

KANDIYOHI COUNTY AND CITY OF WILLMAR ECONOMIC DEVELOPMENT COMMISSION (EDC)
JOINT OPERATIONS BOARD OF DIRECTORS (OB) MEETING
MINUTES
November 25, 2014
EDC Office, Willmar

Present: Art Benson, Rollie Boll, Donna Boonstra, Gary Gilman and Linda Kacher

Excused: Jim Butterfield, Robert Carlson, Beverly Dougherty and Bruce Peterson

Staff: Steven Renquist, Executive Director and Jean Spaulding, Assistant Director

Secretarial: Nancy Birkeland, Legal & Administrative Assistants, Inc. (LAA)

Secretary Gary Gilman called the meeting to order at approximately 3:05 p.m.

UNFINISHED BUSINESS—

USDA Intermediary Relending Program. The board reviewed proposed Resolution 1-2014 (see attached) as to receiving the transfer of the Intermediary Relending Program (IRP) from the Housing and Redevelopment Authority in and for the City of Willmar (HRA). Spaulding stated it is pretty much a net program and is a loan program that was previously unavailable to the EDC. If the program would end, the funds would be paid back to the United States Department of Agriculture (USDA). Annual interest at 1% is paid on the balance owed to the USDA. Outstanding loans are less than the funds available. The EDC will determine guidelines for the loan program and must submit a budget as a requirement for the program. An IRP is a primary method for economic development organizations to have revolving loan programs. The EDC could potentially charge higher interest on the loans given. The program should be self sustaining. The board questioned on what is interest being paid to the USDA and what is the actual amount the EDC will receive? The original amount received was \$600,000 and annually the HRA has paid back a portion of the principal. Spaulding will clarify the amount remaining. Spaulding believes the EDC would have to reapply for a new IRP, if more funds are desired. The program has been run efficiently by the HRA, which has charged some staff time toward managing the loan, but has not received a profit. The original program was only for downtown businesses for capital purchases. Once the EDC takes over the IRP, it will be countywide and the EDC can determine the scope and use of the program. The EDC Finance Committee determined there are more assets than liabilities in the IRP. The board requested the IRP and proposed Resolution be brought to the Finance Committee and then to the EDCOB. Spaulding is confident there are businesses that will be interested in applying for the funds. The board requested that Spaulding confirm there is sufficient revenue to cover the expenses of the IRP. The board will continue discussions on the IRP and proposed Resolution at its next meeting.

NEW BUSINESS—

Office lease. The board reviewed the proposed Lease Agreement with Willmar Elks Lodge #952 (see attached). Spaulding informed the board that the monument sign will have the EDC at the top and the Elks have asked if the EDC would assist in placing their sign at the bottom at an approximate cost of \$1,300. Board members questioned the interest rate that will be paid on the last month's rent and security deposit that will be paid. Spaulding will inquire about the interest.

IT WAS MOVED BY Linda Kacher, SECONDED BY Rollie Boll, to enter into a five-year Lease Agreement with the Willmar Elks Lodge #952 at a monthly rent of \$1,800 and to pay the Elks the sum of \$5,400 for the first and last month's rent and a security deposit.
MOTION CARRIED.

Bills.

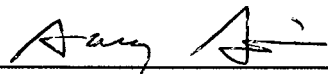
IT WAS MOVED BY Rollie Boll, SECONDED BY Art Benson, to approve payment of \$1,992.24 to Tom's Carpet Kingdom, \$2,015.34 to Design West and \$2,625 to Lottman Painting, Inc. MOTION CARRIED.

NEXT MEETING—The next regular board meeting is **11:00 a.m., Thursday, December 11, 2014**, at the EDC's board room, 222 20th Street SE, Willmar.

ADJOURNMENT—There being no further business,

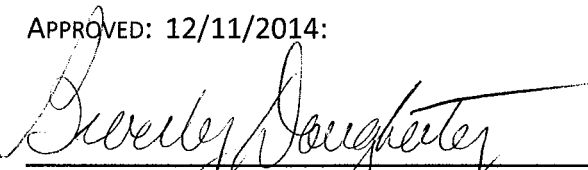
IT WAS MOVED BY Art Benson, SECONDED BY Linda Kacher, to adjourn the meeting.

The meeting was adjourned at approximately 4:02 p.m.



Gary Gilman, Secretary

APPROVED: 12/11/2014:



Beverly Dougherty, President

KANDIYOHI COUNTY AND CITY OF WILLMAR ECONOMIC DEVELOPMENT COMMISSION

RESOLUTION 1-2014

RESOLUTION REGARDING TRANSFER OF INTERMEDIARY RELENDING PROGRAM FROM THE HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF WILLMAR, MINNESOTA, TO THE KANDIYOHI COUNTY AND CITY OF WILLMAR ECONOMIC DEVELOPMENT COMMISSION

SERVICING — REVOLVING LOAN FUND TRANSFER

WHEREAS, the Kandiyohi County and City of Willmar Economic Development Commission (EDC) is committed to continuing that certain Revolving Loan Fund (RLF) commonly known as the United States Department of Agriculture (USDA) Rural Development (RD) Intermediary Relending Program or Rural Microentrepreneurial Assistance Loan Program (IRP) to eligible businesses in rural Midwest Minnesota to assist with financing and development in order to create or retain jobs in disadvantaged and remote communities; and

WHEREAS, the Housing and Redevelopment Authority in and for the City of Willmar, Minnesota (Willmar HRA) desires to transfer the IRP to the Kandiyohi County and City of Willmar EDC for efficiency purposes; and

WHEREAS, the Kandiyohi County and City of Willmar EDC wishes to accept transfer of the IRP from the Willmar HRA conditioned upon receipt of the necessary approvals in connection with such transfer.

NOW, THEREFORE, BE IT RESOLVED, that the Kandiyohi County and City of Willmar EDC, as transferee, approves receipt of the IRP established with \$600,000 and the Willmar HRA's contribution of \$288,750 from the Willmar HRA, as transferor.

BE IT FURTHER RESOLVED, that the Kandiyohi County and City of Willmar EDC agrees to:

1. Receive the funds or loan portfolio not in excess of the Willmar HRA's \$288,750 investment, along with the \$600,000 to establish the RLF being transferred.
2. Obtain the legal services necessary to accomplish receipt of the transfer.
3. Accept from the Willmar HRA all rights and obligations of the original IRP award, including the terms of the grant for property acquired with grant funds. The Kandiyohi County and City of Willmar EDC accepts title to all assets that will transferred by the Willmar HRA. All instruments of conveyance will contain the nondiscrimination covenant referenced in RD Instruction 1951-E, Section 1951.204.

Adopted this 25th day of November, 2014.

Beverly Dougherty
Joint Operations Board President

Gary Gilman
Joint Operations Board Secretary

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is entered into this first day of **December**, 2014, by and between Willmar Elks Lodge #952 ("Landlord") and Kandiyohi County and City of Willmar Economic Development Commission ("Tenant").

WHEREAS, Landlord is the owner of certain real property and improvements as are hereinafter defined; and

WHEREAS, Tenant desires to lease the real property and improvements from Landlord.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and promises set forth herein, Landlord and Tenant agree as follows:

1. **Premises.** Landlord hereby leases unto Tenant certain real property located at 200 20th Street SE in the city of Willmar, county of Kandiyohi, state of Minnesota which is more particularly described as approximately **1500** square feet shown hatched in Exhibit "A" attached hereto ("Premises"). The Premises is located within an office building known as 222 20th Street SE (together with the parking lot and other common areas surrounding the building, the "Building").

2. **Term.** The initial term of this Lease shall commence on the Effective Date (as hereinafter defined) and shall terminate sixty (60) full calendar months after the date that Tenant accepts possession of the Premises ("Initial Term"). Within ninety (90) days prior to the expiration of this Lease, Tenant shall provide notice to Landlord that Tenant elects to terminate this Lease. If such Contract extends beyond the Initial Term, Tenant shall have the right to renew this Lease for additional terms of Three (3) years each "Renewal Term(s)". During the Renewal Terms, this Lease shall continue upon the same terms, covenants and conditions as in the Initial Term except that the rental due Landlord during the Renewal Terms shall be based upon a market rent for similar space in the surrounding Willmar area.

3. **Rental.** Effective as of the "Commencement Date", Tenant shall pay to Landlord on the first day of each calendar month the sum of **One Thousand Eight Hundred Dollars (\$1,800)** as rental for the Premises through the Initial Term. The above rent schedule is inclusive of all charges including taxes, insurance, utilities, janitorial and Common Area Operating Costs and Tenant shall not be obligated to pay any other charges to Landlord except those described in this Lease. Tenant will be responsible for Cable, Telephone system and installation, Internet and Internet installation. Tenant will pay at commencement of this lease to the landlord first and last month's rent, along with a security deposit. Security deposit will be in the amount equal to one month's rent. A total of **Five Thousand Four Hundred Dollars**, will be paid upon move in.

4. **Use of Premises.** Tenant shall have the right to use and occupy the Premises for office space. Tenant's employees, contractors and related parties will at all times during its business hours have access to the restrooms and break room of the Building. Landlord and Tenant

acknowledge that Tenant's Premises will be locked and secured at all times and that Landlord will not have any keys or access to the Premises (after completion of Landlord's Work).

5. **Quiet Enjoyment.** Landlord warrants to Tenant that Landlord has good title to the Premises free and clear of all liens and encumbrances, except as set forth in paragraph 22 of this Lease, and that Landlord may rightfully enter into this Lease. Landlord shall protect, defend and indemnify Tenant against any interference with Tenant's use and quiet enjoyment of the Premises.

6. **Landlord's Work.** The east wall in office to the southeast corner of the building will be moved to the east to make a storage room, a lockable door will be put in the reception area of that room. There will be power put to the middle of the floor in the board room. A double window will be placed next to the main door into the office. A wall and lockable door will be installed in the very north hallway leading to the bathrooms and break room. Exterior trimming or removal of the overgrown landscaping. All other improvements will be at the Tenant's expense.

7. **Intentionally Deleted.**

8. **Insurance.**

(a) **Tenant Insurance.** Tenant shall maintain at all times during the Initial Term and any Renewal Term, commercial general liability insurance against claims for personal injury, death or property damage occurring in, on or about the Premises or sidewalks or areas adjacent to the Premises to afford protection to the limit of not less than \$2,000,000 combined single limit. Such insurance may be covered under a blanket policy covering the Premises and other locations of Tenant or its general partner or the general partner's parent or an affiliate corporation. Tenant shall deliver a certificate of insurance to Landlord upon written request.

(b) **Landlord Insurance.** Landlord shall maintain at all times during the Initial Term and any Renewal Term commercial general liability insurance of at least \$2,000,000; and statutory workers compensation insurance. Any improvements made by tenant after initial occupancy and initial landlords build out, will be insured at the sole cost of the tenant. Landlord shall deliver certificates of all policies of insurance to Tenant upon written request.

9. **Utilities.** Landlord shall provide (furnish and install) to the Premises connections for all utilities necessary for Tenant's conducting of its business therein at Landlord's sole cost and expense. Landlord shall pay for all sewer, water, gas, electric utilities in or on the premises.

10. **Maintenance and Repairs.** Landlord shall maintain the structural portions of the Premises and Building, including the roof, foundation, exterior walls, and loadbearing interior walls and columns, as well as the common areas including, without limitation, the parking areas, sidewalks, landscaping, snow removal from common areas including but not limited to parking lots and sidewalks, electrical and plumbing. Landlord shall be responsible for cleaning, repairing and remediating all portions of the Premises and Building which may be contaminated or damaged by mold, mildew, fungus or other biohazardous materials.

11. **Common Area Maintenance.** Landlord shall repair and maintain and clean the common area of the Building.

12. **Improvements, Fixtures and Signage.** Tenant may install such tenant improvements, fixtures and finishes in the Premises, as Tenant may deem necessary or desirable, with consent from the exalted ruler or Chairperson of the board of directors of the Willmar Elks Lodge #952. Tenant shall not be required to remove any such improvements or fixtures and Tenant's failure to do so within thirty (30) days after the expiration of the term of this Lease shall be deemed to be an abandonment thereof whereby the same shall become part of the real estate with title thereto vesting in Landlord. Tenant may install signs in, on and about the Premises to the maximum extent permitted by local law, including signage on top portion of the monument sign adjacent to East Highway 12, in cooperation with landlord and any other tenants.

13. **Fire or Casualty.** In the event the Premises, or the Building in which it is located, are taken or destroyed in whole or in part by fire or other casualty, Tenant may in its sole discretion terminate this Lease. Within thirty (30) days after the date of a fire or other casualty, Landlord must inform Tenant if the Premises and the Building will be rebuilt. If the Premises and Building is to be rebuilt and Tenant elects not to terminate the Lease, the Premises and Building must be rebuilt and ready for occupancy within ninety (90) days of date of fire or other casualty.

14. **Eminent Domain.** If any portion of the Premises, or the Building in which it is located, shall be taken by right of eminent domain, Tenant shall have the right, at its discretion, to terminate this Lease and be relieved from further liability hereunder. Following such taking, Landlord shall, with all due diligence and at its own cost and expense, make all necessary repairs and alterations required to make the remaining portion of the Premises an architectural whole. All compensation awarded for such taking shall be allocated in accordance with the Landlord's and Tenant's respective interest therein.

15. **Intentionally Deleted.**

16. **Landlord's Default.** If Landlord shall be in default or shall fail or refuse to perform or comply with any of its obligations under this Lease and shall continue in default for a period of thirty (30) days after Tenant has given Landlord written notice of such default and demand of performance, Tenant may remedy the same and seek reimbursement from Landlord, pursue any other remedies available at law or in equity, or terminate the Lease and recover from Landlord any and all damages Tenant may have incurred due to such default or failure.

17. **Assignment and Subletting.** Tenant may not sublease the Premises or any portion thereof or assign the Lease without Landlord's consent. For purposes of the Lease, any sale or transfer of capital stock including redemption or issuance of additional stock of any class will not be deemed an assignment, subletting or any other transfer of the Lease or the Premises.

18. **Intentionally Deleted.**

19. **Hazardous Materials.** Landlord warrants and represents that the Premises and the Building (collectively referred to as the Property) are in compliance with environmental laws and regulations. Landlord will indemnify and hold Tenant harmless from loss relating to any hazardous materials. Tenant will hold Landlord harmless from loss for any hazardous materials present on the Property as a result of Tenant's negligence or willful misconduct.

As used herein, "hazardous material" means any substance that is toxic, ignitable, reactive, or corrosive and which is regulated by any local government, the state in which the Property is located, or the United States government or poses a threat to human health or the environment. "Hazardous material" includes any and all material and substances which are defined as "hazardous waste", "toxic substances" or a "hazardous substance" pursuant to state, federal or local governmental law. "Hazardous material" includes, but is not restricted to, asbestos, polychlorobiphenyls ("PCBs") and petroleum.

20. **Condition of Premises and Building.** Landlord warrants and represents that upon delivery and throughout the term of this Lease, the Premises and Building will be and Landlord will maintain the same in sound condition, in compliance with all applicable federal, state and local codes and that the structural elements, roof and building systems of the Building along with the Premises will be seismically and otherwise sound and will meet all applicable federal, state and local codes, including but not limited to the Americans with Disabilities Act.

21. **Attorney's Fees.** In connection with any litigation arising out of this Lease, the prevailing party, Tenant or Landlord, shall be entitled to recover all costs incurred, including reasonable attorney's fees.

22. **Liens.** Each party represents to the other that it has complete authority to enter into this transaction. Landlord further warrants to Tenant that Landlord owns the land and Building in fee simple, free and clear of all liens and encumbrances of every kind and nature, except for those listed below.

<u>Name of Lienholder</u>	<u>Type of Lien</u>
Concorde Bank	Mortgage

Landlord shall use reasonable efforts to obtain from the holder of any lien which is not discharged within ten (10) business days of the date of execution of this Lease, a Subordination, Attornment and Nondisturbance Agreement in form acceptable to Tenant.

23. **Notices.** Any notice, report, statement, approval, consent, designation, demand or request to be given under this Lease shall be effective when made in writing, deposited for mailing with the United States Postal Service or with a recognized overnight delivery service and addressed to Landlord or Tenant at the following addresses:

LANDLORD: Willmar Elks Lodge #952
P.O. Box 816
Willmar, MN 56201
Phone 320-231-2188
Paul Ryan 320-295-3121

TENANT: Kandiyohi County and City of Willmar
Economic Development Commission
200 20th Street SE
P.O. Box 1783
Willmar, MN 56201

24. **Continuous Operation.** Tenant shall have no obligation to operate continuously in the Premises during the Initial Term or any Renewal Term.

25. **Miscellaneous.**

(a) **Successors and Assigns.** This Lease shall be binding upon and shall inure to the benefit of Landlord, Tenant and their respective successors and assigns.

(b) **Governing Law.** This Lease shall be construed under the laws of the State of Minnesota.

(c) **Merger Clause.** This Lease contains the entire agreement between Landlord and Tenant regarding the Premises which are the subject of this Lease and may only be altered by a written agreement executed by both Landlord and Tenant.

(d) **Severability.** If any term or provision of this Lease or the application hereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease shall not be affected thereby.

(e) **Force Majeure.** In the event the performance by either party of any of its obligations hereunder, except with the respect of payment of money, is delayed by reason of the act or neglect of the other party, act of God, strike, governmental restrictions, war, or any other cause, similar or dissimilar, beyond the reasonable control of the party from whom such performance is due, the period for the commencement of completion thereof shall be extended for a period equal to the period during which performance is so delayed.

(f) **Counterparts.** This Lease may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but such counterparts together shall constitute but one and the same instrument.

(g) **No Partnership Created.** Landlord and Tenant are not and shall not be considered joint venturers, not partners, and neither shall have power to bind or obligate the other except as set forth herein.

(h) **Headings.** The titles to the paragraphs of this Lease are inserted only as a matter of convenience and for reference and in no way confine, limit or describe the scope or intent of any section of this Lease, nor in any way affect this Lease.

(i) **Modification.** No modifications, alterations, or amendments of this Lease or any agreements in connection therewith shall be binding or valid unless in writing and duly executed by both Landlord and Tenant.

(j) **Leasing Commissions and Agency Disclosure.** Landlord acknowledges that no real estate broker was involved in this Lease. Landlord and Tenant shall each indemnify, defend and hold the other harmless from and against, all damages (including reasonable attorneys' fees and costs) resulting from any claims that may be asserted against Landlord or Tenant by any broker, finder, or other person with whom the indemnifying party has or purportedly has dealt.

(k) **Penalty for Late Delivery.** Landlord will deliver possession of the Premises to Tenant with Landlord's Work completed within thirty (30) days after the Commencement Date ("Delivery Date").

(l) **Compliance.** Landlord and Tenant agree to comply with any and all Federal, State and Local ordinances or regulations regarding the Building.

(m) **Authority.** Each party hereby represents to the other that the person(s) who have executed this Lease are duly authorized to do so.

(n) **Effective Date.** The "Effective Date" of this Lease shall be the date upon which the latter of Tenant or Landlord shall so execute this Lease as evidenced by the date inserted below the signature of each party at the time of execution.

(o) **Parking.** Landlord shall provide all necessary parking for Tenant's employees and invitees and Landlord shall apply for and obtain all variances needed to meet all codes and permitting requirements for Tenant's anticipated use throughout the term of this Lease. The current parking ratio of the Building is 3 spaces per 1,000 square feet.

*****END OF PAGE*****

STATE OF MINNESOTA)
) ss.
COUNTY OF KANDIYOHI)

ACKNOWLEDGMENT

On this _____ day of November, 2014, before me, a Notary Public in and for the state of Minnesota, personally appeared Denis Anderson, known to me to be the Chairman of the Joint Powers Board of the Kandiyohi County and City of Willmar Economic Development Commission, who stated that the within and foregoing instrument was executed as the free and voluntary act and deed of said Kandiyohi County and City of Willmar Economic Development Commission for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute said instrument on behalf of the Kandiyohi County and City of Willmar Economic Development Commission.

WITNESS my hand and the official seal affixed the day and year first above written.

Notary Public

(S E A L)

