shall have performed and complied with all covenants and agreements or conditions contained in this Agreement and delivered all documents, required by this Agreement to be performed, complied with or delivered to Seller.
- (c) Buyer's Closing Deliveries. Seller shall have received Buyer's Closing Deliveries as described in Section 10 of this Agreement.

If the condition in Section 16(a) is not satisfied, Seller shall have the right to terminate this Agreement without further obligation or claim for damages between the parties hereto.

SECTION 17. BROKER'S COMMISSION

Seller and Buyer represent and warrant to each other that they have dealt with no other brokers, finders or the like in connection with this Agreement. Seller and Buyer each agree to indemnify each other and to hold each other harmless against all claims, damages, costs or expenses of or for any other such brokerage fees or commissions resulting from their actions or agreements regarding the execution or performance of this Agreement.

SECTION 18. NOTICES

Any notice required or permitted to be given by any party upon the other (except for any notice given pursuant to Minnesota Statutes § 559.21) is given in accordance with this Agreement if it is sent to the party by delivering it personally to the individuals described below, or it is sent by United States mail, return receipt requested, postage prepaid, or it is transmitted by telefacsimile, or it is deposited cost paid with a nationally recognized, reputable overnight courier, properly addressed as follows:

If to Seller: Twin Cities Community Land Bank
615 First Avenue NE, Suite 410
Minneapolis, Minnesota 55413
Attn: Sandra Oakes

If to Buyer: Housing and Redevelopment Authority in and for the City of Coon Rapids
11155 Robinson Drive
Coon Rapids, Minnesota 55433
Attn: Matt Brown

Notices shall be deemed effective on the earlier of the date of receipt or the date of deposit as aforesaid; provided, however, that if notice is given by deposit, then the time for response to any notice by the other party shall commence to run one business day after any such deposit. Any party may change its address for the service of notice by giving written notice of such change to the other party, in any manner above specified, three days prior to the effective date of such change.

SECTION 19. MISCELLANEOUS PROVISIONS

- (a) Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.
- (b) Waiver; Modification. The failure by either party to enforce its rights hereunder shall not constitute a waiver of said party's right to demand future performance of the provisions hereof. No modification or extension of this Agreement shall be binding unless in writing and signed by the parties.
- (c) Time of Essence. Time is of the essence of this Agreement and each of its provisions.
- (d) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.
- (e) Assignment. This Agreement shall not be assigned by either party without the prior written consent of the other, which consent shall not be unreasonably withheld.
- (f) Section Headings. The section headings used in this Agreement are for convenience or reference only and shall not be deemed to vary the content of this Agreement or its covenants, agreements, representations and warranties or limit the provisions or scope of any section.
- (g) Subsequent Documentation. Each of the parties hereto agrees to execute and deliver to the other party, as requested, any additional documents and/or instruments that may reasonably be determined as necessary to consummate the transaction.

- (h) Utilities. Buyer agrees to assume responsibility for utilities from the First Look Purchase Closing Date. Buyer is responsible for transferring utilities into Buyer's name. Buyer recognizes utilities may not be activated at property at time of purchase.

SECTION 20. RIGHT OF INSPECTION

Buyer has been advised to carefully inspect the Property personally, and to obtain inspection reports from qualified experts regarding all systems and features of the Property. Seller hereby assigns to Buyer the rights of Seller under the NCST First Look Purchase Agreement to enter into the Property for the purpose of performing any inspections or investigations which Buyer reasonably may deem appropriate. Buyer shall have the right to inspect the Property or to have it inspected by a person of Buyer's choice, at Buyer's expense. Buyer understands that the Property will be purchased in the condition it is in at the time of the NCST First Look Purchase Agreement. Buyer shall have the right to a walk-through review of the Property prior to closing. Buyer shall keep the Property free and clear of liens and indemnify and hold Seller harmless from all liability claims, demands, damages, and costs related to any inspection conducted by Buyer, and Buyer shall repair all damage arising from or caused by Buyer's inspections. Purchaser shall not directly or indirectly cause any inspections to be made by any government building or zoning inspectors or government employees without prior written consent of Seller (which consent may be withheld in Seller's sole discretion), unless required by law, in which case, Buyer shall provide reasonable notice to Seller prior to any such inspection.

SECTION 21. INDEMNIFICATION

Buyer agrees to indemnify Seller and Seller's officers, directors, employees, affiliates, shareholders, servicers, representatives, agents, appraisers, attorneys, successors and assigns harmless from and against any and all claims, costs, liens, loss, damages, attorney's fees and expenses of every kind and nature that may be sustained by or made against Seller, its officers, directors, employees, shareholders, servicers, representatives, agents, appraisers, attorneys, tenants, brokers, successors and assigns, resulting from or arising out of:

- (a) any tort claim or breach of contract claim or other claim for money due and owing in connection with the ownership or operation of the Property to the extent that such claim arises from acts or omissions which occurred after the Closing Date;
- (b) inspections or repairs made by Buyer or its agents, employees, contractors, successors or assigns to the Property;
- (c) the imposition of any fine or penalty imposed by any municipal or governmental or governing entity resulting from Buyer's failure to timely comply with any rules or regulations pertaining to the Property, including any applicable homeowners association rules or regulations; and
- (d) claims for amounts due and owed by Seller for taxes, assessments, or homeowner association penalties, fines or dues or for any other items prorated at Closing under Section 7 of the Purchase Agreement.

Buyer further agrees, upon written notice from Seller, to contest any demand, claim, suit or action against which Buyer has agreed to indemnify and hold Seller harmless and to defend any action that may be brought in connection with any such demand, claim, suit or action and to bear all costs and expenses of such contest and defense.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the day and year first above written:

SELLER:

TWIN CITIES COMMUNITY LAND BANK LLC,
a Minnesota non-profit limited liability company

By: Sandra L. Oakes
Sandra L. Oakes

Its: President

BUYER:

**HOUSING AND REDEVELOPMENT
AUTHORITY IN AND FOR THE CITY
OF COON RAPIDS**, a public body corporate and politic
under the laws of the State of Minnesota

By: _____
Tim Howe
Its: Chair

By: _____
Bruce Sanders
Its: Secretary

EXHIBIT A to Purchase Agreement

NCST FIRST LOOK PURCHASE AGREEMENT

This would be a copy of the acquisition purchase agreement to the Seller.

EXHIBIT B to Purchase Agreement

LEGAL DESCRIPTION

Property ID: 03-31-24-33-0049

LOT 1 BLK 3 BEDOW ADD; SUBJ TO EASE OF REC

EXHIBIT C to Purchase Agreement

PERMITTED ENCUMBRANCES

The following shall be permitted encumbrances on the title to the Property:

- (a) governmental regulations, if any, affecting the use and occupancy of the Property;
- (b) zoning laws of the City, County, and State;
- (c) all rights in public highways upon the land;
- (d) easements for public rights-of-way and public and private utilities, which do not interfere with present improvements;
- (e) reservations to the State, in trust for the taxing districts concerned, of minerals and mineral rights in those portions of the Property the title to which may have at any time heretofore been forfeited to the State for nonpayment of real estate taxes;
- (f) the lien of unpaid special assessments, if any, not presently payable but to be paid as a part of the annual taxes to become due; and
- (g) the lien of unpaid real estate taxes, if any, not presently payable but to be paid as a part of the annual taxes to become due.

RELOCATION ASSISTANCE WAIVER AND RELEASE

THIS WAIVER is made as of the 25th day of October, 2013 by Twin Cites Community Land Bank (“Seller”).

RECITALS

WHEREAS, Seller entered into with the Housing and Redevelopment Authority in and for the City of Coon Rapids, Minnesota (hereinafter “Buyer”) a Purchase Agreement dated the 25th day of October, 2013 (hereinafter “Purchase Agreement”) for the real property generally described as 2335 Main Street NW, Coon Rapids, Minnesota 55448 and legally described as shown on Exhibit B to the purchase agreement (hereinafter “Real Property”).

WHEREAS, Seller is an intermediary for property in the “First Look” program for the purpose of selling foreclosed and vacant properties under certain State and/or Federal programs and holds property on behalf of owners who have purchased property from a Sheriff’s sale in the foreclosure process.

WHEREAS, Buyer is a participant in the “First Look” program and is authorized to acquire foreclosed and vacant properties from Seller after being notified by Seller that certain properties meeting program criteria are available.

WHEREAS, Minnesota Statute § 117.52 provides for relocation assistance, services, payments and other benefits to sellers of property to the Buyer in certain circumstances, but it does not appear that Minnesota Statute § 117.52 was intended to apply to Seller.

WHEREAS, under Minnesota Statute § 117.52, certain Sellers are eligible for the following types and amounts of relocation assistance, services, payments and benefits as described in the Uniform Relocation Assistance and Real Property Acquisition Policies Act, 42 U.S.C. §§ 4601-4655:

1. Transportation of the displaced person and personal property;
2. Packing, crating, unpacking, and uncrating of the personal property;
3. Disconnecting, dismantling, removing, reassembling and reinstalling relocated household appliances and other personal property;
4. Storage of the personal property for a period not to exceed 12 months;
5. Insurance for the replacement value of the property in connection with the move and necessary storage;
6. The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault of negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available;

7. Other moving-related expenses that are not listed as ineligible under the Federal Regulations as determined to be reasonable and necessary; and
8. Any additional payments allowed under 42 U.S.C. § 4623 for the reasonable cost of finding a comparable replacement dwelling.

WHEREAS, in order to remove any and all doubt about the application of Minnesota Statute §117.52, and pursuant to Minnesota Statute § 117.521, Seller agrees to waive any relocation assistance, services, payments and benefits, for which it may have been eligible under Minnesota statute.

WHEREAS, Seller executes this Waiver voluntarily, is not under any threat of acquisition by eminent domain by Buyer and Buyer has explained the contents thereof to Seller.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency which are hereby acknowledged, Seller agrees that collectively and individually each voluntarily waives and forever forfeits any and all rights to relocation assistance, services, payments and benefits, for which they may be eligible under Minnesota Statute; and Seller further agrees that Buyer shall not be liable to Seller and hereby forever releases and discharges Buyer from any claim, cause of action, legal or equitable, or liability arising out of the Buyer's nonpayment of said benefits.

Seller has executed this Waiver and Release as of the date first written above.

Twin Cities Community Land Bank LLC

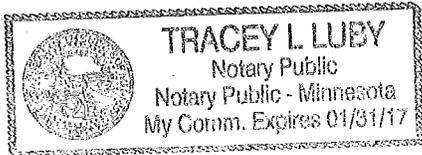
Housing and Redevelopment Authority in
and for the City of Coon Rapids

Sandra L. Oakes
Sandra L. Oakes

Matt Brown

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

This instrument was acknowledged before me on the 25th day of October, 2013, by Sandra L. Oakes.



Tracey L. Luby
Notary Public

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

This instrument was acknowledged before me on the _____ day of _____, 2013, by Matt Brown.

Notary Public



HRA Regular

3.

Meeting Date: 11/06/2013

Subject: Consider Revised Loan Agreement with KyleEstates III, LLC, 3490 Northdale Blvd.

From: Matt Brown, Community Development
Specialist

INTRODUCTION

The HRA is asked to consider a revised loan agreement for a commercial loan for Simonson's Salon and Spa at the former Canyon Grille site at 3490 Northdale Boulevard.

DISCUSSION

On October 15, 2013, the HRA approved a loan agreement with KyleEstates III, LLC for renovation of the former Canyon Grille property at 3490 Northdale Boulevard as Simonson's Salon and Spa. Staff requests approval of a revised loan agreement, which reduces the interest rate on the loan from 6% to 4.9%. The HRA's loan guidelines allow for a maximum 15 year term, but allow for flexibility on the interest rate. The original agreement proposed a 6% rate over a 15 year term. A miscommunication between the primary lender and the borrower led the borrower to believe that the HRA's interest rate would be 4.9% (reflecting an SBA 504 10-year rate), rather than the higher 6% staff had originally proposed. Staff is comfortable with the revised interest rate, as it reflects a market rate.

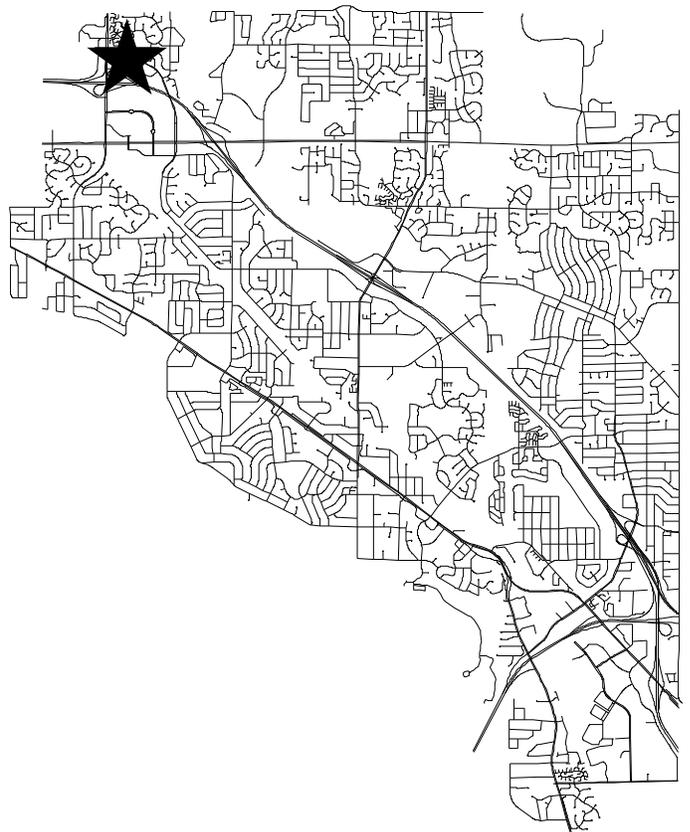
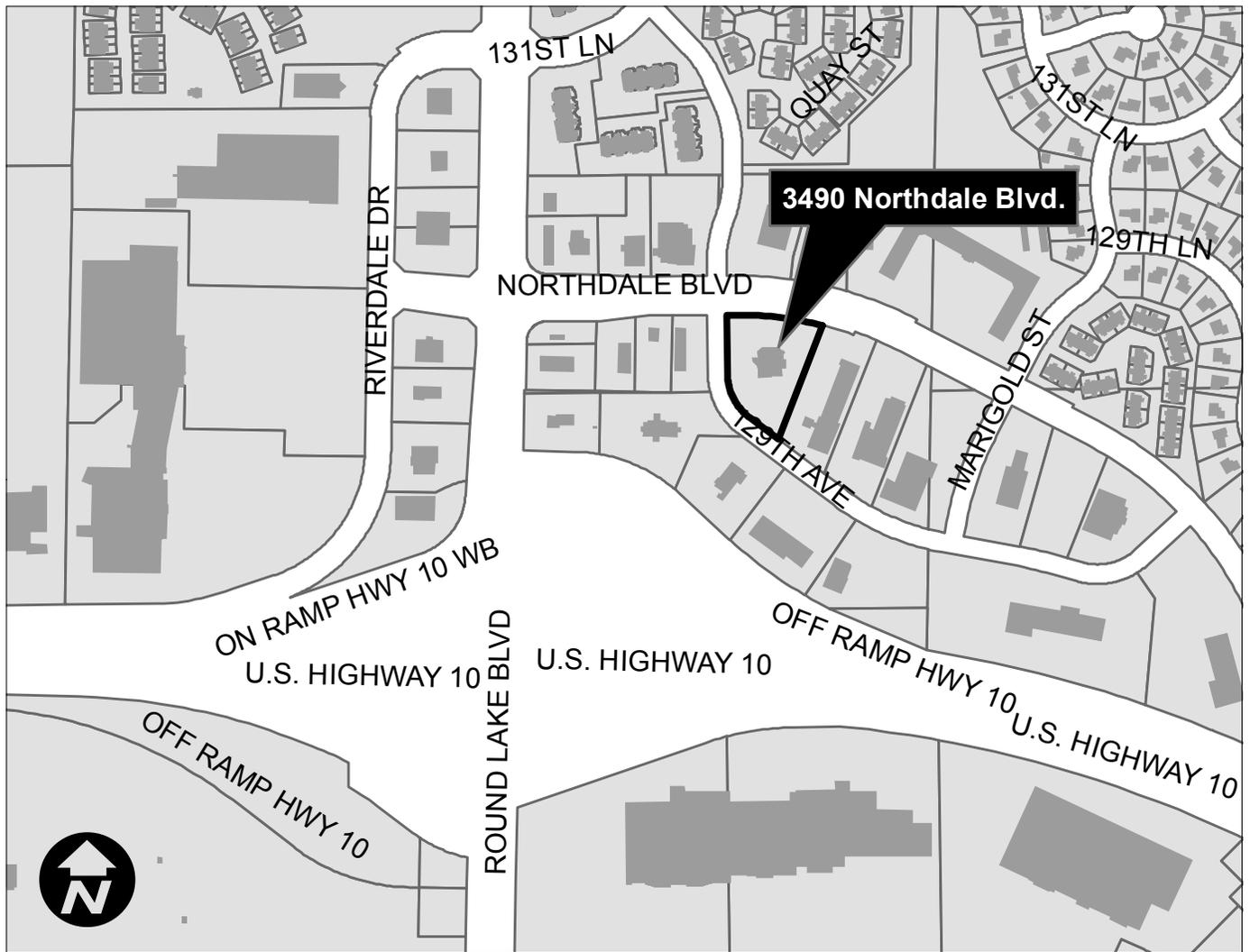
RECOMMENDATION

Staff recommends that the HRA authorize the Executive Director to execute the loan agreement with revised interest rate and any additional loan documents as necessary for closing.

Attachments

Location Map

Loan Agreement



LOAN AGREEMENT

KyleEstates III, LLC

LOAN: \$100,000 TERM LOAN

PART 1. PARTIES, DATE, TERM AND PURPOSE

1.1 **Parties.** The parties to this Agreement are as follows:

THE HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF COON RAPIDS, MINNESOTA, a body politic and corporate under the laws of the State of Minnesota, whose business address is 11155 Robinson Drive, Coon Rapids, MN 55433, (hereinafter referred to as "Lender");

Lender administers a loan program to facilitate development and redevelopment in the City of Coon Rapids, Minnesota (the "City").

KyleEstates III, LLC, a Minnesota Limited Liability Company, whose business address is 13950 Grove Drive, Suite 300, Maple Grove, MN 55311, (the "Borrower"); and

Kyle R. Simonson, whose address is 6509 Eagle Lake Drive, Maple Grove, MN 55369, (the "Individual Guarantor"); and

Deidre L. Simonson, whose address is 6545 Lancaster Lane North, Maple Grove, MN 55369, (the "Individual Guarantor"); and

Full Presence, Inc., a Minnesota Corporation, whose registered address is 4315 Peony Lane North, Plymouth, MN, 55446, ("Corporate Guarantor"); and

KyleEstates Management Company, LLC, a Minnesota Limited Liability Company, whose business address is 13950 Grove Drive, Suite 300, Maple Grove, MN 55311, ("Corporate Guarantor"); and

Guarantors, the Individual Guarantors and the Corporate Guarantors may hereinafter be referred to collectively as (the "Guarantors" and/or "Guarantor").

1.2 **Date of this Agreement.** The date of this Agreement is October 30, 2013.

1.3 **Term of this Agreement.** The term of this Agreement shall be from the date of this Agreement set forth above and continue thereafter until all indebtedness has been paid in full.

1.4 **Purpose of this Agreement.** Borrower has requested credit accommodations from Lender, to which Lender has agreed. Lender has granted to Borrower the following credit accommodations, on the conditions set forth herein:

Term Loan of One Hundred Thousand Dollars (\$100,000) to be used for the purchase and renovation of the real estate commonly known as 3490 Northdale Blvd. NW, Coon Rapids, MN 55433 and having Anoka County PIN 05-31-24-13-0042 (the "Property").

PART 2. LOAN TERMS AND REPAYMENT

- 2.1 **Promissory Note.** In consideration of the receipt of the Term Loan (the "Loan"), Borrower shall repay to the Lender the Loan pursuant to the terms of the Promissory Note of even date (the "Note"), the form of which is attached hereto as Exhibit A and which Note terms include the following: interest at a rate of 4.9% per annum (the "Note Rate"); Principal and Interest payments of \$785.59 per month beginning January 1, 2014 and continuing on the first day of each month thereafter, until December 31, 2028, on which day the entire remaining principal balance plus accrued interest shall be due and payable in full; the Note may be prepaid in full at any time during the loan term with no prepayment penalty, subject only to the requirement that the Borrower provide Lender with at least 30 days written notice of the intent to prepay the obligation. Partial prepayment will not be allowed.
- 2.2 **Interest From Date of Closing.** Interest at the Note Rate on the Note principal shall commence to accrue on the Date of Closing and all accrued interest from said date through November 30, 2013 shall be paid in advance to Lender in full on November 30, 2013. Said amount is calculated to be \$ XXXXX.

PART 3. LOAN SECURITY AND GUARANTY

- 3.1 **Secured collateral.** Collateral securing all advances made on all loan accommodations described in this Agreement shall be as follows:
- a. **Second Mortgage.** The Borrower grants Lender a second priority mortgage on the Property. The legal description of the Property is:

Tract A, Registered Land Survey No. 180, Anoka County, Minnesota
 - b. **Hazard insurance proceeds.** The Borrower shall maintain hazard insurance acceptable to the Lender on the Property in an amount sufficient at all times to either cover outstanding indebtedness owed to the Lender, or the value of the collateral, whichever is less, and the Borrower assigns proceeds of any and all hazard insurance on the foregoing collateral to Lender, and shall name the Lender as loss payee on any such policies.
 - c. **The Collateral.** The Second Mortgage and Hazard Insurance proceeds are hereinafter referred to collectively as (the "Collateral".)
- 3.2 **Ownership and care of collateral.** Borrower and Guarantors covenant that this Agreement and any security agreement/mortgage taken in connection with this Agreement will vest in Lender a second priority security interest/mortgage upon the Collateral, subject to no prior liens. Borrower warrants it has good marketable title to the collateral.

- 3.3 **Documentation required to maintain valid second lien.** Borrower and Guarantors covenant that upon request of Lender they will execute such financing statements, security agreements, lien documents, and other perfection and security instrumentation as will ensure that Lender creates and maintains a valid and perfected second security interest/mortgage and second priority lien on the Collateral.
- 3.4 **Guaranty.** Guarantors herein covenant that they guaranty payment of all loan accommodations referred to in this Agreement and repayment of all advances made thereunder, together with interest and costs of collection, if any, including attorney fees not prohibited by law. Said guaranty is of payment and is a continuing, absolute, and unconditional guaranty.

PART 4. DOCUMENTS FURNISHED PERIODICALLY BY BORROWER AND GUARANTORS AND INSPECTIONS ALLOWED BY BORROWER

- 4.1 **Documents to be furnished periodically.** Borrower and Guarantors will furnish to Lender the following documents at the times indicated throughout the term of this Agreement:
- a. As a condition precedent to closing of this Agreement and upon request of Lender thereafter, evidence satisfactory to Lender that Borrower and the Corporate Guarantors are able and authorized to enter into and consummate the credit transactions referred to in this Agreement shall be provided. Such evidence shall include, but is not necessarily limited to, the following: Borrower's and the Corporate Guarantors' Articles of Organization/Articles of Incorporation; certificate of good standing from the state; company authorization resolutions; company minutes; and if Lender requests in a separate writing, an opinion of Borrower's and the Corporate Guarantors' counsel to the foregoing effect.
 - b. As a condition precedent to closing of this Agreement and upon request of the Lender thereafter, appropriate loan documents to support the credit accommodations in this Agreement, including, as appropriate, promissory notes, mortgages, lease assignments, subordination agreements, other perfection documents, insurance and other collateral assignments, insurance certificates identifying Lender as loss payee, setoff disclosures, and any and all other documents and instruments which in the opinion of Lender are necessary to validate and consummate the credit transactions referred to in this Agreement will be received by Lender.
 - c. Annual accountant prepared, reviewed financial statement of Borrower and the Guarantors, to be received by Lender within 120 days after each fiscal year end.
 - d. Annual personal financial statements of Individual Guarantors, to be submitted concurrently with the Borrower's statement required above.
 - e. Annual personal income tax returns (including all schedules and K-1's) of the Individual Guarantors, to be submitted concurrently with the Borrower's statement required above.

- 4.2 **Borrower and Corporate Guarantors' record keeping and Lender inspection of Collateral and records.** Borrower and the Corporate Guarantors will keep true and accurate books and records of their business operations and accounts, and Borrower and the Corporate Guarantors will permit Lender at any reasonable time and during regular business hours to inspect the Property, any of Lender's secured collateral, and to examine Borrower's and the Corporate Guarantors' books, records, and files, and make copies thereof, and to discuss the affairs of Borrower and/or the Corporate Guarantors with their members/shareholders, officers, directors, and employees.

PART 5. FINANCIAL COVENANTS AND LIMITATION ON CERTAIN ACTIVITIES OF BORROWER

- 5.1 **Indebtedness, liens, and disposition of assets.** Borrower and the Corporate Guarantors shall not, without the prior written consent of Lender, which will not be unreasonably withheld, do any of the following: except for trade debt incurred in the normal course of business and indebtedness to Lender contemplated by this Agreement; incur indebtedness for borrowed money; sell, transfer, assign, pledge, lease, grant a security interest in, or otherwise encumber any of Borrower's and/or the Corporate Guarantors' assets, except to Lender.
- 5.2 **Ownership stability of Borrower.** Borrower covenants that unless prior written approval has been provided by Lender, Borrower's majority limited liability company membership interest holders in control of Borrower at the time of this Agreement shall not sell or otherwise relinquish majority ownership control of Borrower.
- 5.3 **Ownership stability of Corporate Guarantors.** The Corporate Guarantors covenant that unless prior written approval has been provided by Lender, the owners of a majority of the outstanding stock/membership interests of each Corporate Guarantor at the time of this Agreement shall not sell or otherwise relinquish their majority ownership control of the respective Corporate Guarantor.
- 5.4 **Change of business form or identity.** Borrower and the Corporate Guarantors will not, without the prior written approval of Lender, change their respective business forms, business names or trade names, change location, or acquire or merge or consolidate with any other entity.
- 5.5 **Business taxes and insurance.** Borrower and the Corporate Guarantors covenant to pay all taxes associated with their respective businesses, including but not limited to income taxes, sales taxes, employee taxes, and all other business related taxes, whether federal, state, county, municipal, or imposed by any other governmental unit. Borrower and the Corporate Guarantors further covenant to maintain liability, hazard insurance policies in coverages and with such endorsements as are satisfactory to Lender, and to pay all workman's compensation and unemployment premiums or charges, when due, to maintain all insurance policies and employment-related coverages in full force and effect throughout the term of this Agreement.
- 5.6 **Subordination of Borrower and the Corporate Guarantors debt owed to third party.** Any existing principal indebtedness owed by Borrower and or either Corporate Guarantor

to current and or former limited liability company membership interest holders or corporate shareholders, shall be relegated to and remain in a subordinated position to the indebtedness owed to Lender pursuant to this Agreement and as designated in any Debt Subordination Agreements. Borrower and the Corporate Guarantors shall cause appropriate agreements to that effect to be entered into between Borrower and the Corporate Guarantors and any said third party.

Unless otherwise agreed by the Lender in a separate writing, principal and interest repayment will not be permitted on any subordinated debt owed by Borrower or either of the Corporate Guarantors.

PART 6. DEFAULT

6.1 **Default defined.** Default under this Agreement shall consist of anyone or more of the following events:

- a. Failure to pay when due any amount required of Borrower or any Guarantor under this Agreement or under any promissory note, security agreement, or other loan instrument or document executed in connection with this Agreement.
- b. Failure to perform any act or deed required of Borrower or any Guarantor or failure to refrain from any act prohibited, under this Agreement or under any related instrument or document executed in connection with this Agreement.
- c. Failure of majority limited liability company membership interest holders of Borrower to maintain their status as majority owners of Borrower and/or as shareholders/membership interest holders of the Corporate Guarantors.
- d. Any warranty, representation, or statement made or furnished to Lender by or on behalf of Borrower or any Guarantor which is false or misleading in any material respect, either now or at the time made or furnished.
- e. The dissolution or termination of Borrower's or the Corporate Guarantors' existence as a going business, insolvency, appointment of a receiver for any part of Borrower's or any of Guarantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Borrower or by or against any Guarantor.
- f. Failure to discharge taxes or other liens, other mortgages or charges levied or assessed against the Collateral (other than the liens created under this Agreement by the parties).
- g. Lender, in good faith, deems itself insecure.
- h. Any other event defined as an event of default in any separate promissory note, security agreement, mortgage or other instrument or document executed in connection with this Agreement.

- i. The Loan of the Borrower herein shall also be in default if there is an event of default on any other loans made by Lender to Borrower and any Guarantor or to any entity wherein any Guarantor under this Agreement is also a guarantor of that separate loan.
- j. Death of either Individual Guarantor to the extent life insurance assigned or pledged to the Lender, or other sources of funds or security, are unavailable to reasonably substitute for the financial security which the deceased Individual Guarantor had provided to the Lender with his/her Guaranty during his/her life.
- k. Any attempt by any Guarantor to revoke the guaranty or impair its enforceability.

6.2 **Remedies.** In the event default occurs, Lender may exercise anyone or more of the following rights and remedies:

- a. Declare the entire balance of the Loan or any or all loans governed by this Agreement as immediately due and payable.
- b. Take possession of the Collateral by self help or judicial action, foreclosure, or other procedures and dispose of the Collateral pursuant to applicable laws of the State or Federal Governments.
- c. Commence and prosecute an action to collect the Loan from Borrower or any Guarantor, or any or all of them.
- d. Refuse to make any further advances under this Agreement or under any instrument or document executed in connection with this Agreement.
- e. Exercise such additional or alternative remedies as are available to Lender under the terms of this Agreement, under any instrument or document executed in connection with this Agreement, or under applicable law.

PART 7. MISCELLANEOUS PROVISIONS

7.1 **Limited Liability Company status and authority of Borrower.** Borrower herein covenants that it is a limited liability company duly organized and existing and in good standing under the laws of the State of Minnesota and has the appropriate power and authority to own its property and carry on its business as it is being conducted at the time of this Agreement; Borrower has full power, authority, and proper authorization to enter into this Agreement and the loan and security transactions attendant thereto.

7.2 **Corporation status and authority of Full Presence, Inc.** Full Presence, Inc. covenants that it is a corporation duly organized and existing and in good standing under the laws of the State of Minnesota and has the appropriate power and authority to own its property and carry on its business as it is being conducted at the time of this Agreement; that it has full power, authority, and proper authorization to enter into this Agreement and the loan and security transactions attendant thereto.

- 7.3 **Status and authority of KyleEstates Management Company, LLC.** KyleEstates Management Company, LLC covenants that it is a limited liability company duly organized and existing and in good standing under the laws of the State of Minnesota and has the appropriate power and authority to own its property and carry on its business as it is being conducted at the time of this Agreement; and has full power, authority, and proper authorization to enter into this Agreement and the loan and security transactions attendant thereto.
- 7.4 **No waiver.** No delay or failure by Lender in the exercise of any right or remedy under this Agreement or under law shall constitute a waiver thereof, and no single or partial exercise by Lender of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy.
- 7.5 **Agreements upheld despite invalidity of any clause.** If a court of competent jurisdiction determines any clause or provision of this Agreement to be invalid or void for any reason, such findings will not affect the validity and enforceability of the balance of this Agreement.
- 7.6 **Collection costs and expenses.** Borrower and Guarantors agree to pay upon demand all of Lender's court costs and disbursements, including attorney's fees, and other expenses allowed by law or the court, incurred in connection with this Agreement and the enforcement thereof or in connection with the loan or the collection thereof.
- 7.7 **Modifications in writing only.** Any modification of this Agreement must be in writing and signed by all parties hereto to be valid.
- 7.8 **Applicable law.** The loan documents discussed herein shall be governed by and construed in accordance with the laws of the State of Minnesota. The Lender may, in its discretion, utilize the laws of other states where property of the Borrower or any Guarantor is located to enforce this Agreement and collect the indebtedness. Lender may also in its sole discretion utilize any applicable federal laws of the United States of America to enforce this Agreement and the Lender's rights in the Collateral pledged in this Agreement and collect the indebtedness described herein.
- 7.9 **Notice of litigation.** Borrower and Guarantors shall promptly inform Lender in writing of all material adverse changes in Borrower's or any Guarantor's financial condition, and all litigation and claims and all threatened litigation and claims affecting the Borrower or any Guarantor that could materially affect the financial condition of the Borrower or any Guarantor.
- 7.10 **Notices.** All notices required to be given under this Agreement shall be given in writing and shall be effective when actually delivered or when deposited in the United States mail, first class, postage prepaid, addressed to the party to whom the notice is to be given at the address on the cover page of this Agreement. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying the purpose of the notice is to change the party's address.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

LENDER:

THE HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF COON RAPIDS, MINNESOTA

a body politic and corporate under the laws of the State of Minnesota

By: _____
Its Executive Director

Dated: _____

BORROWER:

**KyleEstates III, LLC, a
Minnesota Limited Liability Company**

By: _____
Its: Chief Manager

Dated: _____

INDIVIDUAL GUARANTOR:

Kyle R. Simonson

Dated: _____

INDIVIDUAL GUARANTOR:

Deidre L. Simonson

Dated: _____

CORPORATE GUARANTORS:

**KyleEstates Management Company, LLC
a Minnesota Limited Liability Company**

By: _____
Its: Chief Manager

Dated: _____

**Full Presence, Inc.,
a Minnesota Corporation**

By: _____
Its: President

Dated: _____