Inver Grove Heights

INVER GROVE HEIGHTS
ECONOMIC DEVELOPMENT AUTHORITY AGENDA
SPECIAL MEETING
MONDAY, JULY 23, 2018
CITY COUNCIL CHAMBERS
6:30 P.M.

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **REGULAR AGENDA**

   A. Consider Property Acquisition of 6639 Concord Boulevard

      1. Conduct Public Hearing to Consider the Creation of Economic Development District No. 11 __________

      2. Consider Resolution Approving a Purchase Agreement Between the Inver Grove Heights EDA and Timothy and Barbara Biljan __________

4. **ADJOURN**

3.A.1

LeVander, Gillen & Miller, P.A.

ATTORNEYS AT LAW

TIMOTHY J. KUNTZ
DANIEL J. BEESON
KENNETH J. ROHLF
STEPHEN H. FOCHLER
JAY P. KARLOVICH
ANGELA M. LUTZ AMANN
KORINE L. LAND
DONALD L. HOEFT
BRIDGET McCAULEY NASON
TONA T. DOVE
AARON S. PRICE
DAVID L. SIENKO
CASSANDRA C. WOLFGRAM

MEMO

TO:	**Inver Grove Heights Economic Development Authority**
FROM:	**Timothy J. Kuntz, City Attorney**
DATE:	**July 18, 2018**
RE:	**Consider Creation of Economic Development District No. 11 relating to Acquisition of property located at 6639 Concord Boulevard; July 23, 2018 EDA Public Hearing**

Section 1. Background. The City of Inver Grove Heights, on behalf of the Economic Development Authority (EDA), has been negotiating the purchase of property located at 6639 Concord Boulevard owned by Timothy Biljan and Barb Biljan. A Purchase Agreement has been prepared between the EDA and Biljan for the purchase price of $442,000. The Purchase Agreement is being considered by the EDA as a separate action item at the July 23, 2018 public hearing.

One of the conditions of the Purchase Agreement is that the EDA create and establish Economic Development District No. 11, which District comprises the Biljan property.

At the July 2, 2018 special EDA meeting, the EDA called for a public hearing on July 23, 2018 to consider whether to create Economic Development District No. 11.

Section 2. EDA Action. At the July 23, 2018 public hearing, the EDA will be asked to consider the attached *Resolution Approving Creation of Economic Development District No. 11.*

Attachment

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OFFICE ALSO LOCATED IN SPOONER, WISCONSIN

CITY OF INVER GROVE HEIGHTS ECONOMIC DEVELOPMENT AUTHORITY
DAKOTA COUNTY, MINNESOTA

RESOLUTION NO. ______

RESOLUTION APPROVING CREATION OF ECONOMIC DEVELOPMENT DISTRICT NO. 11

BE IT RESOLVED by the Board of Commissioners ("Board") of the City of Inver Grove Heights Economic Development Authority (the "Authority") as follows:

Section 1. Recitals.

1.01. Under Minnesota Statutes, Sections 469.090 to 469.1082 (the "EDA Act"), and specifically Section 469.101, subd. 1 thereof, the Authority is authorized to create and define the boundaries of economic development districts at any place or places within the City of Inver Grove Heights, the "City".

1.02. Within the boundaries of such economic development districts, the Authority may exercise any of the powers under the EDA Act.

1.03. The Authority has determined a need to establish Economic Development District No. 11 ("District No. 11") in order to carry out and foster the development of those areas pursuant to the EDA Act.

1.04. On this date, the Authority has held a duly-noticed public hearing regarding the creation of District No. 11, at which all persons were given an opportunity to comment.

Section 2. District Adopted; Further Proceedings.

2.01. The Authority hereby finds that it is proper and desirable to establish and develop District No. 11. The Authority hereby establishes District No. 11.

2.02. The tax parcel identification number and legal description of District No. 11 are described in Exhibit A, which is incorporated by reference.

2.03. Authority staff and consultants are authorized to take all actions necessary to carry out development of District No. 11 in accordance with the EDA Act.

Approved by the Board of Commissioners of the City of Inver Grove Heights Economic Development Authority this 23rd day of July, 2018.

____
Rosemary Piekarski Krech, President

Attest:

____
Thomas J. Link, Executive Director

EXHIBIT A
LEGAL DESCRIPTION AND TAX PARCEL IDENTIFICATION NUMBER FOR ECONOMIC DEVELOPMENT DISTRICT NO. 11

Real property located in the City of Inver Grove Heights, County of Dakota, State of Minnesota, legally described as follows:

> Lots 5, 6, 7 and 8, Block 1, William F. Krech Addition to Inver Grove, Dakota County, Minnesota.

Abstract Property

Dakota County Tax Identification No.: 20-43250-00-080

3.A.2

LeVander, Gillen & Miller, P.A.

ATTORNEYS AT LAW

MEMO

TO:	**Inver Grove Heights Economic Development Authority**
FROM:	**Timothy J. Kuntz, City Attorney**
DATE:	**July 18, 2018**
RE:	**Purchase of Property from Timothy Biljan and Barbara Biljan located at 6639 Concord Boulevard; July 23, 2018 EDA Meeting**

Section 1. Background. At the July 23, 2018 EDA meeting, the EDA will consider approval of the attached Purchase Agreement with Timothy J. Biljan and Barbara Biljan ("Biljan"). The property is owned by Biljan and located at 6639 Concord Boulevard. The property comprises one tax parcel and the legal description of the property is included in the attached Purchase Agreement. The EDA will consider the approval of the purchase agreement which would allow the EDA to acquire the property.

Section 2. Salient Provisions. The salient provisions of the Purchase Agreement are as follows:

1. The Purchase Agreement contemplates the acquisition of the property at 6639 Concord Boulevard from Biljan.
2. The Purchase Price paid to Biljan for the property is $442,000.
3. Biljan has agreed to waive any relocation benefits they may be entitled to receive. Biljan will sign a Waiver of Relocation Benefits as part of the closing documents.
4. Biljan will not receive any moving costs under the terms of the Purchase Agreement.
5. The Purchase Price will be paid at Closing. There is no earnest money deposit as part of the acquisition.
6. The purchase includes the land and the buildings located on the property.
7. The property is not currently inhabited by tenants.
8. The Closing will occur on or before August 8, 2018.

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9. The EDA will receive possession of the properties on or before August 8, 2018.

10. As a condition of Closing, the Planning Commission of the City of Inver Grove Heights will find that the acquisition of the Property is consistent with the City's Comprehensive Plan.

11. As a condition of Closing, the City Council for the City of Inver Grove Heights will approve the funding necessary for the acquisition of the Property prior to the Date of Closing.

12. As a condition of Closing, Buyer will create Economic Development District No. 11 that includes the Property.

13. Seller will deliver a Warranty Deed.

14. 2nd half of Real Estate taxes payable in the year 2018 will be paid by Buyer.

15. Buyer will pay all 2018 2nd half levied and pending assessments.

16. Seller is responsible for utilities until the Closing Date.

17. Seller will pay all mortgages, judgments, liens and/or tax liens that exist against the Property as of the Closing Date.

18. Seller is indemnifying the Buyer with respect to any environmental condition on the Property that existed prior to the Closing Date.

19. Subject to Seller's indemnification obligation, Buyer will accept the buildings and structures on the Property in their "As Is" condition.

20. Buyer is paying the state deed tax.

21. Buyer is paying all closing fees for Closing at the title company.

22. Buyer is paying for the cost of recording all documents necessary to place record title in the condition warranted by Seller in this Agreement and Buyer is paying for the cost of recording the Warranty Deed and all other documents.

23. Buyer is paying for the title commitment and the title insurance premium.

Section 3. <u>EDA Action</u>. At the July 23, 2018 EDA meeting, the EDA will be asked to consider the attached *Resolution Approving A Purchase Agreement Between The City Of Inver Grove Heights Economic Development Authority And Timothy J. Biljan And Barbara Biljan Relating To The Purchase Of Property Located At 6639 Concord Boulevard In Inver Grove Heights, Minnesota Identified As Dakota County Tax Identification Number 20-43250-00-080.*

CITY OF INVER GROVE HEIGHTS ECONOMIC DEVELOPMENT AUTHORITY
DAKOTA COUNTY, MINNESOTA

RESOLUTION NO. ______

RESOLUTION APPROVING A PURCHASE AGREEMENT BETWEEN THE CITY OF INVER GROVE HEIGHTS ECONOMIC DEVELOPMENT AUTHORITY AND TIMOTHY J. BILJAN AND BARBARA BILJAN RELATING TO THE PURCHASE OF PROPERTY LOCATED AT 6639 CONCORD BOULEVARD IN INVER GROVE HEIGHTS, MINNESOTA IDENTIFIED AS DAKOTA COUNTY TAX IDENTIFICATION NUMBER 20-43250-00-080

WHEREAS, Timothy J. Biljan and Barbara Biljan own real property located at 6639 Concord Boulevard, Inver Grove Heights, Minnesota, identified as Dakota County Tax Identification No. 20-43250-00-080 described in the Purchase Agreement attached hereto as Exhibit A (Real Property); and

WHEREAS, the City of Inver Grove Heights Economic Development Authority (EDA) desires to purchase the Real Property in order to promote economic development in the City of Inver Grove Heights; and

WHEREAS, the EDA and Timothy J. Biljan and Barbara Biljan have negotiated the attached Purchase Agreement for the sale of the Real Property by Timothy J. Biljan and Barbara Biljan to the EDA for the purchase price of $442,000; and

WHEREAS, the purchase is contingent on:

1. The Planning Commission finding that the acquisition is consistent with the Comprehensive Plan, prior to closing.

2. The City Council and the EDA approving the funding prior to closing.

3. The EDA creating Economic Development District No. 11 prior to closing.

4. Other contingencies as recited in the Purchase Agreement between the EDA and Timothy J. Biljan and Barbara Biljan.

WHEREAS, one purpose of Economic Development District No. 11 will be to authorize the EDA to acquire (through negotiation) the Real Property within the development district for future economic development purposes, including resale to private parties for redevelopment; and

WHEREAS, pursuant to Minnesota Statutes § 469.101, the EDA has the power and authority to purchase the Real Property for economic development.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the City of Inver Grove Heights Economic Development Authority (EDA):

1. The Board of Commissioners of the EDA hereby approves the attached Purchase Agreement with Timothy J. Biljan and Barbara Biljan for the Real Property at a purchase price of $442,000.

2. The President and Executive Director of the EDA are authorized to sign the attached Purchase Agreement between Timothy J. Biljan and Barbara Biljan and the EDA.

3. The President and Executive Director of the EDA are authorized to sign all other closing documents that are required of the EDA in connection with the purchase of the Real Property.

4. The Board of Commissioners of the EDA hereby determines that purchase of the Real Property by the EDA will promote economic development.

Adopted by the Board of Commissioners of the City of Inver Grove Heights Economic Development Authority this 23rd day of July, 2018.

Ayes:
Nays:

____
Rosemary Piekarski Krech, President

ATTEST:

____
Thomas Link, Executive Director

EXHIBIT A
PURCHASE AGREEMENT

PURCHASE AGREEMENT

This Agreement is made this ____ day of July, 2018, by and between **Timothy J. Biljan and Barbara Biljan,** husband and wife, (hereinafter referred to as the "Seller") and the **City of Inver Grove Heights Economic Development Authority,** an economic development authority established under Minnesota Statutes § 469.090 to 469.1082 (hereinafter referred to as "Buyer").

1. **Purchase and Sale.** Seller shall sell to Buyer and Buyer shall purchase from Seller, subject to the terms and conditions of this Agreement, the real property located at **6639 Concord Boulevard East, Inver Grove Heights, MN 55076 [Property Identification Number 20-43250-00-080]** and more particularly described on **Exhibit A** attached hereto and incorporated herein by reference, together with all improvements, tenements, hereditaments, easements, rights-of-way, privileges, appurtenances and rights to the same belonging to and inuring to the benefit of said real estate and any of the following items of personal property and fixtures to the extent owned by Seller and currently located on the Property: dishwasher, garden bulbs, plants, shrubs, trees, storm windows and inserts, storm doors, screens, awnings, window shades, curtains-traverse-drapery rods, attached lighting fixtures with bulbs, plumbing fixtures, sump pumps, water heaters, heating systems, heating stoves, fireplace inserts, fireplace doors and screens, built in humidifiers, built in electronic air filters, television antennas, water softeners, built in dishwashers, garbage disposals, built in trash compactors, built in ovens, hood fans, intercoms, installed carpeting, work benches, security systems, (said property and said improvements, rights and privileges and personal property are hereinafter referred to as the "**Property**").

2. **Purchase Price**. Subject to Section 6, at Closing, Buyer will pay Seller Four Hundred Forty-two Thousand Dollars (**$442,000.00**) ("**Purchase Price**").

3. **Relocation Benefits.** Seller is aware of Seller's rights and payments that Seller may be eligible to receive pursuant to the Uniform Relocation Assistance Act (the "Act"). Seller acknowledges that Seller has been given the opportunity to seek and receive the advice of legal counsel with respect to relocation, moving, reestablishment, and other costs, if any, that may be available to the Seller under the Act.

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

   Buyer and Seller agree that this is a voluntary sale by Seller. Buyer represents that Buyer would not acquire the Property in the event that negotiations between Buyer and Seller had failed to result in an amicable agreement. Seller has requested that the Property be acquired by Buyer and such request preceded any negotiations by Buyer to acquire the Property.

Seller clearly showed an intent to sell the Property on the public market prior to any discussions, inquiries or negotiations by Buyer.

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

Buyer acknowledges that it has acquired other property in the general geographic area as the Property. Buyer has not set a specific time limit to acquire the Property or other properties in the general geographic area nor has Buyer determined whether to acquire such properties.

As Buyer and Seller agree that this is a voluntary sale, state and federal law permit the Buyer to request a waiver of relocation benefits from the Seller. Prior to and as a condition of closing, Seller will be required to sign a relocation waiver, the form of which is substantially the same as shown on **Exhibit B** and the final form of which will be subject to the approval of the Buyer. Buyer will arrange for a relocation consultant to meet with the Seller prior to closing. The relocation consultant will determine the amount of relocation benefits for which Seller would be eligible if this were a non-voluntary sale. If the Seller does not waive relocation benefits, this Agreement will be terminated and Seller will be free to retain ownership of the Property or to sell the Property on the private market.

4. **Date and Location of Closing.** The Date of Closing for the Property shall be on or before August 8, 2018. Closing shall occur at DCA Title located at 750 Main Street (The Village), Suite 208, Mendota Heights, MN 55118 (hereafter "Title Company").

5. **Possession Date.** The Possession Date shall be the Date of Closing.

6. **Payment of Purchase Price.** Subject to (i) full and timely performance by Seller and (ii) the satisfaction of all contingencies herein contained, the Purchase Price of **Four Hundred Forty-two Thousand Dollars ($442,000.00)** shall be payable by Buyer to Seller on the Closing Date in the form of wire transfer from the Buyer.

7. **Property and Environmental Investigation**. Seller shall provide all documents and written information available, and in Seller's possession, regarding the environmental condition of the Property.

   Buyer has, at Buyer's sole cost and expense, obtained a Phase I Environmental Site Assessment of the Property dated February 2018 prepared by Landmark Environmental. Buyer has reviewed the Phase I Environmental Site Assessment and has determined that the results of the Phase I Environmental Site Assessment are acceptable to the Buyer. Buyer has further determined that the environmental condition of the Property is acceptable to the Buyer.

Buyer has, at Buyer's sole cost and expense, obtained a Phase II Environmental Investigation of the Property dated May 2018 prepared by Landmark Environmental. Buyer has reviewed the Phase II Environmental Investigation and has determined that the results of the Phase II Environmental Investigation are acceptable to the Buyer. Buyer has further determined that the environmental condition of the Property is acceptable to the Buyer.

However, Buyer may, at Buyer's sole cost and expense, perform additional environmental investigation, if needed, with respect to the Property. Seller agrees to cooperate in providing accurate information relating to the Property and in allowing access to the Property to generally inspect the Property and the buildings located thereon, which inspection may also include, but is not limited to, the physical inspection of the Property and the buildings located thereon, to determine the physical condition of the Property and the buildings located thereon, and the legal compliance of the Property and to review any other matter related to the Property.

8. **Moving Costs.** Seller shall not be entitled to any additional Moving Costs to move Seller's personal property or possessions as part of this transaction.

9. **Delivery of Property.** Seller hereby agrees to sell to Buyer on the Closing Date and deliver the Property to Buyer on the Possession Date free of any liens and encumbrances.

10. **Warranty Deed.** Seller shall deliver title by Warranty Deed and the Warranty Deed to be executed and delivered by Seller to Buyer shall convey marketable title free and clear of all mortgages, liens and encumbrances and subject only to the following exceptions (the "**Permitted Encumbrances**"):

    a) Building, zoning and platting laws, ordinances and state and federal regulations;

    b) Reservations of any minerals or mineral rights to the State of Minnesota;

    c) The lien of current taxes not yet due and payable;

    d) Utility easements and road easements existing at the date hereof, which do not interfere with, the existing use of the Property.

11. **Real Estate Taxes.** Seller hereby agrees to pay any real estate taxes levied against the Property herein sold due and payable in the years prior to the Closing. Real estate taxes levied against the Property that are due and payable in the second half of the year of Closing shall be paid by Buyer on the Closing Date.

12. **Special Assessments.** Buyer agrees to pay the principal and interest amounts owing on all levied special assessments, including the installment, if any, payable in the second half of

the year 2018 and thereafter; and Buyer agrees to pay the principal amount relating to any pending special assessments.

13. **Title.** After acceptance of this Agreement, Buyer, at Buyer's cost, shall immediately obtain a Commitment of Title Insurance in the amount of $442,000 from the Title Company for the Property. The Buyer shall be allowed twenty (20) days after receipt thereof for examination of said title and making of any objection thereto, said objections to be made in writing or deemed to be waived. If any objections are so made, the Seller shall be allowed 60 days to make such title marketable. Pending correction of title, payments hereunder required shall be postponed, but upon correction of title and within the twenty-(20) days after written notice to the Buyer, the parties shall perform this Agreement according to its terms. If title is not marketable and is not made so within 60 days from the date of written objections thereto as above provided, this Agreement shall be null and void with neither party being liable for damages hereunder to the other party. If the title to said Property is found marketable or is so made within said time, and Buyer shall default in any of the agreements and continue in default for a period of ten (10) days, then and in that case, the Seller may terminate this Agreement, time being of the essence hereof. Seller's sole and exclusive remedy for breach of this Agreement shall be cancellation of this Agreement.

Buyer shall pay the title insurance commitment fee and the title insurance premium for the issuance of any Final Title Insurance Policy for the Property.

14. **Environmental Warranties.** Seller warrants to Buyer that to Seller's knowledge, no toxic or hazardous substances (including without limitation, asbestos, urea form formaldehyde, the group of organic compounds known as polychlorinated biphenyl's, and any hazardous substances, pollutants or contaminants as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. Section 9601-9657, as amended or as defined by Minn. Stat. § 115B.02, as amended) have been generated, treated, stored, released or disposed of, or otherwise deposited in or located on the Property, including without limitation, the surface and subsurface waters of the Property, nor has Seller undertaken any activity on the Property which caused (i) the Property to become a hazardous waste treatment, storage or disposal facility within the meaning of, or otherwise bring the Property within the ambit of, the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. Section 9601 et. seq., the Minnesota Environmental Response and Liability Act ("MERLA"), or any similar state law or local ordinance or any other Environmental Law, (ii) a release or threatened release of hazardous waste from the Property within the meaning of, or otherwise bring the Property within the ambit of CERCLA, MERLA, or any similar state law or local ordinance or any other Environmental Law, or (iii) the discharge of pollutants or effluents into any water source or system, or the discharge into the air of any emissions, which would require a permit under the Federal Water Pollution Control Act, 33 U.S.C.. Section 1351 et seq., or the Clean Air Act, 42 U.S.C. Section 7401 et seq., MERLA, or any similar state law or local ordinance or any other Environmental Law.

Seller also warrants that there are no substances or conditions in or on the Property which may support a claim or cause of action under RCRA, CERCLA, MERLA or any other federal, state or local environmental statutes, regulations, ordinances or other environmental regulatory requirements and that there are no underground deposits which contain hazardous wastes or petroleum. Seller also warrants that there are no underground storage tanks of any kind located on the Property.

Seller also warrants that no portion of the Property is now used as a garbage or refuse dump site, landfill, waste disposal facility, waste transfer station or any other type of facility for the storage, processing, treatment or temporary or permanent disposal of waste materials of any kind, and Seller has not used, generated, stored, released or disposed of any hazardous substances, wastes, or other materials identified as hazardous or toxic in any federal, state, local or other statute, ordinance, rule, regulation or governmental requirement on the Property.

Seller also warrants that no portion of the Property contains Construction Debris (building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition of buildings and roads or as defined by Minn. Stat. § 115A.03), Demolition Debris (solid waste resulting from the demolition of buildings, roads, and other man-made structures including concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock, and plastic building parts), Industrial Solid Waste (all solid waste generated from an industrial or manufacturing process and solid waste generated from non-manufacturing activities such as service and commercial establishments or as defined by Minn. Stat. § 115A.03), Mixed Municipal Solid Waste (garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates for collection or as defined by Minn. Stat. § 115A.03), or Solid Waste (garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, including but not limited to sewer sludge, in solid, semi-solid, liquid, or contained gaseous form, resulting from industrial, commercial, mining, and agricultural, operations, and from community activities, but does not include animal waste used as fertilizer or as defined by Minn. Stat. § 115A.03).

Seller warrants that the soils and grounds of the Property are free from any release of petroleum and there has been no release of petroleum on the Property.

"Environmental Law" means any environmental, health or safety law, rule, regulation, ordinance, order or decree, including, without limitation, CERCLA, RCRA, MERLA, any "Superfund" or "Super Lien" law or any other federal, state, county or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning any petroleum, natural or synthetic gas products and/or hazardous, toxic or dangerous waste pollutant or contaminant, substance or material as may now or any time hereinafter be in effect.

15. **Labor and Materials.** Seller warrants that as of the Closing Date there will be no labor or material furnished to the Property for which payment has not been made.

16. **Governmental Notices.** The Seller warrants that, as of the Closing Date, Seller has not received any notice from any government authorities as to violations of any laws, ordinances, or regulations with respect to the Property.

17. **Seller's Disclosure Required By Minnesota Statutes § 513.52 to 513.60.** The parties acknowledge that Minnesota Statute § 513.54 states that the disclosure requirements of § 513.52 to 513.60 do not apply if the transfer is to a government. The Buyer is a government.

18. **Wells.** The Phase I Environmental Site Assessment indicated that a sealed water well was located on Property to the south of the house. The well was sealed on December 12, 2015 (sealing record #H319612).

19. **Sewage Treatment System.** Seller represents that there is not an individual sewage treatment system, septic tank or cesspool system on or serving the Property.

20. **Intentionally omitted.**

21. **Methamphetamine Disclosure.** To the best of Seller's knowledge, Seller represents that methamphetamine production has not occurred at the Property.

22. **Conditions Precedent.** The Buyer's obligation to close this transaction is expressly contingent upon the Buyer determining on or prior to **August 8, 2018,** the following to be satisfactory and acceptable to Buyer, in the Buyer's sole judgment and opinion:

(a) any recorded easements to which the Property is subject;

(b) the status of any encumbrances and the marketability of title with respect to the Property;

(c) any physical encroachments on the Property;

(d) the soil, ground, engineering, structural, physical, geological and legal inspections of the Property;

(e) the physical condition of the Property and the buildings located thereon.

Further, the Buyer's obligation to close this transaction is expressly conditioned upon the Buyer creating a development district for the Property pursuant to Minnesota Statute § 469.101 on or prior to August 8, 2018.

If Buyer does not create a development district for the Property on or prior to August 8, 2018, or in the event the Buyer determines, in Buyer's sole discretion, that any of the conditions precedent have not been met, then Buyer on or before August 8, 2018, shall give written notice to Seller that the conditions precedent have not been met and in such case, this Agreement will be null and void, and, if requested, each party will execute a standard Cancellation of Purchase Agreement form.

23. **"As Is" Condition.** The Buyer accepts the buildings and structures on the Property in their "As Is" condition on the Closing Date.

24. **Indemnification.** From and after delivery to Buyer of the Warranty Deed for the Property, Seller agrees to indemnify, defend and hold Buyer harmless against and in respect of any and all claims, demands, actions, suits, proceedings, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including interest, penalties and reasonable attorneys' fees, that Buyer incurs or suffers, after the Date of Closing, which arise out of, result from or relate to (i) a breach of any of Seller's warranties made in Paragraph 14 or (ii) any claim made against Buyer arising out of, relating to, or resulting from ("CERCLA"), ("RCRA"), ("MERLA"), or any similar state law or local ordinance or any other Environmental Law or a violation of ("CERCLA"), ("RCRA"), ("MERLA"), or any similar state law or local ordinance or any other Environmental Law relating to the condition of the Property prior to the Date of Closing.

25. **Negotiated Sale.** If the transaction set forth by this Agreement is not completed, the Buyer has no present intent to acquire the property by eminent domain and has not considered the use of eminent domain to acquire the entire Property. If this Agreement is terminated for any reason, the Seller is free to retain ownership of the Property or to sell the Property on the private market.

26. **Acknowledgment of Fair Market Value**. Buyer and Seller agree that the Purchase Price listed in this Agreement represents the fair market value of the Property which has been determined by a method of valuation acceptable to Buyer and Seller.

27. **Survival of Warranties**. The representations, indemnifications, warranties, and covenants of Buyer and Seller contained in this Agreement shall survive the conveyance of the Property and shall not be merged with the Warranty Deed.

28. **Assignment of Agreement**. Nothing in this Agreement, express or implied, is intended to confer upon any person other than the parties hereto and the heirs, executors, personal representatives, successors and assigns, any rights or remedies under or by reason of the

Agreement. No assignment of this Agreement or any rights or obligations hereunder shall be effective unless the written consent of the other party is first obtained.

29. **Amendment of Agreement**. This Agreement may be amended only by a written instrument executed by Buyer and Seller.

30. **Entire Agreement**. This Agreement embodies the entire agreement between the parties with relation to the transaction provided for herein, and there have been and are no covenants, agreements, representations, warranties, or restrictions between the parties with regard thereto other than those set forth herein.

31. **Date of Agreement**. All references in the Agreement to "the date of this Agreement" shall be deemed to refer to that date set forth in the introductory clause of this Agreement.

32. **Governing Law**. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

33. **Time of Essence**. Time is of the essence in the closing of this transaction.

34. **Severability**. In the event any one or more of the provisions of this Agreement, or any application thereof, shall be found to be invalid, illegal, or otherwise unenforceable, the validity, legality, and enforceability of the remaining provision or any application thereof shall not in any way be affected or impaired thereby.

35. **Counterparts**. This Agreement may be executed in any number of counterparts; each of which shall be an original, but such counterparts together shall constitute one and the same instrument.

36. **Closing Costs.**

36.1. **Utilities.** Seller shall be responsible for utilities until the Closing Date.

36.2 **State Deed Tax.** Upon delivery of the Warranty Deed, Buyer shall pay the state deed tax due on the Warranty Deed.

36.3. **Title Insurance.** Buyer shall pay all costs of the Title Company for obtaining the title commitment and the premium required for the issuance of the Title Policy.

36.4 **Closing Fee.** Any fee, other than those fees which have been specifically addressed as set forth in this Purchase Agreement, charged by the Title Company as a closing fee shall be paid by Buyer.

36.5 **Recording Costs.** Buyer will pay the cost of recording all documents necessary to place record title in the condition warranted by Seller in this Agreement and Buyer will pay the cost of recording the Warranty Deed and all other documents.

37. **Closing Documents.**

37.1. **Seller Documents At Closing.** At Closing, Seller shall execute and deliver to Buyer the following with such documents to be effective as of the Closing Date:

a.) A Warranty Deed, in form satisfactory to Buyer, conveying the Property to Buyer, free and clear of all encumbrances.

b.) An Affidavit of Title by Seller indicating that on the Closing Date, to Seller's knowledge, 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 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, together with whatever standard owner's affidavit which may be required by Title Company to issue the title policy with the standard exceptions waived.

c.) A Well Disclosure Certificate signed by Seller providing the well sealing record information.

d.) Waiver of Relocation Benefits – Exhibit B;

e.) All other documents reasonably determined by Buyer to be necessary to transfer the Property to Buyer free and clear of all encumbrances other than Permitted Encumbrances;

f.) A certificate stating that all representations and warranties contained in the Agreement are true and correct as of the Date of Closing.

37.2. **Buyer Documents At Closing.** At Closing, Buyer shall execute and deliver to Seller the following documents:

a.) Wire transfer in the sum of $442,000 for the Property;

b.) Standard Affidavit of Buyer.

c.) Such other closing documents which the Seller may reasonably request.

38. **Notice**. Any notice required to be given by Seller to Buyer shall be deemed to have been given on the day of delivery if personally delivered, or if by mail, three (3) days after the date that it is deposited in the United States Mail, postage prepaid, sent by certified mail and addressed as follows:

City of Inver Grove Heights Economic Development Authority
Attn: Executive Director
8150 Barbara Avenue
Inver Grove Heights, MN 55077

Any notice required to be given by Buyer to Seller shall be deemed to have been given on the day of delivery if personally delivered, or if by mail, three (3) days after the date that it is deposited in the United States Mail, postage prepaid, sent by certified mail and addressed as follows:

Timothy J. Biljan and Barbara Biljan
2714 – 105th Street E.
Inver Grove Heights, MN 55077

39. **No Broker Fees**. Each party represents to the other that it has not retained nor otherwise dealt with or entered into any agreement or understanding to compensate any brokers or finders in connection with this transaction. Buyer and Seller each agree to indemnify the other against any loss, cost or expense, including attorneys' fees, as a result of any claim for a fee or commission asserted by any broker or finder with respect to this Agreement or the consummation of the transactions contemplated hereby whose claim arises through alleged dealings with him or her by such indemnifying party.

40. **Sole Occupant**. Seller represents and warrants to Buyer that, as of the date of this Agreement, the Seller is the only occupant of the Property.

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OWNER:

By: ______________________
Timothy J. Biljan

By: ______________________
Barbara Biljan

CITY OF INVER GROVE HEIGHTS ECONOMIC DEVELOPMENT AUTHORITY

By: ______________________
Rosemary Piekarski Krech, President

By: ______________________
Tom Link, Executive Director

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

Real property located in the City of Inver Grove Heights, County of Dakota, State of Minnesota, legally described as follows:

> Lots 5, 6, 7 and 8, Block 1, William F. Krech Addition to Inver Grove, Dakota County, Minnesota.

Abstract Property

EXHIBIT B
WAIVER OF RELOCATION BENEFITS FORM

WAIVER OF RELOCATION BENEFITS

THIS WAIVER OF RELOCATION BENEFITS AGREEMENT ("Agreement"), dated this 8th day of August, 2018, is entered into between the City of Inver Grove Heights Economic Development Authority, an economic development authority established under Minnesota Statutes § 469.090 to 469.1082, referred to as the ("Authority") and Timothy J. Biljan and Barbara Biljan, husband and wife, hereinafter referred to as the ("Owner").

I. RECITALS

1.01 Authority means City of Inver Grove Heights Economic Development Authority, an economic development authority established under Minnesota Statutes § 469.090 to 469.1082, having its principal office at 8150 Barbara Avenue, in the City of Inver Grove Heights, County of Dakota, Minnesota.

1.02 Owner owns property in Inver Grove Heights, Dakota County, Minnesota identified as Dakota County Property Tax Identification Number 20-43250-00-080.

1.03 Owner has requested Authority to purchase certain real estate owned by Owner which is located in Inver Grove Heights, Dakota County, Minnesota identified as Dakota County Property Tax Identification Number 20-43250-00-080, which is legally described on the attached Exhibit A ("Subject Property").

1.04 Pursuant to Minnesota Statutes § 117.521, Owner desires to waive the possible claim that Owner may have for relocation benefits pursuant to Minnesota and federal law. Prior to any action by the Authority indicating intent to acquire the Subject Property, Owner requested that Authority acquire the Subject Property through negotiation. Owner clearly intended to sell the Subject Property on the public market prior to any inquiry or action by the Authority in this matter.

1.05 Authority has explained to Owner that, but for Owner's waiver herein, Owner may be or is eligible under Minnesota Statutes Chapter 117 for relocation assistance, relocation services, relocation payments, and relocation benefits as separately listed below:

	<u>Type of Relocation</u> **<u>Owner may be eligible for:</u>**	
Relocation Assistance:	Assistance in locating and moving residents to a replacement site, Coordination of the move and filing appropriate documents for relocation claim.	
Relocation Services:	Provide comparable properties for possible replacement sites, Transportation to properties if needed, performs D.S.S. inspections, calculation of relocation payments, and review of documentation and written relocation claim.	
Relocation Payments:	Estimated Price differential payment	$
	Estimated moving costs	$
	Estimated Closing costs	<u>$</u>
	Total:	**$**
Relocation Benefits:	Relocation benefits would include all of the above. **(Assistance, Services and Payments)**	

1.06 Owner specifically represents and agrees that he is entering into this Agreement voluntarily. Owner further agrees that prior to execution of this Agreement, Steven Carlson of Evergreen Land Services Company, representing the Authority, explained the contents of this Agreement and relocation guidebook.

NOW, THEREFORE, in consideration of the above recitals, the premises, and their mutual promises, the parties hereto hereby agree as follows:

II. AGREEMENT

2.01 Owner, for good and valuable consideration provided as part of the **$442,000** paid by Authority as the purchase price for subject property and for relocation benefits, the receipt and sufficiency of which is hereby acknowledged, hereby waives, releases, relinquishes, and forfeits forever any other claim that Owner may otherwise have for relocation assistance, relocation services, relocation payments, and relocation benefits under Minnesota Statutes Chapter 117 and other provisions of state and federal law, including any claim for such assistance, services, payments and benefits arising by virtue of Owner holding over on the Property after the Closing Date by way of a lease. The consideration being by Owner in return for this waiver is as follows:

The purchase of the Subject Property and the Payment of Relocation Benefits for the total unallocated sum of $442,000.

2.02 Under Minnesota Statutes, Owner may not waive relocation assistance relating to the acquisition of properties situated wholly or in part within any district for redevelopment authorized under Laws 1971, chapters 548 or 677; or Laws 1973, chapters 196, 761, or 764; or Laws 1974, chapter 485; or Minnesota Statutes chapters 462, 458, or 458c.

2.03 Authority and Owner agree that the purchase agreement requiring this Agreement is a voluntary sale by Owner. Authority represented that Authority would not acquire the Subject Property in the event that negotiations between Authority and Owner had failed to result in an amicable purchase agreement. Owner has requested that the Subject Property be acquired by the Authority and such request preceded any negotiations by the Authority to acquire the Subject Property. The Owner clearly showed an intent to sell the Subject Property on the public market prior to any discussions, inquiries or negotiations by the Authority.

If the purchase agreement requiring this Agreement is not completed, the Authority has no present intent to acquire the property by eminent domain and has not considered the use of eminent domain. If the purchase agreement requiring this Agreement is terminated for any reason, the Owner is free to retain ownership of the Subject Property or to sell the Subject Property on the private market.

The Authority and the Owner acknowledge that the Authority has acquired other property in the general geographic area as the Subject Property. The Authority has not set a specific time limit to acquire the Subject Property or other properties in the general geographic area nor has the Authority determined whether to acquire such properties.

The Owner and Authority agree that the purchase price set forth in the purchase agreement requiring this Agreement is a lump sum price which included any and all payments to which the Owner may be entitled under any applicable State or federal law or regulations providing for relocation assistance, services, payments and benefits of any kind. As Authority and Owner agree that this is a voluntary sale, state and federal law permit the Authority to request this waiver of relocation benefits Agreement from the Owner. Prior to and as a condition of closing, the Owner was required to sign this waiver of relocation benefits Agreement. The Authority arranged for a relocation consultant to meet with the Owner prior to closing. The relocation consultant determined the amount of relocation benefits for which the Owner would be eligible if this were a non-voluntary sale. If the Owner did not waive relocation benefits, this purchase agreement would be terminated, the earnest money (if any) shall be returned to the Authority, and the Owner would be free to retain ownership of the Subject Property or to sell the Subject Property on the private market.

2.04 The recitals contained in Section I of this Agreement are hereby incorporated as material representations and terms of this Agreement.

2.05 This Agreement is entered into pursuant to Minnesota Statutes and federal law.

[the remainder of this page has been intentionally left blank]

OWNER

By: ______________________________
Timothy J. Biljan

By: ______________________________
Barbara Biljan

INVER GROVE HEIGHTS ECONOMIC DEVELOPMENT AUTHORITY

By: ______________________________
Rosemary Piekarski Krech, President

By: ______________________________
Thomas Link, Executive Director

By: ______________________________
Timothy J. Kuntz,
Attorney for the City of Inver Grove Heights
Economic Development Authority

CERTIFICATION OF WITNESS

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

I, Steven Carlson, being duly sworn, hereby confirm the following:

1. My business address is 1515 East 66th Street, Suite 104, Richfield, MN 55423.
2. I witnessed the execution of the foregoing agreement by the Owner.
3. I was not personally involved in the acquisition of the Subject Property by the City of Inver Grove Heights Economic Development Authority from the Owner.
4. I did explain, on behalf of the Authority, the contents of the foregoing Waiver of Relocation Benefits to the Owner. The explanation was conducted in an understandable manner. The Owner appeared to understand the terms and conditions of the foregoing agreement.
5. No express or implied threats of taking the Subject Property by eminent domain were made by the Authority or its representatives to the Owner. Nor, to my knowledge, did the Authority make any other threats or its representative throughout the entire process of acquiring the property that were intended to induce the Owner to waive their relocation assistance or benefits.
6. To the best of my information and belief, the Owner entered into said Agreement voluntarily.

____

Witness

Subscribed and sworn to before me
this 8th day of August, 2018.

____

Notary Public

EXHIBIT A (to Waiver of Relocation Benefits Form)
LEGAL DESCRIPTION OF SUBJECT PROPERTY

Real property located in the City of Inver Grove Heights, County of Dakota, State of Minnesota, legally described as follows:

> Lots 5, 6, 7 and 8, Block 1, William F. Krech Addition to Inver Grove, Dakota County, Minnesota.

Abstract Property