

**AGENDA**  
**MAPLEWOOD AREA ECONOMIC DEVELOPMENT AUTHORITY**  
**6:00 P.M.** Monday, December 09, 2013  
City Hall, Council Chambers

**A. CALL TO ORDER**

**B. ROLL CALL**

**C. APPROVAL OF AGENDA**

**D. APPROVAL OF MINUTES**

1. Approval of October 14, 2013 Economic Development Authority Meeting Minutes

**E. PUBLIC HEARING**

1. Approval of Purchase Agreements for City-Owned Real Property, Castle Avenue and Van Dyke Street
  - a. Housing and Economic Development Commission Report
  - b. Approval of Purchase Agreement Between EDA and Solomon Real Estate Group, Inc

**F. UNFINISHED BUSINESS**

1. Approval of a Commercial Reinvestment Loan, Larkin Dance Studio, 1400 East Highway 36
  - a. Approval of Loan

**G. NEW BUSINESS**

1. EDA Status Report Update

**H. ADJOURNMENT**

**THIS PAGE IS INTENTIONALLY LEFT BLANK**



Member Cardinal moved to cancel the public hearing.

Seconded by Member Juenemann

Ayes - All

The motion passed.

## **F. UNFINISHED BUSINESS**

### **1. Approval of Terms for a Commercial Reinvestment Loan, Larkin Dance Studio, 1400 East Highway 36 – Additional Information Will be Presented at the Meeting**

#### **a. Approval of Loan Terms**

Assistant City Manager/Community Development Director Coleman gave the staff report and answered questions of the council. City Attorney Kantrud answered additional questions of the council.

## **G. NEW BUSINESS**

### **1. Approval of Selling Excess City-Owned Real Property Policy**

#### **a. Housing and Economic Development Commission Report**

#### **b. Approval of Policy**

Assistant City Manager/Community Development Director Coleman gave the staff report and answered questions of the council. City Attorney Kantrud answered additional questions of the council and City Manager Ahl gave additional input. Mark Jenkins, Business and Economic Development Commissioner addressed and answered questions of the council.

Member Cardinal moved to approve the Selling Excess City-Owned Real Property Policy. This policy has Maplewood's criteria and project review policies, procedures and criteria for any city-owned real property that would be sold in the city of Maplewood.

Seconded by Member Juenemann

Ayes - All

The motion passed.

## **H. ADJOURMENT**

EDA Chair Koppen adjourned the meeting at 7:01 p.m.

**MEMORANDUM**

**TO:** Charles Ahl, Director

**FROM:** Michael Martin, AICP, Planner  
Melinda Coleman, Assistant City Manger

**DATE:** December 3, 2013

**SUBJECT:** Approval of Purchase Agreements for City-Owned Real Property, Castle Avenue and Van Dyke Street

- a. Housing and Economic Development Commission Report
- b. Approval of Purchase Agreement between EDA and Solomon Real Estate Group, Inc.

**Introduction**

The city has received a purchase offer for property it has been marketing for sale. The property is located on the southeast corner of Castle Avenue and Van Dyke Street. Refer to the attached maps. This property has 135.38 feet of frontage and 296.68 feet of lot depth for an area of .92 acres. It is currently zoned R1 (single dwelling residential) and guided LDR (low density residential) in the comprehensive plan.

As a note, the abutting single dwelling parcel to the south at 2260 Van Dyke Street is for sale and being sold with the anticipation for commercial development by that property owner. This lot is the same size as the city-owned parcel.

**Discussion****Excess Land**

The city acquired this parcel through a private transaction in 1974 for right-of-way or utility purposes. A portion of this parcel was utilized to build the roundabout at the Castle Avenue and Van Dyke Street intersection. The rest of this parcel is not needed for any additional right-of-way purposes. The city has run an ownership and encumbrance report and there are no restrictions against the property which would limit any potential sale. Since this parcel does not have any deed restrictions and is not needed by the city for any additional public functions, staff is recommending the city deem the parcel in excess and move forward with selling the property.

### Purchase Agreement

The city hired Mike Brass, a real estate agent with Colliers International, to represent the city and market this parcel. The city has received a purchase agreement for this property from a development group that would intend to develop this site with a commercial use. The signed purchase agreement offered the city \$260,000 for the property. Mr. Brass has submitted a letter to staff stating his opinion that the purchase price offered is of market value.

The property is zoned and guided by the city's comprehensive plan for single family residential use. Any purchase of the property would be contingent on the buyer making the appropriate land use applications to zone and guide the land for commercial use. The city's normal public hearing and notification process would be utilized for any land use applications. The city council approves all official land use and map amendments.

The intention is to use the proceeds from this sale for future economic development pursuits. So to move forward the City of Maplewood must transfer ownership of this land to the city's economic development authority (EDA) who would officially sell the land to an outside group.

### Commission Review

#### Housing and Economic Development Commission

The city's housing and economic development commission reviewed this proposal at its meeting on September 11, 2013 and recommended the city council and EDA move forward with the approval of the purchase agreement.

#### Planning Commission

The city's planning commission reviewed this proposal at its meeting on September 17, 2013 and determined this property was in excess and currently in compliance with the city's comprehensive plan. The planning commission recommended the city council and EDA move forward with the purchase agreement which is contingent on the buyer applying for and seeking approval of any land use amendments.

### Budget Impact

The execution of the purchase agreement will have no impact on any budgets itself. If this property is sold, all proceeds would be deposited in the EDA's redevelopment fund.

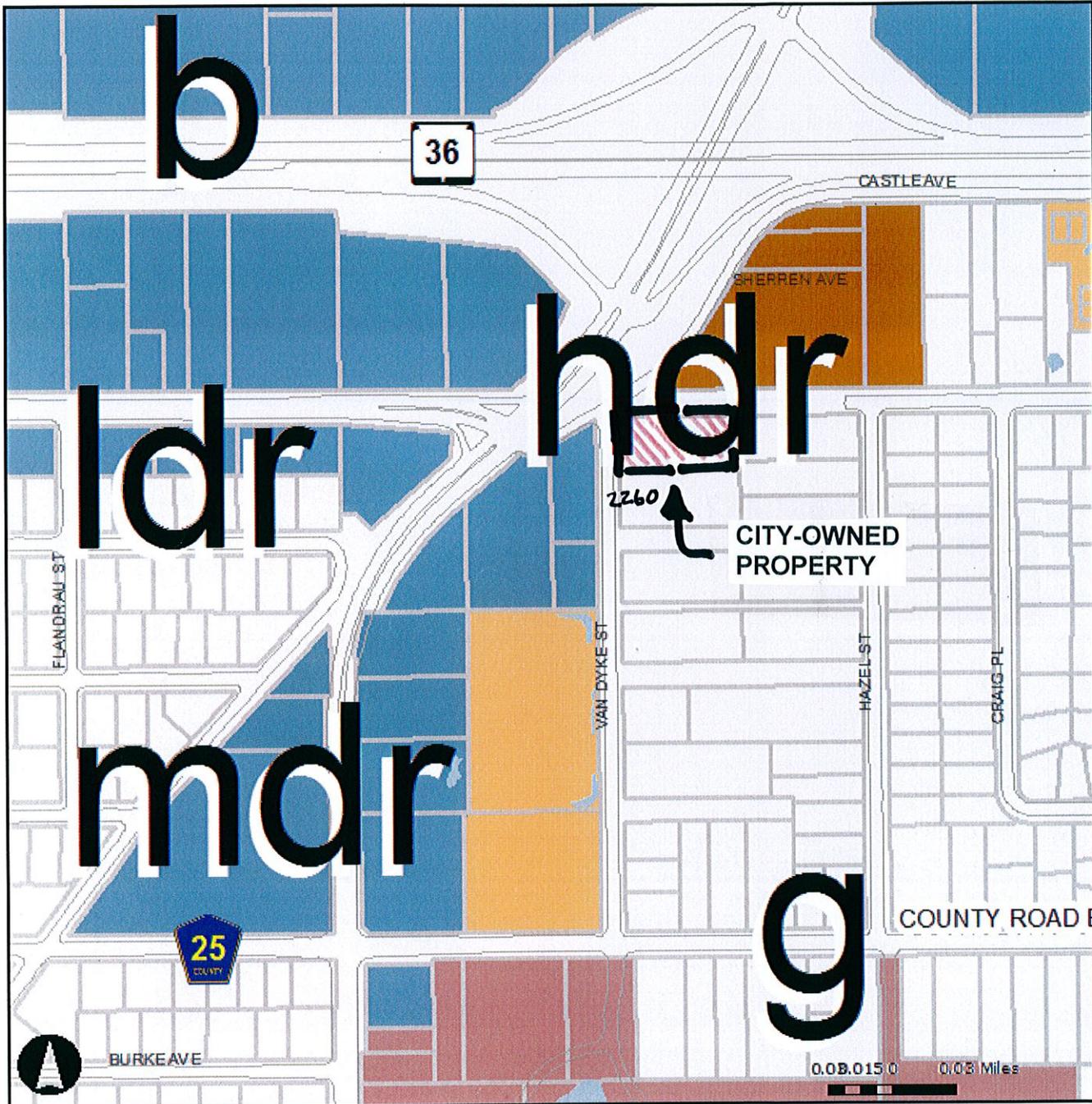
### Recommendation

Approval of the purchase agreement between the Maplewood Area Economic Development Authority and Solomon Real Estate Group for the property located on the southeast corner of Castle Avenue and Van Dyke Street. This approval authorizes the chairperson of the EDA and the EDA's director to sign the purchase agreement.

**Attachments**

1. Land Use Plan Map
2. Zoning Map
3. Aerial Photo
4. Survey Drawing
5. September 11, 2013, HEDC Minutes
6. September 17, 2013 Planning Commission Minutes
7. Mike Brass Letter, dated September 5, 2013
8. Purchase Agreement

# City Owned Property on Van Dyke Street Land Use Plan



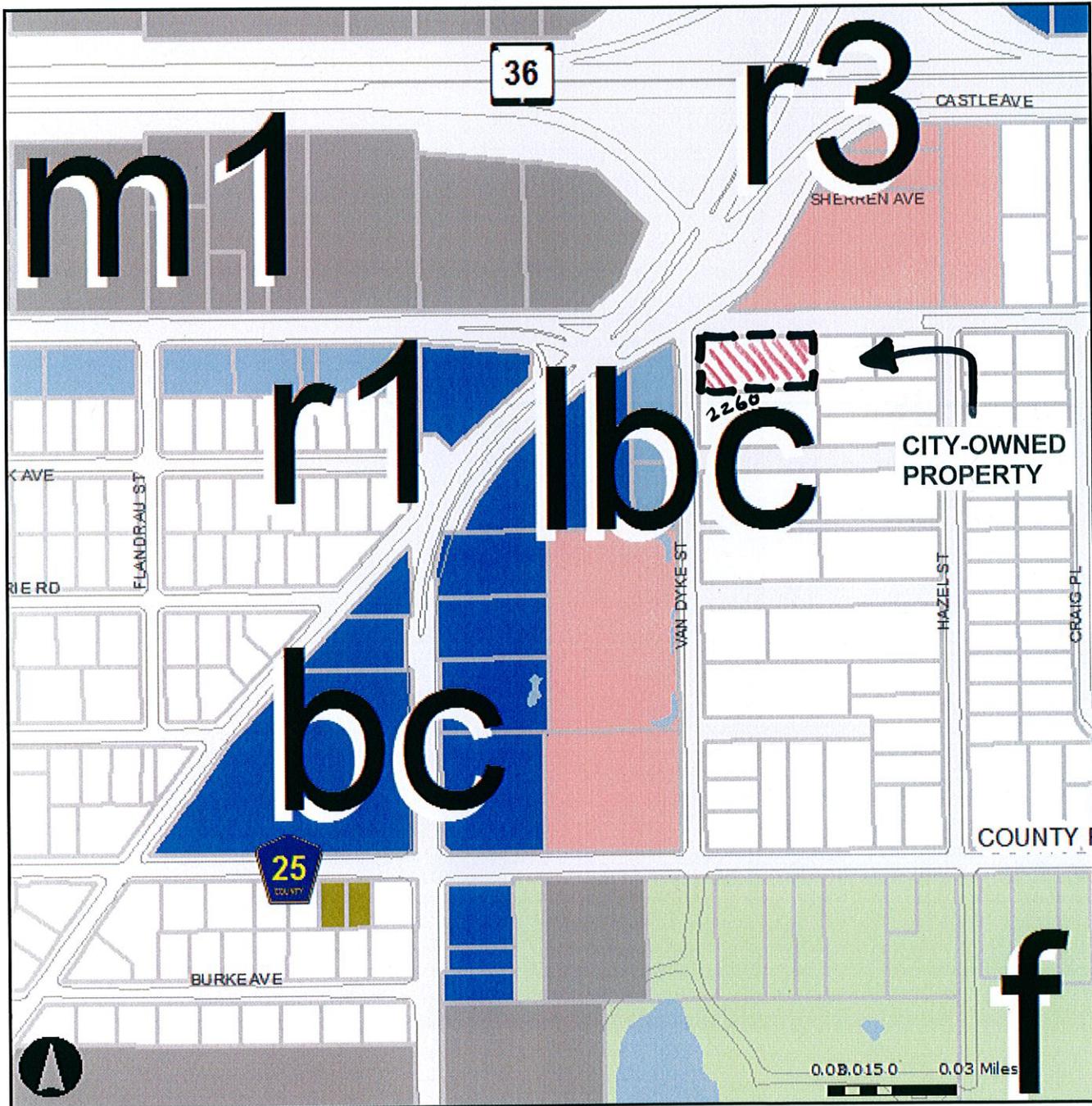
**Copyright**

MaplewoodBaseMap

Chad Bergo

Zoning Classifications: This data set is available to everyone. Fees and policy are published in the Ramsey County Fee Schedule. Charges are variable and are subject to change. See the Ramsey County Fee Schedule for specific information on fees and policy.

# City Owned Property on Van Dyke Street--Zoning Map

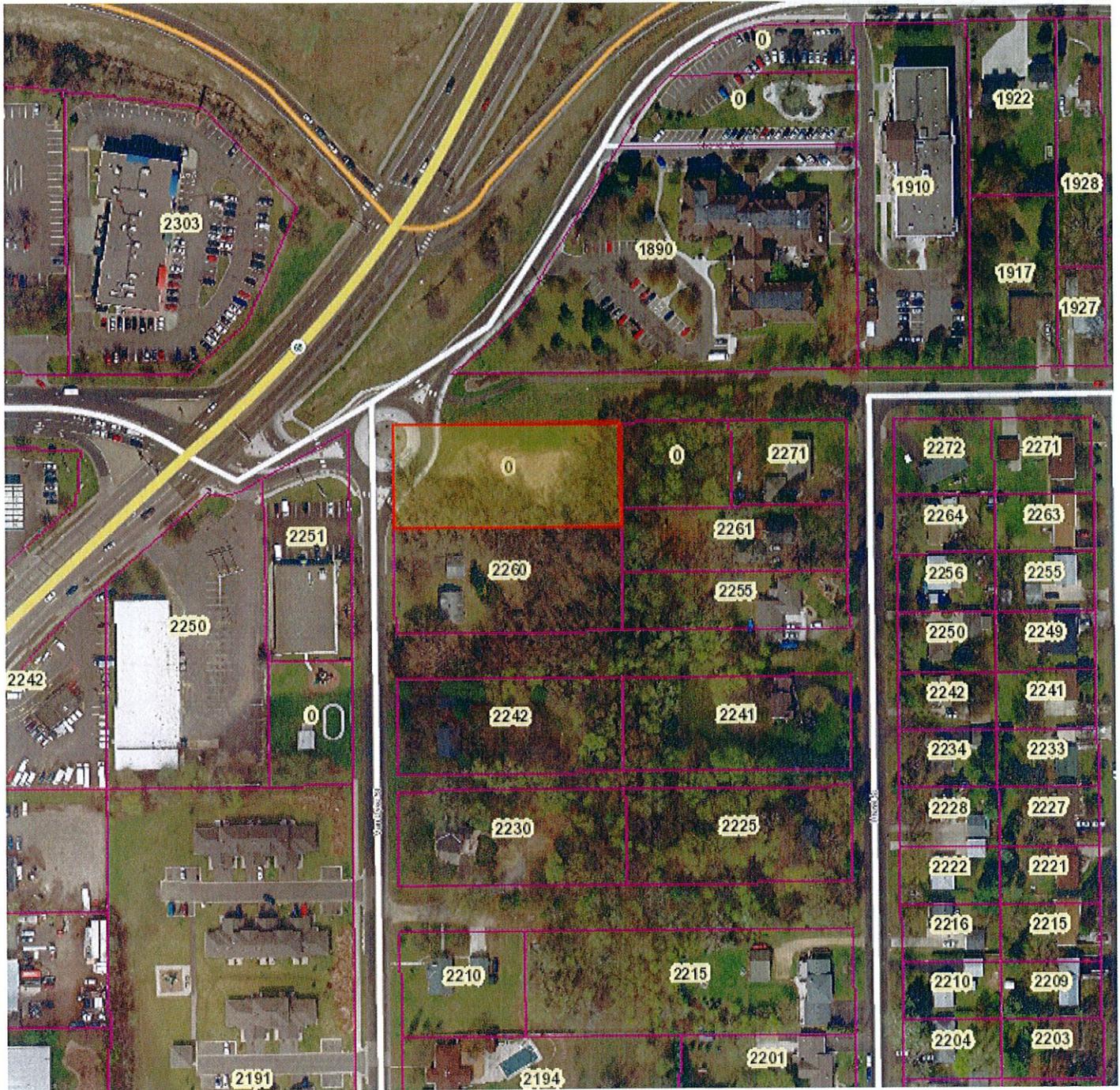


**Copyright**

MaplewoodBaseMap

Chad Bergo

Zoning Classifications: This data set is available to everyone. Fees and policy are published in the Ramsey County Fee Schedule. Charges are variable and are subject to change. See the Ramsey County Fee Schedule for specific information on fees and policy.



374.7 0 187.37 374.7 Feet

1: 2,248

NAD\_1983\_HARN\_Adj\_MN\_Ramsey\_Feet

© Ramsey County Enterprise GIS Division

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes

Enter Map Description





**MINUTES OF THE HOUSING AND ECONOMIC DEVELOPMENT COMMISSION  
1830 COUNTY ROAD B EAST, MAPLEWOOD, MINNESOTA  
7:00 P.M., WEDNESDAY, SEPTEMBER 11, 2013**

**5. NEW BUSINESS**

**b. Approval of Selling Excess City-Owned Real Property Policy**

- i. Planner, Mike Martin gave the report and answered questions of the commission.
- ii. Assistant City Manager, Community Development Director, Melinda Coleman addressed and answered questions of the commission.

Commissioner Wessel moved to approve the selling of excess city-owned real property policy in the staff report. This policy has Maplewood's criteria and project review policies, procedures and criteria for any city-owned real property that would be sold in the city of Maplewood.

Seconded by Commissioner Unger.

Ayes – All

The motion passed.

**c. Approval of Sale of City-Owned Real Property, Castle Avenue and Van Dyke Street**

- i. Planner, Mike Martin gave the presentation and answered questions of the commission.

Commissioner Klonecz moved to approve the recommendation to the city council in determining the property the city owns on the southeast corner of Castle Avenue and Van Dyke Street is in excess and not needed for any public use and should be marketed for sale.

Seconded by Commissioner Wessel.

Ayes – All

The motion passed.

Commissioner Wessel moved to recommend to the city council authority from the city's housing and economic development commission to move forward with a purchase agreement to sell the property located on the southeast corner of Castle Avenue and Van Dyke Street.

Seconded by Commissioner Lewis.

Ayes – All

The motion passed.

**MINUTES OF THE MAPLEWOOD PLANNING COMMISSION  
1830 COUNTY ROAD B EAST, MAPLEWOOD, MINNESOTA  
TUESDAY, SEPTEMBER 17, 2013**

**6. NEW BUSINESS**

**a. Approval of Selling Excess City-Owned Real Property Policy**

- i. Planner, Mike Martin gave the staff report and answered questions of the commission.

Commissioner Tripler moved to approve the selling city-owned real property policy in the staff report. This policy has Maplewood's criteria and project review policies, procedures and criteria for any city-owned real property that would be sold in the city of Maplewood.

Seconded by Commissioner Arbuckle.

Ayes - All

The motion passed.

**b. Approval of Sale of City-Owned Real Property, Castle Avenue and Van Dyke Street**

- i. Planner, Mike Martin gave the staff report and answered questions of the commission.

Commissioner Tripler moved to approve recommendation to the city council in determining the property the city owns on the southeast corner of Castle Avenue and Van Dyke Street is in excess and not needed for any public use and should be marketed for sale.

Commissioner Tripler moved to approve recommendation to the city council and the city's economic development authority to move forward with a purchase agreement to sell the property located on the southeast corner of Castle Avenue and Van Dyke Street.

Seconded by Commissioner Ige.

Ayes - All

The motion passed.



September 5, 2013

Michael Martin,

The Purchase Agreement for the Van Dyke site is for \$6.49 per square foot. The survey square footage includes a portion of the Roundabout in front of the property.

If you remove the roundabout square footage the actual price per square foot would be closer to \$7.56 per square foot. The comparison is shown on the attached Completed Deal Tracking for sites that I have sold.

Two good comparables on the Deal Tracking Sheets are the two Lande Estate sales that are currently under contract with a projected close date in September and July 2014

The White Bear Parkway Property site is closing in three weeks. That site is next to Bremer Bank and is on Birch Lake that sold for \$6.04 per square foot and is in a highly desirable area but with much lower car counts and visibility.

The Centerville Road Property is under contract for \$4.74 psf. This site sits in between I-35E and Cub Foods. This site is half retail and half zoned for apartments. This site has very high car counts and demographics. The apartment zoned land portion pulls down the value of the retail land as well as a water tower on the site which makes development difficult.

Both of the above properties have wet lands but the square footage listed is the usable land value.

Two recent closing are also good comparables;

Piccadilly site in Mahtomedi sold for \$7.88 per square foot. This property sold more on a per unit basis because it was sold as a senior housing site. It was bought on a basis of \$14,000 per unit or \$1,030,000 divided by 72 units = \$14,305 per unit. This site is a highly visible site at the entrance to Mahtomedi with views of White Bear Lake.

Wal-Mart site sold for \$8.09 per square foot. This site had I-35E to the east and is in the Wal-Mart parking lot to the west. This is a highly desirable location with very high traffic counts on two sides. This is the high end of the retail locations.

The two sales previous to the Wal-Mart site on the Land Sales sheet are located in Shoreview for two sites located between Target and I-694. These sites are now a strip retail center with 5 tenants and a Trader Joe's. These two sites sold for \$9.95 per square foot for the strip center and \$13.89 per square foot for the Trader Joe's site. The Shoreview Trade area is surrounded by homes and has limited land for



development. This area is desired by retailers because of the high demographics and the very high daytime demographics because of the high number of corporate employers in the area. Also these sites had ponding off site which makes the usable land more valuable.

The Vandyke site is located close to Highway 36 and close to White Bear Ave. The preferred retail sites would be on the North side of Highway 36 because the grocery anchor and most of the newer retail is on that side. With this in mind I believe getting \$7.56 is a very fair market price for the Van Dyke site.

Sincerely,

Mike Brass  
Vice President

PURCHASE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this "Agreement") is made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 2013 ("Effective Date"), by and between the City of Maplewood, a municipal corporation ("Seller"), and Solomon Real Estate Group, Inc., a Minnesota corporation, or its assigns ("Purchaser").

Seller is the owner of a fee simple interest in and to the real property in the City of Maplewood, Ramsey County, Minnesota which contains approximately .92 gross acres of vacant land as legally described and depicted on the attached Exhibit A.

Seller desires to sell to Purchaser the Property (as that term is defined herein), and certain related assets, as defined below, subject to the terms and conditions hereinafter set forth.

The parties, intending to be legally bound, hereby agree as follows:

DEFINITIONS. The following terms shall have the meanings set forth below when used in this Agreement:

"Applicable Laws" means all laws, rules, regulations, requirements, statutes, codes, ordinances or orders of the United States, State of Minnesota, County of Ramsey, the City, or other governmental body having jurisdiction over the Seller and/or the Property, which are applicable with regard thereto and any Permitted Encumbrance and other recorded documents, master plan, and/or agreements with any governmental body effecting the Property.

"Business Day" means any day other than Saturday, Sunday or other days on which commercial banks in Minnesota are authorized to close.

"City" means the City of Maplewood, Minnesota.

"Closing" means the consummation of the transaction contemplated by this Agreement.

"Closing Date" means the date on which the Closing occurs. The Closing Date will be a date, which is sixty (60) days following the Purchaser's receipt of all Governmental Approvals.

"Closing Documents" means the Seller Closing Documents (defined in Paragraph 7.B(a)) and the Purchaser Closing Documents (defined in Paragraph 7.B.(b)), collectively.

"Deed" means a warranty deed conveying to Purchaser good, marketable and insurable fee simple title to the Real Property, free and clear of all Liens except the Permitted Exceptions.

“Deliverables” means the documents Seller will deliver to Purchaser within thirty (30) days of the Effective Date, including the following documents relating to the Property within the possession or reasonable control of Seller:

- Any and all geotechnical soils reports and/or Phase I or Phase II environmental reports and any information regarding hazardous materials for the Real Property;
- Existing copy of the most recent Owner’s Title Policy or Abstract for the Real Property and any encumbrance documents for the Real Property; and
- Other property reasonably requested by Purchaser.

“Due Diligence” means Purchaser’s inspection of the Property, title review and review of environmental matters, all set forth in Paragraph 3.

“Earnest Money” or “Deposit” means the earnest money Purchaser is required to deposit, pursuant to Paragraph 2.a, together with any interest earned thereon.

“Environmental Laws” means all laws, ordinances, statutes, codes, rules, regulations, agreements, judgments, orders or decrees, now or hereafter enacted, promulgated, or amended, of the United States, the states, the counties, the cities, or any other political subdivision in which the Real Property is located, and any other political subdivision, agency or instrumentality exercising jurisdiction over the Seller, the Real Property or the use of the Real Property, relating to pollution, the protection or regulation of human health, or the environment, or the emission, discharge, release or threatened release of pollutants, contaminants, chemicals or industrial, toxic or hazardous substances or waste Hazardous Materials into the environment, including without limitation, ambient air, surface water, ground water or land or soil.

“Governmental Approvals” means any and all governmental approvals in form acceptable to Purchaser in its sole discretion for the construction of a multi-tenant retail/service building on the Real Property.

“Hazardous Materials” means (i) those substances included within the definitions of “hazardous substances,” “hazardous materials,” “toxic substances,” or “solid waste” in the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. § 9601 et seq.) (“CERCLA”), as amended by Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499 100 Stat. 1613) (“SARA”), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901 et seq.) (“RCRA”), and the Hazardous Materials Transportation Act (49 U.S.C. § 1801 et seq.), and in the regulations promulgated pursuant to said laws, all as amended, (ii) those substances listed in the United States Department of Transportation Table (49 CFR 172.101 and amendments thereto or by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 CFR Part 302 and amendments thereto), (iii) any material waste or substance which is (A) designated as a “hazardous substance” pursuant to Section 311 of the Clean Water Act, 33 U.S.C. § 1251 et seq. (33 U.S.C. § 1321) or listed

pursuant to Section 307 of the Clean Water Act (33 U.S.C. § 1317) or (B) radioactive materials, (iv) those substances included within the definitions of “hazardous substances”, “hazardous materials”, “toxic substances” or “solid waste” in the Hazardous Waste Management Act of 1978; (v) those substances identified as hazardous or toxic by the Minnesota Pollution Control Agency (“MPCA”) or other governmental agency or quasi agency; and (vi) asbestos and asbestos containing materials in any form, whether friable or non-friable, polychlorinated biphenyls, radon gas; any of which substances described in clauses (i) through (vi) above is present in such quantities as to require reporting, investigation or remediation under any applicable Environmental Laws, causes or threatens to cause a nuisance on the Real Property or adjacent property or poses or threatens to pose a hazard to the health or safety of persons on the Real Property or adjacent property, or which, if it emanated or migrated from the Real Property could constitute trespass.

“Indemnitee” means the party to this Agreement who is not the Indemnitor.

“Indemnitor” means the party to this Agreement required to indemnify the other indemnitee, including a party hereto to whom a claim for brokerage commission in connection with this transaction is made by any broker, salesman or finder claiming to have dealt by, through or on behalf of such party.

“Lien” means any interest in an asset securing an obligation owed to, or a claim by, any person other than the owner of the asset, whether such interest is based on the common law, statute, or contract, whether such interest is recorded or perfected, and whether such interest is contingent upon the occurrence of some future event or events or the existence of some future circumstance or circumstances, including the lien or security interest arising from a mortgage, deed of trust, encumbrance, pledge, hypothecation, assignment, collateral assignment, deposit arrangement, security agreement, conditional sale or trust receipt, or from a lease, consignment, or bailment for security purposes and also including reservations, exceptions, encroachments, easements, rights-of-way, covenants, conditions, restrictions, leases, and other title exceptions and Liens affecting real property.

“Objections” has the meaning set forth in Paragraph 3.D.

“Owner’s Policy” means an Owner’s Policy-Form of Title Insurance (and any endorsements) acceptable to Purchaser in Purchaser’s sole discretion.

“Permits” means, all permits required by all Applicable Laws and Environmental Laws with respect to Property.

“Permitted Exceptions” means any matters which Purchaser approves in writing or be deemed to have approved pursuant to the terms of this Agreement.

“Property” means, collectively, the Real Property, and all other rights, title, interests and warranties owned or held by Seller relating or pertaining to the Property and/or any of the foregoing, all of which are to be conveyed by Seller to Purchaser pursuant to the Deed.

“Purchase Price” means Two Hundred Sixty Thousand and 00/100 Dollars (\$260,000.00), which will be paid pursuant to Paragraph 2, subject to prorations and adjustments as provided in this Agreement.

“Real Property” means the Real Property contains approximately .92 gross acres of vacant land, located in the City of Maplewood, County of Ramsey, identified and legally described on the attached Exhibit A.

“Release” means any release, spill, emission, leaking, pumping, pouring, dumping, emptying, injection, deposit, disposal, discharge, dispersal, leaching or migration of a Hazardous Substance on or into the environment or into or out of any property.

“Required Removal Items” has the meaning set forth in Paragraph 3.F.

“Seller Closing Documents” has the meaning set forth in Paragraph 7.B. (a).

“Seller’s Title Response Notice” has the meaning set forth in Paragraph 3.F.

“Seller’s Title Response Period” has the meaning set forth in Paragraph 3.F.

“Special Assessments” mean those assessments arising out of and required to be paid with respect to the Real Property.

“Survey” means any survey of the Real Property obtained by Purchaser as part of its title review.

“Title Commitment” has the meaning set forth in Paragraph 3.D.

“Title Company” means Commercial Partners Title, LLC.

“Title Update Review Period” has the meaning set forth in Paragraph 3.F.

AGREEMENT:

1. Purchase and Sale. Subject to the terms and conditions hereinafter set forth, Seller agrees to sell, assign, convey and transfer to Purchaser, the Property, free and clear of all Liens, except for the Permitted Exceptions.

2. Purchase Price Manner of Payment and Prorations.

a. Purchase Price and Manner of Payments. The Purchase Price for the Property is Two Hundred Sixty Thousand and No/100 Dollars (\$260,000.00). The Purchase Price, subject to prorations and adjustments (as provided for in this Agreement) will be paid as follows:

i. Upon the execution of this Agreement, the Earnest Money Deposit in the amount of \$5,000 will be deposited in an interest bearing trust account with the Title Company pursuant to the Title Company's Earnest Money Deposit Agreement, and the Earnest Money will be applied against the Purchase Price at the Closing (if, however this Agreement is terminated pursuant to the terms hereof, then the Earnest Money will be refunded to Purchaser or released to Seller as provided elsewhere in this Agreement);

ii. The balance of the Purchase Price (subject to the credits, confirmations and adjustments provided for in this Agreement) will be paid on the Closing Date in immediately available funds wire transferred to a bank account of the Title Company designated in writing and delivered to Purchaser no later than 2:00 pm (Minnesota time) on the Closing Date; and

c. Prorations.

i. General. Seller and Purchaser will make the prorations set forth in this Paragraph as a credit or debit to the Purchase Price. For purposes of calculating prorations, Purchaser shall be deemed to be in title to the Property, and therefore entitled to the income therefrom and responsible for the expenses thereof, for the entire day upon which the Closing occurs. All prorations shall be made on the basis of the actual number of days of the year and month that shall have elapsed prior to the Closing Date.

ii. Taxes and Special Assessments. The parties acknowledge that as City owned property that the Real Property is tax exempt and that there are no real estate taxes or special assessments to prorate.

iii. Such other items as are customarily prorated in transactions of this nature shall be ratably prorated.

iv. In the event any prorations made pursuant hereto prove to be incorrect for any reason whatsoever, or in the event the prorations set forth above are estimated on the most currently available (rather than based on the actual final) bills, either party shall be entitled to an adjustment to correct the same provided that it makes written demand on the other within twelve (12) months after the Closing Date.

v. The provisions of this Paragraph 5 survive Closing.

d. Proration Statement. As soon as reasonably possible prior to Closing, Seller and Purchaser shall work together in good faith to prepare a joint statement of the prorations required by this subsection (“Proration Statement”), and shall deliver the Proration Statement to the Closing Agent for use in preparing the final settlement statements.

3. Purchaser’s Due Diligence. Purchaser will be allowed to conduct the following Due Diligence:

A. Purchaser will have until two Hundred ten days (210) days at no cost; and with a nonrefundable deposit of \$15,000 that will go toward the sale price at closing the purchaser will have an additional 90 day (“Review Period”) to review the Deliverables and to perform, at its sole cost, physical inspections, environmental review and other due diligence, and to decide, in Purchaser’s sole discretion, whether the Property is satisfactory. Purchaser’s due diligence may include: (a) investigations, tests and inspections relating to the physical characteristics of the Property, including all engineering, environmental and geotechnical structural analysis; and (b) review of the Deliverables. Seller will deliver to Purchaser within thirty (30) days of the Effective Date, the Deliverables in Seller’s possession. Seller is also obligated during the pendency of this Agreement to make available to Purchaser, in Seller’s offices: (i) all Deliverables in the possession or control of Seller; and (ii) such other documents relating to the Property as Purchaser may reasonably request during the pendency of this Agreement to the extent such documentation is in the possession or control of Seller; and (iii) personnel affiliated with Seller (as identified by Seller following Purchaser’s request) which are familiar with the Property. Buyer will supply copies of all due diligence to the Seller.

B. During the pendency of the Agreement, Seller, upon notice, will provide Purchaser or its designated representatives, at reasonable times, access to the Property and other due diligence materials to conduct, at Purchaser’s sole cost and expense, its Due Diligence with respect to the Property; provided, however, that Purchaser (i) will indemnify, defend and hold Seller harmless from and against all costs, expenses, losses, claims, damages and/or liabilities arising from Purchaser’s or any of its agents’, contractors’ or representatives’ negligence or misconduct in connection with the inspection of the Property; (ii) will promptly repair any damage resulting from any such inspections and restore the Property to its condition prior to such inspections; and (iii) will not permit any inspections, investigations or other due diligence activities to result in any Liens being filed against the Property and will, at its sole cost and expense, promptly discharge of record any such Liens that are so filed or recorded. Purchaser’s liabilities under this Section survive the Closing or earlier termination of this Agreement.

C. During the Review Period, Buyer shall obtain all Governmental Approvals.

D. On or before the expiration of the Review Period, Purchaser, in its sole absolute discretion, has the right for any reason or no reason to terminate this Agreement. Purchaser’s failure to provide written notice to Seller of Purchaser’s acceptance of the Due Diligence, including the physical and environmental conditions, set forth in this Paragraph 3 on

or before the expiration of the Review Period, will be deemed Purchaser's election to waive the Due Diligence as set forth in Paragraph 3A. If Purchaser does not accept the Due Diligence and notifies Seller of the termination of this Agreement, this Agreement shall terminate and in such event or following any other timely written notice of termination of this Agreement by Purchaser to Seller, (a) Purchaser will receive the Earnest Money Deposit, and (b) except for obligations that this Agreement expressly survives termination, neither party will have any further rights against the other.

E. Purchaser, at Seller's cost and expense, will promptly order a title insurance commitment ("Title Commitment") to be issued by the Title Company. Purchaser, at its cost, may obtain an updated or new Survey of the Real Property. No later than twenty (20) Business Days following Purchaser's receipt of the Title Commitment and Survey ("Title Review Period"), Purchaser will deliver to Seller, in writing, any objections to the Title Commitment or Survey ("Objections"). Prior to Closing, Purchaser may obtain (at Seller's cost and expense) an update of the Title Commitment or Survey ("Title Update"). If the Title Update or any updated Survey discloses a title or survey matter that was not disclosed in the Title Commitment or the Survey, Purchaser may deliver to Seller, within (10) Business Days following Purchaser's receipt of the Title Update and any updated Survey ("Title Update Review Period") a written statement of Objections to any matter first disclosed on the Title Update or any updated Survey accompanied by a copy of the Title Update and any updated Survey, provided that Purchaser will not have the right to object to any matters that are Permitted Exceptions. Should Purchaser fail to timely notify Seller of any Objections to title to the Property which are contained in the Title Commitment, the Survey, in any Title Update or on any updated Survey, Purchaser will be deemed to have agreed to accept title subject to all matters reflected in the Title Commitment and any Title Update and to the state of facts shown on the Survey or any updated Survey.

F. If Purchaser notifies Seller within the Title Review Period or the Title Update Review Period, as applicable, of Objections, then within ten (10) Business Days after Seller's receipt of Purchaser's notice ("Seller's Title Response Period"), Seller will notify Purchaser in writing ("Seller's Title Response Notice") of the Objections which Seller agrees to satisfy on or prior to the Closing, at Seller's sole cost and expense, and of the Objections that Seller cannot or will not satisfy. Notwithstanding the foregoing sentence, Seller will, in any event, be obligated to cure those Objections (i) that are Liens against the Property or (ii) that are Liens that have been voluntarily placed against the Property by Seller after the Effective Date and that will not otherwise be satisfied on or before the Closing ((i) and (ii) collectively, the "Required Removal Items"). If Seller chooses not to satisfy all or any of the Objections that Seller is not obligated to satisfy and to which Purchaser was entitled to object, Seller may either (i) notify Purchaser thereof within the allowed ten (10) Business Day period or (ii) not respond to Purchaser, and then subject to Paragraph 14 (if an Objection arose from a Seller default), Purchaser has the option to be exercised within twenty (20) Business Days following the sooner of (a) Purchaser's receipt of the Seller's Title Response Notice or (b) the expiration of Seller's Title Response Period of either (i) terminating this Agreement by giving written notice of termination to Seller, whereupon Purchaser will be entitled to a return of the Earnest Money,

this Agreement will be terminated without any obligations surviving hereunder, except those expressly stated to survive early termination or (ii) elect to close, in which case Purchaser will be deemed to have waived such Objections and such Objections will become “Permitted Exceptions”.

If Purchaser does not terminate this Agreement pursuant to Paragraph 3 (on or before the end of the applicable time periods), there is a presumption that Purchaser has approved all of the items set forth in Paragraph 3, including the Due Diligence, physical conditions, Title Commitment and Survey, and this Agreement will remain in full force and effect, and the Deposit will be held by the Title Company, and the Aggregate Deposit will be credited to Seller at Closing or released to Seller as provided for in this Agreement (unless the Agreement is terminated as a result of failure to satisfy the Closing Conditions (Paragraph 7.A), condemnation (Paragraph 11), or Seller’s default (Paragraph 13)).

4. Seller’s Representations, Warranties and Covenants.

A. Representations and Warranties.

Seller hereby represents and warrants for benefit of Purchaser as of the date hereof and as of the Closing as follows:

(a) Seller is a municipal corporation under the laws of the State of Minnesota all documents executed by Seller which are to be delivered to Purchaser at the Closing are duly authorized, executed, and delivered by Seller, are legal, valid, and binding obligations of Seller, are sufficient to convey title, and do not violate any provisions of any agreement to which Seller is a party or to which it is subject.

(b) The execution of this Agreement by Seller, the consummation of the transactions herein contemplated, and the execution and delivery of all documents to be executed and delivered by Seller, have been duly authorized by all requisite action on the part of Seller.

(c) Neither the execution of this Agreement nor the carrying out of the transactions contemplated herein will result in any violation with the instruments pursuant to which Seller was organized and/or operates.

(d) Seller is not a foreign person (as defined in Section 1445 of the Internal Revenue Code of 1986, as amended, and the Regulations promulgated thereunder) and Seller is a “United States Person” as such term is defined in Section 7701(a)(30) of the Internal Revenue Code of 1986, as amended.

(e) There is no contract or agreement in effect for the leasing and/or management of the Property for which Purchaser will be bound or will encumber the Property following the Closing.

(f) As to Environmental Matters, Seller represents and warrants:

- (i) To the best of Seller's knowledge, Seller is in full compliance with, and is not in violation of or liable under, any Environmental Law. Seller has received no citation, directive, inquiry, notice, order, summons, warning or other communication that relates to Hazardous Substances, or any alleged, actual, or potential violation or failure to comply with any Environmental Law, or of any alleged, actual, or potential obligation to undertake or bear the cost of any liability with respect to the environmental condition of the Real Property.
- (ii) Seller has received no notice of or otherwise has no knowledge of any claims, encumbrances, or other restrictions of any nature arising under or pursuant to any Environmental Law with respect to or affecting the Real Property.
- (iii) To the best of Seller's knowledge, there are no Hazardous Substances present on or in the Real Property, including any Hazardous Substances contained in barrels, aboveground or underground storage tanks, landfills, land deposits, dumps, equipment (whether movable or fixed) or other containers, either temporary or permanent, and deposited or located in land, water, sumps, or any other part of the Real Property.
- (iv) To the best of Seller's knowledge, there has been no Release of a Hazardous Substance at or from the Real Property or, to Seller's knowledge, after investigation, any adjoining property, whether by Seller or any other Person.

(g) Each and every warranty and representation of Seller set forth above will be true as of the date of this Agreement and as of the Closing Date. At Closing, Seller will execute and deliver to Purchaser a certificate restating and updating through Closing the warranties and representations set forth above, and acknowledging that the same will survive the Closing for a period of one (1) year after the Closing Date.

B. Covenants.

(a) Without Purchaser's prior written consent in each case, Seller will not seek or agree to enter into any new easements, leases, restrictions, agreements or other documents that would constitute an encumbrance against the Real Property. If any such amendments, modifications, easements, restrictions, agreements, or other documents are entered into by Seller during the term of this Agreement, then Seller will provide Purchaser with true, correct and complete copies of the same, promptly upon Seller's execution thereof.

(b) Seller will not enter into any lease or contract, amend, modify, terminate, cancel or extend any contract (that cannot be terminated at or before Closing) without Purchaser's written consent.

(c) Seller will deliver to Purchaser good and marketable fee simple title, free and clear of all Liens to the Real Property, subject only to the Permitted Exceptions, at the Closing.

Each and every covenant of Seller set forth in this Paragraph 4.B. will be satisfied as of the Closing Date.

5. Closing Costs. The parties will bear the following costs:

(a) Seller will pay (i) the real estate transfer taxes in connection with the transfer of the Real Property, (ii) the brokerage fees to the Broker (as defined herein), (iii) all costs and expenses incurred in connection with the removal of Liens, the curing of title defects and problems, and other such similar matters, (iv) one-half (1/2) of any closing escrow fees and closing costs of the Title Company, and (v) all other costs and expenses that are allocated to Seller under the other provisions of this Agreement.

(b) Except as specifically set forth in this Agreement, Purchaser will pay (i) all costs and expenses in connection Purchaser's Due Diligence; (ii) the cost of recording the deed and the title insurance premiums (owners and lenders), including costs for endorsements or additional coverages thereto; (iii) one-half (1/2) of any closing escrow fees and closing costs of the Title Company, and (iv) all other costs and expenses that are allocated to Purchaser under the other provisions of this Agreement.

(c) Each party is responsible for payment of its own legal fees.

6. Closing.

A. Closing Procedures.

The Closing will be held at 10:00 a.m. local time on the Closing Date at the offices of Title Company or such other location as may be mutually agreed to by the parties. The Closing will be an escrow closing where all Closing Documents and funds required to be paid or provided by each party pursuant to this Agreement will be delivered to Title Company in

escrow on the Closing Date and upon receipt of all required funds and documents from the parties, Title Company will close the transaction in accordance with the provisions of this Agreement, whereby the net Purchase Price and the Purchaser Closing Documents will be disbursed and delivered to Seller, and any funds due Purchaser and the Seller Closing Documents will be disbursed and delivered to Purchaser. At Closing, the following will occur:

(a) Seller will execute and deliver, or cause to be executed and delivered (as the case may be) to Purchaser through escrow the following documents (collectively, the "Seller Closing Documents"):

(i) Evidence of Seller's authority to perform its obligations under this Agreement;

(ii) The Deed;

(iii) The certificate regarding representations, warranties and covenants, as described in Paragraph 4 above;

(iv) A non-foreign affidavit or a qualifying statement sufficient in form and substance to relieve Purchaser of any and all obligations to deduct, withhold or pay any amount of tax pursuant to Section 1445 of the Code, or a statement from Seller authorizing Purchaser to deduct and withhold taxes as required by Section 1445 of the Code;

(v) Uniform Commercial Code searches evidencing that the Property is free and clear of all Liens other than Permitted Exceptions;

(vi) Any and all other documentation reasonably required by the Title Company, to close the transaction contemplated hereunder and to cause the Owner's Policy to be issued and delivered to Purchaser.

(b) Purchaser will deliver the Purchase Price to Title Company (subject to prorations and adjustments), and shall execute and/or deliver, or cause to be executed and delivered (as the case may be) to Seller through escrow documentation reasonably required by the Title Company, to close the transaction contemplated hereunder and to cause the Owner's Policy to be issued and delivered to Purchaser.

(c) Seller and Purchaser will each execute counterpart closing statements in customary form together with such other documents as are reasonably necessary to consummate the Closing.

(d) Both parties will pay their respective costs by wire transfer or by check drawn from a financial institution reasonably acceptable to Title Company.

7. Brokers. The parties each represent and warrant to the other that there are no real estate broker, salesmen or finders involved in this transaction, except that Seller is represented by Barry Brottlund of InSite Commercial Real Estate and Purchaser is represented by SMJ Management, Inc. (collectively referred to as "Brokers"). Seller and Purchaser will pay any brokerage fees owed to their respective Brokers pursuant to separate agreements. If a claim for brokerage in connection with this transaction is made by any broker, salesman or finder (other than the Brokers) claiming to have dealt by, through or on behalf of one of the parties hereto, Indemnitor will indemnify, defend and hold harmless Indemnitee, and Indemnitee's officers, directors, partners, members, agents and representatives, from and against any and all liabilities, damages, claims, costs, fees and expenses whatsoever, including reasonable attorneys' fees and court costs through all trial and all appellate levels with respect to said claim for brokerage. In addition, Seller will indemnify, defend and hold harmless Indemnitee, and Indemnitee's officers, directors, partners, members, agents and representatives, from and against any and all liabilities, damages, claims, costs, fees and expenses whatsoever, including reasonable attorneys' fees and court costs through all trial and all appellate levels with respect to said claim for brokerage fees. The provisions of this paragraph survive the Closing.

8. Notices. All notices or other communications hereunder to either party shall be (i) in writing and sent via facsimile, with evidence of transmittal, overnight commercial courier service or United States Express Mail and shall be deemed to be given on actual receipt and addressed:

If to Purchaser at: Solomon Real Estate Group, Inc.  
Attn: Steve Johnson  
1508 Welland Avenue  
Minnetonka, MN 55305

With a simultaneous copy to: Siegel Brill, P.A.  
Attn: Anthony J. Gleekel  
100 Washington Avenue South  
Suite 1300  
Minneapolis, MN 55401

If to Seller: \_\_\_\_\_  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

With a Copy to: \_\_\_\_\_  
Attn: \_\_\_\_\_  
\_\_\_\_\_



If to Title Company: Commercial Partners Title, LLC  
Attn: \_\_\_\_\_  
200 South Sixth Street  
Suite 1300  
Minneapolis, MN 55402

9. Condemnation

In the event proceedings to condemn the Property or any portion thereof are commenced before the Closing, Purchaser has the right to terminate this Agreement in which event it will be deemed that Purchaser terminated this Agreement pursuant to Paragraph 3.A(a) hereof and the rights of the parties shall be as set forth therein. In the event the Purchaser does not elect to terminate this Agreement, Seller will assign to Purchaser, at the Closing, all of Seller's rights, title and interest in and to any condemnation proceeds payable with respect to the Property or grant Purchaser a credit against the Purchase Price equal to the amount of any condemnation award paid to Seller.

10. Purchaser's Warranties, Representations and Covenants. Purchaser represents and warrants to Seller as follows:

(a) Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the State of Minnesota and is duly qualified to do business and in good standing in the State of Minnesota.

(b) Purchaser has full power and right to enter into and perform its obligations under this Agreement and the other agreements contemplated herein to be executed and performed by it.

(c) The provisions of this Paragraph 13 survive the Closing Date, for a period of nine (9) months.

11. Remedies. If Seller fails to perform any of the covenants of this Agreement, or Seller otherwise defaults hereunder, Purchaser, following thirty (30) days written notice to Seller (if Seller has not cured the alleged default) shall as its sole and exclusive remedies; (a) the right of specific performance of all provision of this Agreement, or (b) Purchaser, at its option, may elect to terminate this Agreement in which event the Earnest Money shall be returned to Purchaser on written demand pursuant to the escrow provisions herein. Any action for specific performance must be served on Seller and filed with the District Court that is jurisdiction for matters in Hennepin County, within ninety (90) days from the delivery of the Notice of Default from Seller.

If Purchaser breaches any of its obligations hereunder or this Agreement prior to Closing, Seller may, following thirty (30) days written notice if Purchaser has not cured such

breach within such thirty (30) day period, declare a forfeiture hereunder, terminate this Agreement and retain the Earnest Money, as Seller's sole remedy. Seller and Purchaser acknowledge that the amount of damages in the event of Purchaser's default hereunder would be difficult or impossible to ascertain, but that the amount of the Earnest Money is a fair estimate of such damages.

Notwithstanding the foregoing, with regard to any default by a party of any obligation that explicitly survives Closing, Seller and Purchaser will have the right to specifically enforce the subject terms and provisions of this Agreement and/or recover any damages to which it may be entitled at law (including, without limitation, attorneys' fees and the reasonable costs of investigation) and/or pursue any other remedy available at law or equity.

12. Miscellaneous.

(a) This Agreement will be construed, governed and enforced in accordance with laws of the State of Minnesota.

(b) If any provision of this Agreement or the application thereof to any person or circumstance are to any extent held void, invalid or unenforceable, then the remainder of this Agreement or the application of such provision to persons or circumstances other than those as to which it is held void or invalid or unenforceable will not be affected thereby and each and every other provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(c) Unless otherwise indicated to the contrary herein by context or use thereof: (i) the words "herein," "hereto," "hereof," and words of similar import refer to this Agreement as a whole and not to any paragraph or section hereof; (ii) the word "including" means "including, but not limited to"; (iii) masculine gender also includes the feminine and neutral genders and vice versa; and (iv) words importing the singular shall also include the plural, and vice versa.

(d) This Agreement constitutes the entire Agreement between the parties with respect to the sale of the Property and supersedes any other previous agreement, oral or written, between the parties. This Agreement cannot be changed, modified, waived or terminated orally but only by an agreement in writing signed by the parties hereto. This Agreement will be binding upon the parties hereto and their respective heirs, executors, personal representatives and permitted successors and assigns.

(e) TIME IS OF THE ESSENCE of this Agreement and each provision hereof; provided, however, that if any date herein set forth for the performance of any obligations by Seller or Purchaser or for the delivery of any instrument or notice as herein provided should not be on a Business Day, the compliance with such obligations or delivery shall be deemed acceptable on the next following Business Day.

(f) This Agreement may be executed in any number of counterparts, all of which taken together will constitute one and the same original, and the execution of separate counterparts by Purchaser and Seller shall bind Purchaser and Seller as if they had each executed the same counterpart.

(g) Each of the parties agrees that upon request from the other party following the Closing and without further consideration, such party will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered all such further acts or instruments as shall be reasonably requested by a party in order to effect or carryout the transactions contemplated herein provided same do not impose any obligations or liabilities upon the party not contemplated in this Agreement. The provisions of this Paragraph 12(g) shall survive the Closing.

(h) Failure of either parties to insist, in any one or more instances, upon strict performance of any term and condition of this Agreement, will not be construed as a waiver or relinquishment of such term, condition, or option in the future.

SIGNATURES TO FOLLOW ON NEXT PAGE

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates set forth below, the latter of which dates being the date of execution of this Agreement.

SELLER:

PURCHASER:

THE CITY OF MAPLEWOOD

SOLOMON REAL ESTATE GROUP, INC.

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

By: *Steven M. Johnson*  
Steven M. Johnson  
Its: Development Partner

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



EXHIBIT "B"  
Pending Claims and Litigation

**MEMORANDUM**

**TO:** Charles Ahl, City Manager

**FROM:** Michael Martin, AICP, Planner  
Melinda Coleman, Assistant City Manager

**DATE:** December 3, 2013

**SUBJECT:** Approval of a Commercial Reinvestment Loan, Larkin Dance Studio, 1400 East Highway 36

## a. Approval of Loan

**Introduction**

On September 23, 2013, the city's Economic Development Authority (EDA) considered Molly Larkin Symanietz's, of Larkin Dance Studio, request for the EDA to consider a commercial reinvestment loan. This forgivable loan would assist Larkin Dance Studio in moving to the vacant building and site at 1400 East Highway 36. The EDA approved the forgivable loan conditioned on a business subsidy agreement coming back for its approval at a later meeting.

**Discussion**

The forgivable loan would go toward exterior upgrades for the 1400 East Highway 36 site. Improvements would include a new parking lot, site drainage upgrades, a possible rain garden, new landscaping, new lighting and screening for the east side of the property. This site has been vacant for several years and has not been well maintained.

The estimated cost for the building purchase and renovation cost is approximately \$1.6 million dollars and the applicant is seeking a loan from the EDA in the amount of \$70,000 to aid in the cost of rehabilitation and redevelopment of the building and site. With Larkin moving to the 1400 East Highway 36 site, it is anticipated it will prevent the loss of at least 6 full-time equivalent (FTE) jobs by keeping the business in Maplewood and it will create at least 4 FTE new jobs within three years at wages of at least \$12.25 per hour.

The forgivable loan shall be due and payable to Larkin in increments or in a lump sum upon receipt by the EDA of invoices for work performed. The terms of the loan call for \$50,000 of the \$70,000 to be forgiven five years after date of final payment. If Larkin does not comply with the terms and conditions of the agreement, Larkin shall pay back a portion of the loan on a prorated basis. Larkin's initial improvements to the site (that must exceed \$500,000 and once completed and approved by the City Building Official) shall constitute 50% of the \$50,000 (or \$25,000) of the forgivable portion of the loan. The remaining \$25,000 of the forgivable portion of the loan shall be based on Larkin's addition of the equivalent of at least 4 new FTE jobs in the commercial building within the next three years and maintaining at least 10 FTE jobs in the commercial building over the following two years, at wages of at least \$12.25 per hour. If those goals are both met over the course of that five year period, the remaining \$25,000.00 shall be forgiven.

**Budget Impact**

The budget for the 2013 Maplewood Area EDA Fund [280] allocated \$50,000 for proposed land improvement purchases. An additional allocation of \$12,000 is also indicated as an expenditure, which is not currently planned. That budget indicated that a Fund Balance of \$34,642 would remain after those expenditures. The EDA Fund should have sufficient cash on hand to handle the \$70,000 expenditure assuming no other projects during this time.

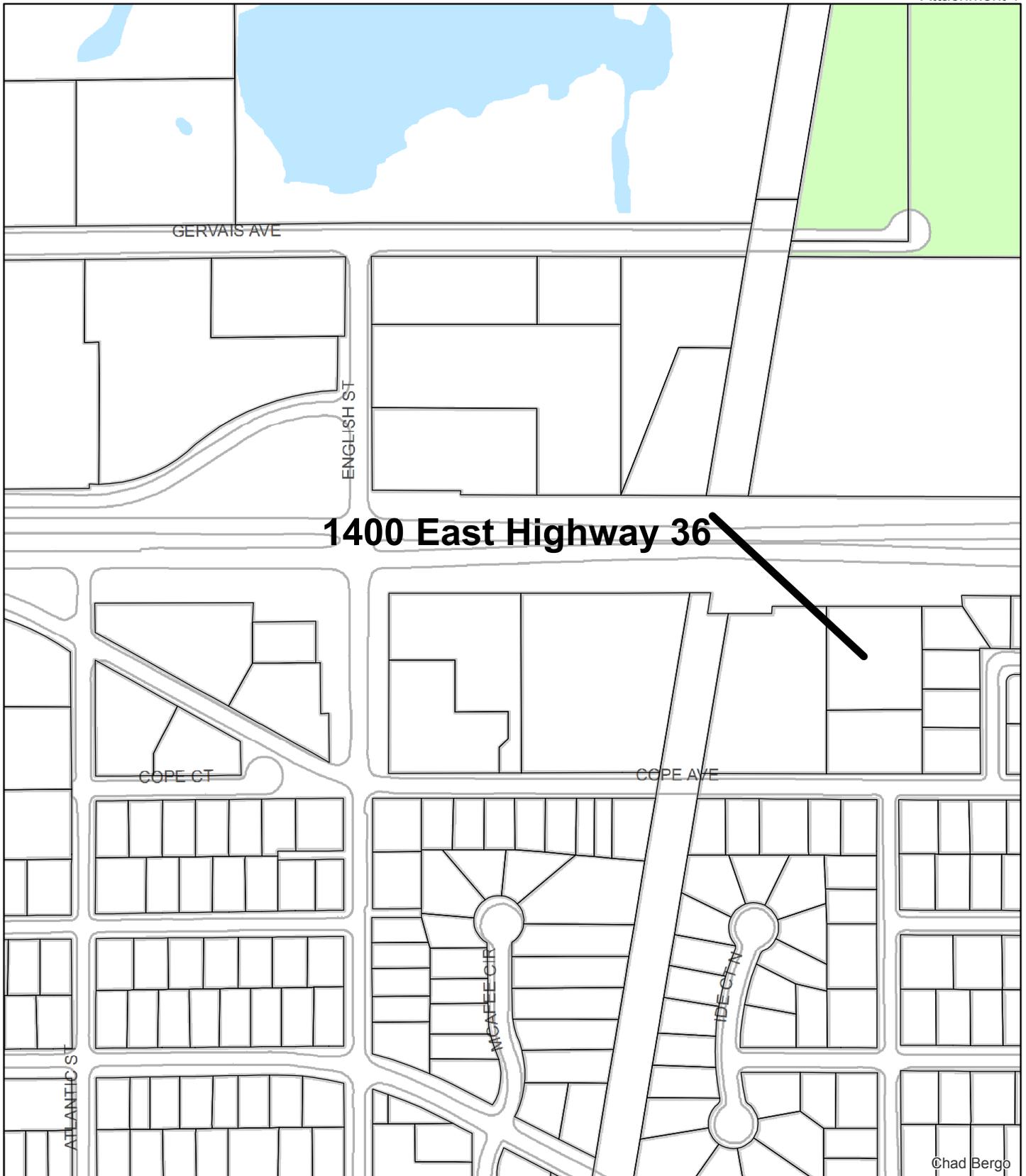
It should be noted that the EDA shows a positive balance due to an outstanding 5-year loan made to Health East in 2011 in the amount of \$400,000 and the land purchase made from the General Fund for the property at Hazelwood and County Road D. Those projects and agreements means that while the fund has assets, that the actual cash available for these types of projects is very limited until the 5-year loan is repaid in 2016 and the land at Hazelwood/Cty Rd D is sold; or other projects/parcels are sold. Staff is comfortable that this expenditure can be handled reasonably at this time without adverse impacts. We expect that the EDA Fund will show a positive cash balance by the end of 2014.

**Recommendation**

Approve the attached business subsidy agreement which provides a loan of \$70,000, from the EDA levy funds, for a commercial reinvestment loan to Larkin Dance Studio

**Attachments**

1. Location Map
2. Aerial Site Map
3. September EDA Minutes
4. Business Subsidy Agreement



**1400 East Highway 36 - Larkin Dance Studio**

Location Map



**1400 East Highway 36 - Larkin Dance Studio**  
Aerial Site Map

**MINUTES**  
**MAPLEWOOD AREA ECONOMIC DEVELOPMENT AUTHORITY**  
**September 23, 2013**  
**Council Chambers, City Hall**

**G. NEW BUSINESS**

- 1. Approval of Commercial Reinvestment Loan, Larkin Dance Studio, 1400 East Highway 36**
  - a. Housing and Economic Development Commission Report**
  - b. Approval of Loan Terms**

Assistant City Manager/Community Development Director Coleman gave the staff report and answered questions of the council. City Manager Ahl gave additional information. Mark Jenkins representing the Housing and Economic Development Commission gave the HEDC report and answered questions of the council. Dean Trongard, Real Estate Broker representing Larkin Dance addressed the council to give additional information about Larkin and the proposed site. Molly Larkin Symanietz, Michelle Larkin Wagner and Scott Symanietz were present and addressed the council to give additional information about the Larkin Dance Studio Project.

Member Juenemann moved to approve the conceptual Commercial Reinvestment Loan and directed staff to prepare an agreement and collect various details from the applicant that the EDA has indicated and present it at the October 14, 2013 EDA meeting.

Seconded by Member Rossbach

Ayes - All

The motion passed.

## **BUSINESS SUBSIDY AGREEMENT**

**THIS AGREEMENT** made this day of December, 2013, by and between the **Maplewood Economic Development Authority**, a Minnesota public body corporate and politic, 1830 County Road B East, Minnesota 55109 (“EDA”) and **Larkin Dance Studio, LLC**, a Minnesota limited liability company, 1400 Highway 36 East, Maplewood, MN 55109, hereinafter referred to as “Larkin Dance” and **1400 Highway 36, LLC**, a Minnesota limited liability company, 1689 Oakdale Avenue, Suite 102, West St. Paul MN 55118, hereinafter referred to as “Larkin Building Owner” and together Larkin Dance and Larkin Building Owner shall hereinafter collectively be referred to as “Larkin.”

### **RECITALS**

**WHEREAS**, the City of Maplewood (“City”) has long-desired to improve the function and appearance of its community through economic development, and has invested substantial resources toward that goal; and

**WHEREAS**, the Maplewood City Council established the EDA in July 2011 in order to advance these objectives; and

**WHEREAS**, the EDA adopted criteria for awarding business subsidies, pursuant to the Business Subsidies Act, Minn. Stat., Sections 116J.993 to 116J.995, (“Business Subsidy Act”); and

**WHEREAS**, Larkin has operated its business in Maplewood since 1946; and

**WHEREAS**, Larkin has indicated it has outgrown its current location but would like to remain in Maplewood and has identified 1400 East Highway 36, the Minnesota Granite Building (Granite Building) for potential relocation and expansion; and

**WHEREAS**, to facilitate the expansion, Larkin has proposed rehabilitation of the Granite Building, an outdated vacant commercial building that has sat vacant for several years, at a total estimated cost for the building purchase and renovation cost of approximately \$1.6 million dollars and is seeking a business subsidy (“Business Subsidy”) from EDA in the amount of \$70,000 to aid in the cost of rehabilitation and redevelopment of the Granite Building and site; and

**WHEREAS**, Larkin is proposing to purchase the Granite Building, upgrade the HVAC system and mechanicals, repair the parking lot, upgrade the electrical systems, repair and replace roofing, conduct environmental remediation, and remedy additional building issues (“Improvements”) to retrofit and rehabilitate the existing building for Larkin’s proposed use; and

**WHEREAS**, it is anticipated that the use in the new commercial building will prevent the loss of at least 6 FTE jobs through the business potentially relocating out of the City of Maplewood; create at least 4 FTE new jobs within three years at wages of at least \$12.25 per hour; maintain those 10 FTE jobs in the City for at least two years beyond that; promote private investment in a blighted or economically depressed area; enhance economic development, and potentially increase the property tax base; and

**WHEREAS**, the EDA believes the proposed redevelopment of the Granite Building would be desirable for the City; and

**WHEREAS**, the proposed redevelopment meets all criteria for awarding a Business Subsidy established by the EDA Policy on Business Subsidies and due to the estimated cost of the proposed redevelopment, the Improvements are financially infeasible without public assistance.

**NOW THEREFORE**, for good and valuable consideration, the receipt of which is acknowledged, and in consideration of the covenants and agreements made herein, Larkin and the EDA hereby agree as follows:

**AGREEMENT**

1. The Business Subsidy is comprised of a partially-forgivable loan in an amount not to exceed seventy thousand dollars (\$70,000). The partially-forgivable loan shall be due and payable to Larkin in increments or in a lump sum upon receipt by the EDA of invoices for work performed. A note and mortgage will be taken out on the property as security for the payable portion of the Business Subsidy, too wit: fifty thousand dollars (\$50,000.00). It is recognized by the parties that twenty thousand (\$20,000.00) of the Business Subsidy will be almost immediately paid back to the City as and for public works fees and permits and is thus not necessary to secure, long term. Satisfaction of some or the entire secured amount will be determined as performance metrics are realized or default occurs.
2. The public purposes of the Business Subsidy are as follows:
  - a. Promote the economic and commercial redevelopment of the City;
  - b. Preserve the local tax base and improve the general economy and vitality of the City;
  - c. Promote the health, safety and welfare of the residents of the City;

- d. Remove, prevent or reduce blight, blighting factors or the cause of blight in the City;
  - e. Attract, retain, rehabilitate and preserve commercial facilities;
  - f. Eliminate or improve structurally substandard buildings;
  - g. Create new jobs in the commercial and retail sector;
  - h. Remove obsolete site layout and design;
  - i. Afford maximum opportunities, consistent with the needs of the City as a whole, for the redevelopment of the area by private enterprise.
3. Within the next year, Larkin will be making improvements to the Granite Building and site in excess of Five Hundred Thousand Dollars (\$500,000).
  4. The goals for the Business Subsidy are to secure timely development and maintain the Improvements as a commercial building for at least five (5) years.
  4. Job and wage goals of the Business Subsidy are to create at least the equivalent of 4 new FTE jobs in the commercial building within the next three (3) years, at wages of at least \$12.25 per hour and maintain at least 10 total FTE jobs in the commercial building over the following two (2) years, at wages of at least \$12.25 per hour.
  5. Larkin will construct the Improvements pursuant to a Site Plan, which will require approval by the Maplewood Building Department and Permitting and Inspection Process.
  6. Larkin, its permitted successors or assigns will continuously operate the new commercial building for at least five (5) years, except in the event of unforeseeable casualty, in which event, Larkin shall rebuild and reopen as soon as commercially reasonable. For the purpose of this section, “continuously operate,” means that space is leased or available for lease to any person or entity for use in its private trade or business, or occupied by Larkin for use in its trade or business.
  7. Larkin shall provide a list of all grantors who provided financial assistance for the project (i.e. Department of Employment and Economic Development, Xcel Energy, etc.).
  8. If Larkin complies with the terms and conditions of this Agreement, fifty thousand (\$50,000.00) of the seventy thousand (\$70,000.00) of the Business Subsidy will be

forgiven five (5) years after date of final payment for the Business Subsidy. If Larkin does not comply with the terms and conditions of this Agreement, Larkin shall pay back a portion of the Business Subsidy on a prorated basis, based on the portion of the operation period elapsed as of the date of default. Larkin's initial improvements to the site (that must exceed \$500,000 and once completed and approved by the City Building Official) shall constitute 50% of the \$50,000 (or \$25,000) of the forgivable portion of the loan. The remaining \$25,000 of the forgivable portion of the loan shall be based on Larkin's addition of the equivalent of at least 4 new FTE jobs in the commercial building within the next three (3) years and maintaining at least 10 FTE jobs in the commercial building over the following two (2) years, at wages of at least \$12.25 per hour. If those goals are both met over the course of that (5) year period, the remaining \$25,000.00 shall be forgiven as well.

10. The Parties acknowledge that Larkin shall execute a Note and Mortgage in favor of the City of Maplewood EDA for the forgivable portion of the loan, to wit: \$50,000.00, which shall be recorded in at least second-lien position against the property. The parties agree that Larkin shall be entitled to a partial satisfaction of the Note and Mortgage once the first \$25,000.00 becomes or is forgiven and or full satisfaction upon the conclusion of the successful completion of the requirements called forth in Paragraph 8 regarding loan metrics.
9. Larkin must submit to the EDA a written report regarding Business Subsidy goals and results by no later than March 1<sup>st</sup> of each year, commencing March 1, 2014 and continuing until the later of the date that the goals are met; or thirty (30) days after expiration of the five-year period; or if the goals are not met, then the date the Business Subsidy is repaid. The report must comply with Section 116J.994 subd. 7 of the Business Subsidy Act, the requirement of which are attached at Exhibit B hereto. The EDA will provide information to Larkin regarding the required forms. If Larkin fails to timely file any report required under this section, the EDA will mail Larkin a notice of non-compliance within one week after the required filing date. If, after 14 days of the postmarked date of the notice, Larkin fails to provide the required report, Larkin must pay the EDA a penalty of \$100 for each subsequent day until the report is filed. The maximum aggregate penalty payable under this section is \$1,000.00.
10. Larkin must comply with City Code Section \_\_\_ regarding the payment of prevailing wages for/during construction of the improvements to the Granite Building structure.
11. The parties agree that this Agreement shall be construed pursuant to Minnesota law and any disputes shall be venued in Ramsey County, Minnesota.

12. Notices to the parties shall be sent as follows:

If to EDA: Maplewood EDA  
Attn: Executive Director  
1830 Co. Road B East.  
Maplewood, MN 55109

If to Larkin: Larkin Dance Studio  
Attn: Ms. Molly Symanietz  
President of Larkin Dance Studio  
1400 Highway 36 East  
Maplewood, MN 55118

12. This Agreement shall not be assigned without the prior written consent of the other party, which shall not be unreasonably withheld.

13. This Agreement shall only be amended by written agreement approved by both parties.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be duly executed by their authorized representatives as of the date first written above.

**[THE REMAINDER OF THIS PAGE INTENTIONALLY BLANK]**



**LARKIN DANCE STUDIO, INC.**

\_\_\_\_\_

Its: President

\_\_\_\_\_

Name:

Its:

STATE OF \_\_\_\_\_ )  
 )ss  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by \_\_\_\_\_, the President of Larkin Dance Studio.

\_\_\_\_\_

Notary Public

|

**1400 HIGHWAY 36, LLC**

\_\_\_\_\_

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

Its: Chief Manager

STATE OF \_\_\_\_\_ )

\_\_\_\_\_ )ss

COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by \_\_\_\_\_, the Chief Manager of 1400 Highway 36, LLC, the current owner of the property located at 1400 Highway 36 East, Maplewood MN 55118

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

EXHIBIT A

This exhibit has no content at the moment

## EXHIBIT B

**Business Subsidy reporting requirements**

(a) A business subsidy grantor must monitor the progress by the recipient in achieving agreement goals.

(b) A recipient must provide information regarding goals and results for two years after the benefit date or until the goals are met, whichever is later. If the goals are not met, the recipient must continue to provide information on the subsidy until the subsidy is repaid. The information must be filed on forms developed by the commissioner in cooperation with representatives of local government. Copies of the completed forms must be sent to the local government agency that provided the subsidy or to the commissioner if the grantor is a state agency. If the Iron Range Resources and Rehabilitation Board is the grantor, the copies must be sent to the board. The report must include:

- (1) the type, public purpose, and amount of subsidies and type of district, if the subsidy is tax increment financing;
- (2) the hourly wage of each job created with separate bands of wages;
- (3) the sum of the hourly wages and cost of health insurance provided by the employer with separate bands of wages;
- (4) the date the job and wage goals will be reached;
- (5) a statement of goals identified in the subsidy agreement and an update on achievement of those goals;
- (6) the location of the recipient prior to receiving the business subsidy;
- (7) the number of employees who ceased to be employed by the recipient when the recipient relocated to become eligible for the business subsidy;
- (8) why the recipient did not complete the project outlined in the subsidy agreement at their previous location, if the recipient was previously located at another site in Minnesota;
- (9) the name and address of the parent corporation of the recipient, if any;
- (10) a list of all financial assistance by all grantors for the project; and
- (11) other information the commissioner may request.

A report must be filed no later than March 1 of each year for the previous year. The local agency and the Iron Range Resources and Rehabilitation Board must forward copies of the reports received by recipients to the commissioner by April 1.

(c) Financial assistance that is excluded from the definition of "business subsidy" by section [116J.993, subdivision 3](#), clauses (4), (5), (8), and (16), is subject to the reporting requirements of this subdivision, except that the report of the recipient must include instead:

- (1) the type, public purpose, and amount of the financial assistance, and type of district if the assistance is tax increment financing;
- (2) progress towards meeting goals stated in the assistance agreement and the public purpose of the assistance;
- (3) if the agreement includes job creation, the hourly wage of each job created with separate bands of wages;

(4) if the agreement includes job creation, the sum of the hourly wages and cost of health insurance provided by the employer with separate bands of wages;

(5) the location of the recipient prior to receiving the assistance; and

(6) other information the grantor requests.

(d) If the recipient does not submit its report, the local government agency must mail the recipient a warning within one week of the required filing date. If, after 14 days of the postmarked date of the warning, the recipient fails to provide a report, the recipient must pay to the grantor a penalty of \$100 for each subsequent day until the report is filed. The maximum penalty shall not exceed \$1,000.

**MEMORANDUM**

**TO:** Charles Ahl, City Manager  
**FROM:** Melinda Coleman, Assistant City Manager/ Community Development Director  
**DATE:** December 4, 2013  
**SUBJECT:** EDA Status Report Update

**Introduction**

The Council will receive an update on the City's Economic Development Plan including current and future projects.

**Discussion**

The City Council has established Economic Development and Redevelopment as one of their top priorities. Following is an overview of recent activities as well as those that are in progress or planned for the next several years. They have been broken down into 5 Main Areas of Focus.

**Gladstone Neighborhood Redevelopment**

Status of the LCDG application: The Met Council Livable Community Grant Committee has indicated preliminary recommendation for full \$1.9 million request. This funding would be used for area market rate work force housing on the Maplewood Bowl site. Final decision on the grant will be made in mid January. Staff will be preparing for action on public improvements as soon as the final grant award is announced.

Staff is currently conducting an Inventory/Evaluation of Existing Car Repair Businesses: this includes promotion of County funds for Phase 1 Environmental Review, acquisition costs and re-location interest and options.

Staff will monitor and report on the County Auction results for two tax forfeit parcels on English Street adjacent to Johnson Boatworks.

In 2014 staff will conduct a review and evaluation of existing zoning and Comp Plan compatibility. We will review goals and objectives of 2007 Gladstone plan to verify validity and make any necessary adjustments to reflect demographics and market.

Budget: Staff is proposing \$1.2M for the Maplewood Bowl Site project in public improvements. Total Gladstone projected budget for the next 5 years will be prepared in early 2014 in time for Goal Setting Retreat.

## **Fire Stations**

The sale of the Londin Lane fire station site and subsequent housing development is no longer in play. The Developer backed out of the project because of other similar competing projects in the immediate area. Staff will instead focus in the short term on the sale of the Parkside and Century Avenue Stations.

Budget: It is anticipated that the sale and or lease options from the three fire stations will generate \$4,084,000. These proceeds are currently planned to offset other Fire Department Projects. However, all three Fire Station sites will generate new tax revenue once they are redeveloped. Zoning analysis is currently underway to fully understand highest and best use and recommended zoning or comprehensive plan adjustments to market the properties.

## **Targeted Improvement Areas**

Staff has identified several improvement areas that will undergo land use and capital improvement programming and planning in the next five or more years. These areas of study and consideration will also require input from several of the city advisory boards including HEDC and the Planning Commission. These identified areas include:

White Bear Avenue Corridor

Century Avenue

Rice Street Corridor

St. John's Medical Area

Staff will continue to work with the Mall owners, St. John's Executives and other property owners to look for business development and other partnering opportunities on an on-going manner.

## **Housing Maintenance and Reinvestment Programs**

Programs will need to be created to address housing stock and reinvestment. This includes possible Rental Licensing, Remodeling Program, Home Improvement Loans and Codes and Maintenance Enforcement.

Besides housing reinvestment programs, staff will work with HEDC and the EDA to further develop the Business Loan/Subsidy Program to encourage business reinvestment. We will also coordinate the sale of excess land for redevelop opportunities as they present themselves.

Budget: The EDA has the authority to levy taxes in any year up to .01813% of the estimated market value of the City. Based on the most current information available from Ramsey County, the maximum amount the EDA could levy is \$575,780. For 2014, the EDA levy is set at \$89,270. In addition, there is a loan to HealthEast that will be re-paid by 2016 which will generate approximately \$20,500 of revenue for the EDA over the 5 year term and the City

recently received repayment on a 1980's CDBG loan of which the proceeds were deposited into the EDA Fund. The city is in the process of marketing two parcels: Hazelwood and D which after repayment to street improvement could net funds for the EDA and the Van Dyke Street parcel under contract for \$260,000. Total projected funds with EDA levies, interest earnings, loan proceeds and property sales that can be used for EDA purposes is approximately \$977,350 for the next 5 years assuming the levy amount remains at the \$89,270 for the 5 year period. This amount will be reduced to \$907,350 once the Larkin agreement is approved.

**Budget Impact**

As discussed above

**Recommendation**

No action needed