

Request for City Council Committee Action from the Department of Community Planning and Economic Development - CPED

Date: July 13, 2010

To: Council Member Lisa Goodman, Chair, Community Development Committee

Council Member Betsy Hodges, Chair, Ways and Means / Budget Committee

Referral to MCDA Board of Commissioners

Subject: Public hearing regarding preliminary approval of up to \$80,000,000 in tax exempt multifamily housing entitlement revenue bonds for the Riverside Plaza stabilization and rehabilitation, reimbursement agreement settling the City's indemnity and access obligations, project financing restructuring.

City Recommendation: Approve the following actions in regards to the Riverside Plaza stabilization and rehabilitation project:

- Grant preliminary approval of up to \$80,000,000 in tax-exempt multifamily housing entitlement revenue bonds for the Riverside Plaza stabilization and rehabilitation;
- Authorize execution of a reimbursement agreement settling the City's indemnity and access obligations consistent with the terms outlined in this report;
- Amend the 2010 General Appropriation Resolution to increase the appropriation in Community Planning & Economic Development agency Fund 01SHP – Housing Program (01SHP- 8900220-MSHP022) by \$161,908 from the available fund balance; and
- Authorize execution of an agreement closing out the contract for deed as outlined in this report and conveying title to Riverside Plaza Limited Partnership.

MCDA Recommendation: Authorize execution of the reimbursement agreement and the contract for deed closeout agreement.

Previous Directives:

RECENT GRANT

- LHIA: On April 3, 2010, the City Council accepted and appropriated a Metropolitan Council Livable Communities Local Housing Incentives Account (LHIA) Grant of \$575,000 for Riverside Plaza, and authorized execution of grant and funding sub-recipient agreements.

RIVERSIDE PLAZA INDEMNITY OBLIGATION

- On February 29, 2008, the City Council and MCDA Board of Commissioners (1) approved the key terms for a reimbursement and release agreement among the City of Minneapolis, Minneapolis Community Development Agency and Riverside Plaza Limited Partnership resolving certain City indemnity obligations; and (2) authorized appropriate City and MCDA officials to execute said agreement and related documents.
- On March 10, 2006, the City Council adopted Resolution 2006R-115 approving the key terms for an Agreement for Mutual Vehicular Access between the City of Minneapolis, Riverside Plaza Limited Partnership, and Crablex, Inc., authorizing appropriate city officials to execute necessary access documents, and increasing the CPED appropriation by \$925,000 for costs of necessary construction and related improvements.

BOND REFINANCING AND LAND SALE TRANSACTION

- On December 10, 1998, the Minneapolis Community Development Agency Board of Commissioners adopted Resolution No. 98-1927M selling 1525 S. 4th St. (parcels 1-5) to Riverside Plaza Limited Partnership for \$2,310,000 on a contract for deed for multifamily rental housing (Cedar Riverside Redevelopment Project) and terminating the existing ground lease.
- On October 30, 1998, the City Council adopted Resolution 98R-410, authorizing the issuance, sale and delivery of up to \$26,630,000 of Multifamily Mortgage Revenue Refunding Bonds (GNMA Collateralized Mortgage Loan – Riverside Plaza Project) to refinance the project's 1988 revenue bond financing through an FHA note modification process.

ORIGINAL BOND AND GROUND LEASE TRANSACTION

- On November 23, 1988 the City Council approved the issuance of up to \$28,000,000 of Multifamily Mortgage Revenue Refunding Bonds and a loan of \$400,000 for the Riverside Plaza project to rehabilitate the property upon acquisition.
- On November 23, 1988, the MCDA Board of Commissioners authorized the sale of the Riverside Plaza property to Riverside Plaza Limited Partnership together with a 52 year ground lease.

- On April 1, 1988 the Minneapolis Community Development Agency Board of Commissioners approved the acquisition of the Riverside Plaza property from HUD.

Prepared by:	Matt Goldstein, Senior Project Coordinator, 612-673-5075	
Approved by:	Charles T. Lutz, CPED Deputy Director	_____
	Thomas Streitz, Housing Director	_____
Presenters in Committee:	Matt Goldstein	

Reviews

Permanent Review Committee (PRC): Approval ___ Date _____
 Policy Review Group (PRG): Approval ___ Date _____

Financial Impact

___ No financial impact
 Action requires an appropriation increase to the Capital Budget _____ or
 Operating Budget \$161,908
 ___ Action provides increased revenue for appropriation increase
 ___ Action requires use of contingency or reserves
 ___ Action is within the Business Plan
 ___ Action requires a change to the Business Plan
 Other financial impact: Debt restructuring
 ___ Request provided to the Finance Department when provided to the Committee
 Coordinator

Community Impact

Neighborhood Notification (Ward 2)- The West Bank Community Coalition discussed this project on June 9, 2010. A letter of support has not yet been received. The Riverside Plaza Tenants' Association has issued a letter of support dated June 23, 2010.

City Goals – (1) A safe place to call home, (2) Livable communities and healthy lives, and (3) Many people, one Minneapolis.

Affordability Targets – The existing and proposed number of affordable units complies with the City's Affordable Housing Policy (20% of the units affordable to households at or below 50% of Metropolitan Median Income) as described in Resolution 99R-312 and as amended by Resolution 2001R-057.

Comprehensive Plan – CPED Planning staff issued a memo dated June 24, 2010 indicating that the bond application was consistent with the following policies in The Minneapolis Plan for Sustainable Growth: Policy 3.1: Grow by increasing the supply of housing; Policy 3.2: Support housing density in locations that are well connected by transit, and are close to commercial, cultural and natural amenities; and Policy 3.3: Increase housing that is affordable to low and moderate income households.

Project History

Riverside Plaza was developed as Cedar Square West under the U.S. Department of Housing and Urban Development (HUD) New Town in Town initiative, which was one component of the federal Title VII New Communities program. Designed by architect Ralph Rapson, the 11-building campus was built in the middle of the superblock bounded by Cedar Ave., S. 4th St., 15th Ave. S., and S. 6th St., and it was originally intended to be the first phase of a 12,000 unit redevelopment in the Cedar Riverside neighborhood. Construction was completed in 1974, and this unique property remains the largest affordable housing development in the state. The complex functions as a neighborhood with 1,303 mixed income units housing approximately 4,440 individuals. The campus also has a K-8 charter school, grocery store, post office, and a tenant resource center with various formal and informal social services such as a computer lab and job training supporting over 400 individuals per month. The Project Data Worksheet in Exhibit A further describes the unit configuration, preliminary summary of funding uses, and other project information.

HUD acquired Riverside Plaza through foreclosure in 1986, then sold the property to the Minneapolis Community Development Agency (MCDA) for just under \$15 million in February, 1988. MCDA transferred the project to Riverside Plaza Limited Partnership (Riverside Plaza, LP) for \$17 million in December, 1988. There were three components to the transaction: (1) outright sale of the buildings, (2) a long term ground lease for the underlying property which was retained by MCDA, and (3) a CDBG loan to fund central plaza improvements and deferred maintenance that would otherwise need to be done by MCDA as the fee simple property owner. The MCDA used the net proceeds from the sale to pay its transaction costs. Immediately following the 1988 acquisition, Riverside Plaza, LP renovated the property.

Access and infrastructure easement problems surfaced during the HUD foreclosure process, and MCDA assumed responsibility for these problems in the acquisition from HUD and conveyance of the buildings to Riverside Plaza, LP. Clear easements were not a problem prior to the 1986 HUD foreclosure because the original Cedar Square West developer controlled the adjacent properties under separate but affiliated business entities. The easement issues have been litigated since the 1990s. In 2009, the easement litigation was finally resolved when the Minnesota Supreme Court refused to hear the Crablex appeal.

Previous City Bond and CDBG Financing for Riverside Plaza

In 1988, \$27.6 million of multifamily mortgage revenue bonds financed the purchase of the buildings by Riverside Plaza, LP for \$17 million and the subsequent \$8.6 million renovation which included life/safety enhancements such as a 30-story exterior elevator tower, fire sprinkler improvements, structural repairs, and limited improvements to units and common areas. In 1998, \$26.6 million of bond financing was provided to refinance the project at a lower interest rate (from 8.38% to 5.35%) and to fund a renovation which included ADA and code compliance improvements.

A \$400,000 CDBG loan was provided as part of the 1988 sale and lease transactions to induce Riverside Plaza, LP to assume the maintenance obligations for the central plaza. The CDBG funds were used for accessibility improvements, various concrete and structural repairs and public realm improvements including retrofitting the fountain area, lighting and drainage enhancements. The CDBG funding was structured as a loan with annual payments to maximize the amount of private equity generated by the bond financing for the rehabilitation. The \$224,779 of CDBG loan payments that have been received have been reinvested in other affordable housing projects through the City's Affordable Housing Trust Fund (AHTF). The City has received just over \$99,000 in interest from this loan, and the outstanding balance is \$175,221. Since 1989, the City has made no additional affordable housing investments of AHTF, HOME or CDBG funds in Riverside Plaza.

1988 Ground Lease and 2001 Contract for Deed

The 1988 transaction included selling the buildings and executing a long term ground lease for the underlying land. The annual property lease payments from 1989 through 2001 were \$144,553 per year at 8% interest, totaling at least \$1.6 million of revenue received.

The 1988 ground lease was converted to a contract for deed in December of 2001 for several reasons:

- To continue an ongoing legal obligation by continuing and reaffirming the previous indemnity against title defects,
- To achieve the public purpose of preserving long term affordability,
- To strengthen enforcement measures for the required bond fee payment,
- To ensure that required payments were made to the Riverside Plaza Tenant Association by passing the payments from Riverside Plaza, LP through the City, and
- To divest the property and release the City from potentially costly obligations.

The \$2.31 million initial balance of the contract for deed was not based upon the value of the land, but rather the estimated amount of bond administrative fees from the 1988 bond sale to be received by MCDA through the 2030 bond maturity date plus the \$150,000 per year pass-through payments to the Riverside Plaza Tenant Association (RPTA) through the end of the contract for deed in 2016. RPTA uses the funds to operate the Tenant Resource Center. This arrangement did not anticipate refinancing the bonds and ending the contract for deed prior to 2016, at which time both of these payments would terminate.

To facilitate the stabilization and rehabilitation refinancing, Riverside Plaza, LP has requested that the City close out the contract for deed and transfer title on or before August 1, 2010. The title transfer needs to take place prior to closing on the bond transaction (which remains subject to a future Council action) in order for Riverside

Plaza, LP as the property seller to incur the tax consequences of the sale to Cedar Riverside LP which has been set up solely to facilitate the stabilization and rehabilitation of Cedar Riverside. Riverside Plaza, LP and its successor, Cedar Riverside, LP will continue to make annual bond administrative fee payments to the City in connection with the existing bonds until the earlier of (1) the issuance of new bonds; (2) the 2030 maturity date of the existing bonds; and (3) payment of the existing bonds, and will take over and extend the \$150,000 annual Tenant Resource Center payments (a \$4.5 million commitment over the 30 year affordability period). Bond administrative fees from the new bond issue are estimated to total at least \$4 million over the 43 year issuance. Staff is seeking Council authorization to enter into an agreement that solidifies the terms of the contract for deed termination including the interim bond fees and future Tenant Resource Center payments.

Stabilization Need and Rehabilitation Scope of Work Summary

The habitability of Riverside Plaza is at risk because the design lifespans of the major mechanical systems for these buildings have expired and consequently the mechanical systems, especially the water and sewer piping systems, boilers and cooling systems, are failing. A comprehensive rehabilitation of Riverside Plaza is necessary to keep the buildings habitable and functioning properly. The primary reasons for the rehabilitation are to address critical life/safety issues associated with the central systems and to significantly enhance energy efficiency.

The stabilization and rehabilitation of Riverside Plaza will also enhance the quality of life for the residents. For example, residents in the taller buildings currently have to wait for approximately 20 to 40 minutes for hot water to be available after the faucet is turned on. The planned hot water heating system will reduce this time significantly which will save water. Additionally, planned window replacements will save energy and increase resident comfort by reducing drafts. Planned lighting and site improvements throughout the open space, plaza and parking garage will enhance public safety and encourage improved pedestrian circulation and way-finding.

There are seven broad categories of planned improvements included in the rehabilitation scope for Riverside Plaza:

- Mechanical work including central heating, cooling, water and sewer replacements;
- Energy efficiency improvements such as new lighting and window replacement;
- Parking ramp and plaza deck improvements including concrete repairs and lighting enhancements;
- Site improvements for safety and circulation enhancements including sidewalk repairs and lighting improvements;
- Public realm improvements and limited common area work in the building corridors;
- Building exterior improvements such as painting; and
- Limited apartment unit interior work including window dressings.

Riverside Plaza, LP followed the 2009 AHTF bidding procedures to select Knutson Construction as the general contractor. The general contractor is currently analyzing pricing and construction sequencing with the project architect and other consultants. The construction period is expected to be at least two years.

Funding Sources and Uses Summary

Table 1 on the following page summarizes the planned stabilization and rehabilitation funding sources and uses for the stabilization and rehabilitation of Riverside Plaza. These figures may change slightly before closing. Approximately 84% of the stabilization and rehabilitation development cost is financed with private equity generated from the automatic 4% tax credits, state and federal historic tax credits, the private first mortgage guaranteed by HUD, and the deferred developer fee.

TABLE 1: PROPOSED FUNDING SOURCES AND USES	Acquisition	Construction & Construction Contingency	Soft Costs	Total
HUD-Guaranteed 1st Mortgage (bonds)	\$ 26,700,000	\$ 17,816,673	\$ 3,333,327	\$ 47,850,000
4% LIHTC Equity (bonds)		\$ 7,401,216	\$ 15,714,936	\$ 23,116,152
Federal Historic Tax Credit Equity		\$ 9,841,856	\$ 1,956,361	\$ 11,798,217
State Historic Tax Credit Equity		\$ 9,815,652		\$ 9,815,652
MHFA PARIF (Committed 2009)	\$ 4,800,000			\$ 4,800,000
MHFA PARIF (Pending 2010)	\$ 7,500,000			\$ 7,500,000
Met Council LHIA (Committed 2009)		\$ 575,000		\$ 575,000
Energy Rebate Grants (Pending)		\$ 500,000		\$ 500,000
CPED AHTF (Pending 2010)		\$ 1,900,000		\$ 1,900,000
Gap		\$ 2,900,000		\$ 2,900,000
Deferred Developer Fee			\$ 3,000,000	\$ 3,000,000
TOTAL	\$ 39,000,000	\$ 50,750,396	\$ 24,004,625	\$ 113,755,021

The acquisition funds are being used to pay off the existing debt and other financial obligations that the seller is contractually required to settle prior to closing including (1) paying off the HUD-guaranteed first mortgage; (2) buying out the general and limited partnership interests of the seller ownership entity; (3) replenishing certain reserves used to pay for capital improvements completed prior to closing; and (4) closing transaction costs, including but not limited to, transfer taxes. The small development gap may either be resolved through changes to the rehabilitation scope of work, value engineering, or securing additional funding sources prior to closing.

Providing financing for this stabilization and rehabilitation project leverages other outside funding that has been committed by several public funders. HUD has subsidized Riverside Plaza since at least 1988 under a Housing Assistance Program (HAP) contract. In 2008, HUD renewed this contract for 20 years at a value of \$100 million or \$5 million per year. In 2009, Minnesota Housing Finance Agency (MHFA) awarded \$4.8 million of PARIF funds, and this is anticipated to be the first of two consecutive awards totaling at least \$10 million. Earlier this year, the Metropolitan

Council committed \$525,000 of LHIA funding. The City has received a request for \$1.9 million from AHTF which will require separate Council action.

The proposed energy efficiency improvements are anticipated to qualify for 19 rebates totaling at least \$425,000 from CenterPoint Energy and Xcel Energy under custom rebate programs that are being created specifically for this project. The estimated utility cost savings have been integrated into the operational cash flow since utility costs influence how much private debt the project can support with operating income.

Benefits of Financing This Stabilization/Rehabilitation Project

Supporting the stabilization and rehabilitation of Riverside Plaza benefits the City in several ways, including:

- **Enhanced quality of life:** The quality of life of the residents and users of the Riverside Plaza campus will improve as a result of this rehabilitation.
- **Jobs:** This project is estimated to generate 300 construction jobs over two years.
- **Leveraged outside capital investment:** This project is attracting \$96 million of private investment from outside the City (84% of the total development cost). Over \$5 million of public investment from Minnesota Housing and the Metropolitan Council have been committed. Additional public funding requests are pending, including \$1.9 million from the City's AHTF and \$7.5 million from MHFA's PARIF.
- **Improved public safety:** The public realm, common area, security, lighting and site improvements enhance public safety and improve pedestrian circulation and way-finding.
- **Improved transit access:** The site improvements increase access to the Hiawatha and Central Corridor LRT lines.
- **Enhanced energy efficiency:** Xcel and CenterPoint are creating custom rebate programs for the new heating, cooling, plumbing, and electrical improvements. Utility cost savings estimates have been added into the cash flow to show that the project can support more private mortgage debt. The rehabilitation and energy efficiency improvements will reduce water usage, which in turn reduce the burden on the City's water system and the Met Council waste-water treatment system.
- **Ending legal obligations and property divestiture:** Executing the reimbursement agreement, closing out the contract for deed, and the debt restructuring settles several lingering legal obligations of the City and removes the need to receive further temporary licenses from Currie, the adjacent property owner as described later in this report.
- **Revenue:** Fees from selling up to \$80 million of housing revenue bonds will help fund other affordable housing initiatives. The City has an allocation of bonds that must be used by 2012 or be given back to the State.

Public Hearing and Preliminary Approval of Housing Revenue Bonds

Riverside Plaza, LP intend to sell the property to a new partnership, Cedar Riverside Limited Partnership (Cedar Riverside, LP) to enable partners to exit and to facilitate the tax credit syndication for the stabilization and rehabilitation. Table 2 on the following page summarizes how the ownership structure is changing.

TABLE 2: RIVERSIDE PLAZA PARTNERSHIP CHANGES	Old Owner: Riverside Plaza Limited Partnership Owners	Riverside Plaza Limited Partnership Ownership Percentages	New Owner: Cedar Riverside Limited Partnership Owners	Cedar Riverside Limited Partnership Ownership Percentages
Limited Partner	Federal National Mortgage Assn.	82.5%	To be determined	99.89%
Special Limited Partner 1	Wells Fargo National Assn.	16.5%	To be determined	0.01%
General Partner (GP)	Riverside Plaza Partnership	1.0%	Riverside Partnership	0.01%
Managing Partner of GP	Sherman-Boosalis Corp.	53.6% of 1%	Riverside Plaza GP LLC	99.9% of .01%
Partner of GP	Riverside Plaza Tenants Assn.	31.7% of 1%	Riverside Plaza Tenants Assn.	.01% of .01%
Partner of GP	Brighton Development Corp.	9.9% of 1%		
Partner of GP	TCHDC, Limited	3% of 1%		
Partner of GP	Parliament Management Co.	1.8% of 1%		

Cedar Riverside, LP has submitted an application to CPED seeking up to \$80 million of tax-exempt housing entitlement bonds as its first mortgage financing, which automatically includes 4% low income housing tax credits (LIHTC). Cedar Riverside, LP proposes to place the bonds directly with US Bank. As an institutional grade buyer, the sale of the bonds directly to US Bank fulfills the City's Multifamily Tax-Exempt Revenue Bond Financing Guidelines. The bonds will have a final maturity of 43 years (40 years for the permanent A series and three years for the B series which will bridge the construction period).

Here's a summary of the bond application:

- **Bond Counsel:** Best & Flanagan, LLP
- **Purchaser:** US Bank
- **Council Member Informed:** Yes, Ward 2
- **Neighborhood Review:** The Riverside Plaza stabilization and rehabilitation was discussed by the West Bank Community Coalition (WBCC) on June 9, 2010. A support letter has not yet been issued. The Riverside Plaza Tenants' Association has issued a letter of support dated June 23, 2010.
- **Project Timetable/ Future Actions:** Granting preliminary approval creates a 12-month administrative hold on these bonds for this project. Upon finalization of the refinancing deal, staff will return to the Council seeking final bond approval and for an AHTF funding request. The developer plans to close this project in September and commence construction immediately thereafter.

Bonds are sold by the City to assist qualified housing projects on a first come, first serve basis. Table 3 on the following page summarizes the status of the 2010 housing revenue bond entitlement. Table 3 demonstrates that after allocating bonds to Riverside Plaza, there will be over \$41 million available to support other qualified housing projects.

TABLE 3: HOUSING REVENUE BOND ENTITLEMENT AND EXPENDITURE SUMMARY		Amount
Total Entitlement Authority 2008-2010		\$ 144,171,000
<i>Less Closed Projects</i>		
Blue Goose		\$ (2,832,089)
Nokomis Senior Housing		\$ (1,300,000)
Single Family		\$ (11,011,512)
<i>Less Preliminarily Approved Projects</i>		
Lyndale Green		\$ (7,500,000)
Total Available Bond Entitlement		\$ 121,527,399
Riverside Plaza		\$ (80,000,000)
Available Bonds for Other Projects		\$ 41,527,399

Indemnity Obligation and Reimbursement Agreement

Now that the easement litigation with the adjacent landowner, Crablex, Inc. (Crablex), and Crablex' successor in interest, Currie Park Developments, Inc. an affiliate of Fine Associates (Currie) is over, the City's lingering indemnity and access obligations from the 1988 transaction can be finally resolved. Staff has negotiated a reimbursement agreement to reimburse Riverside Plaza, LP for some of the costs associated with the loss of the driveway easements covered by the City's indemnity obligation. This action implements Council actions from 2006 and 2008.

As previously noted, MCDA acquired and conveyed the Riverside Plaza property subject to certain title objections regarding three driveway easements over adjacent properties which were used to access the Riverside Plaza buildings from public streets, but were not adequately described in a 1974 agreement that relocated various easements (the "Title Defects"). Four actions were taken to address the Title Defects:

- HUD provided an undertaking and indemnity to MCDA and Title Services, Inc./Commonwealth Land Title Insurance Company (Title) to complete a title registration proceeding it had commenced to correct the Title Defects;
- MCDA provided an indemnification to Riverside Plaza, LP for damages arising out of failure of the registration proceedings;
- MCDA provided an undertaking to Title to take all actions necessary to clear the Title Defects, including eminent domain, and agreed to defend and indemnify

Title for losses under its title policies which result directly or indirectly from any of the Title Defects; and

- Title issued title insurance policies to MCDA, Riverside Plaza, LP and its lender(s) insuring against loss or damage because of the Title Defects.

The MCDA agreed to a “continuation and reaffirmation of the indemnity” to Riverside Plaza, LP in the 2001 purchase agreement transaction that converted the ground lease to a contract for deed in part because the easement litigation was still proceeding at that time. The City has assumed these MCDA obligations in connection with the 2003 reorganization of the City’s development function. The City’s indemnity obligation relates to the following three access points:

- Chase driveway, which provides access to a Riverside Plaza parking ramp from S. 6th St. across adjacent property previously owned by Crablex and now owned by Currie;
- Vacated 5th St. driveway, which provided access to the Riverside Plaza “E” Building parking lot and Riverside Plaza’s only loading dock from 15th Ave. S. across the Currie Property; and
- Cedar Ave. driveway, which provided mid-block access to Riverside Plaza across Currie Property.

In 1996, adjacent property owner Crablex Inc. brought a trespass action against MCDA and Riverside Plaza, LP. The courts ultimately determined that HUD’s predecessor in title had extinguished the easements and awarded Crablex damages for wrongful use of the disputed driveways. Litigation related to other easements continued until last summer when the Minnesota Supreme Court denied Currie’s appeal. During this period, the parties attempted to negotiate a resolution to the access issues above and the City provided Riverside Plaza with pedestrian and vehicular access to its loading dock and the E-Building parking lot pursuant to a Temporary License Agreement the City negotiated with Currie. The License has been extended twenty-seven times and currently runs through July 31, 2010 at a cost of \$4,125 per month.

The City Council appropriated \$925,000 from the Legacy Fund (01SPH) in 2006 to fund various driveway changes and related improvements in a shared easements plan. However, negotiations and mediation among the City, Riverside Plaza, LP, Crablex and Currie failed to produce an acceptable agreement.

In 2008, the City switched strategies and negotiated an agreement with Riverside Plaza, LP to relocate the Chase and Vacated 5th St. driveways entirely onto Riverside Plaza property. The Cedar driveway will not be replaced. This new strategy changed the relocated driveway designs, and the total cost of this plan is \$1,344,908.

In 2008, the City Council authorized implementation of the first phase of this plan, agreeing to reimburse Riverside Plaza, LP in the amount of \$386,908 for costs to relocate the Chase driveway. This work has been completed and these costs have been reimbursed. The second phase includes replacing the Vacated 5th Street

driveway with the new Relocated E-Building Driveway (which is completely on Riverside Plaza property), reconfiguring the E-Building loading dock access, and relocating water, gas and electric utilities out of the Vacated 5th Street Driveway. The total estimated costs are summarized in Table 5 below.

ITEM	COST ESTIMATE
Acquisition/Relocation (Barry Lighting Building)	\$ 290,000
Utility Relocation	\$ 258,000
Fire Hydrant Relocation	\$ 55,000
Concrete	\$ 55,000
Asphalt	\$ 50,000
Demolition/Grading	\$ 45,000
Electrical	\$ 45,000
Landscaping	\$ 5,000
Contingency	\$ 20,000
General Conditions	\$ 20,000
Design, Engineering, Surveying	\$ 15,000
Loading Dock Relocation	\$ 100,000
TOTAL E BUILDING DRIVEWAY COSTS	\$ 958,000

The 2008 Council action indicated that implementing this second phase was contingent upon final resolution of the Crablex litigation confirming Riverside Plaza, LP's ownership of an easement over which the relocated driveway would pass. In 2009, the Minnesota Supreme Court declined to take the Crablex case, thereby allowing the trial court's 2007 decision, which had been affirmed by the appellate court in 2008, to stand. Thus staff is now recommending approval to use the balance of the approved \$925,000 appropriation (\$538,092) plus \$161,908 in additional funds from Fund SHP to reimburse up to \$700,000 in costs related to relocation of the Vacated 5th Street driveway as the Relocated E-Building Driveway.

In lieu of providing additional cash to cover the remaining costs, staff is recommending forgiveness of the \$175,221 remaining balance on the 1988 CDBG loan that MCDA made to finance the public plaza maintenance obligations. Riverside Plaza, LP is willing to accept the proposed combination of cash and CDBG loan forgiveness as full satisfaction of the City's remaining indemnity obligations and will provide a release to the City. HUD has approved the driveway relocation plan and new title insurance policies will be issued in connection with the refinancing to take the existing title company out of the deal.

Attachments:

Exhibit A: Riverside Plaza Project Data Worksheet

Exhibit B: Housing revenue bond preliminary approval summary resolution for publication

Exhibit C: Riverside Plaza site

Exhibit D: Relocated E-Building driveway sketch (vacated 5th St. driveway replacement)