



## REQUEST FOR GRAND RAPIDS EDA ACTION

---

**AGENDA DATE:** November 11, 2023

**STATEMENT OF ISSUE:** Consider waiving a Buyer contingency in the Purchase Agreement with the Moyer Family Trust.

**PREPARED BY:** Rob Mattei, Executive Director

---

### **BACKGROUND:**

The Purchase Agreement between GREDA (Buyer) and the Moyer Family Trust (Seller) approved and dated August 10, 2023, contains a Buyer contingency in Section 4(e) which states that GREDA's obligation to purchase is contingent upon "Buyer having entered into a development agreement with a third party (SE 7<sup>th</sup> Ave. Distribution, LLC) for the development of the Property with terms that are satisfactory to Buyer, in Buyer's sole discretion."

As will be discussed further in the next agenda item, we are recommending that we close on this purchase by the currently agreed closing date of November 8, 2023, as attempt to receive an addendum from the Seller to extend the closing date, have been unsuccessful.

At your October 26<sup>th</sup> meeting GREDA approved a Development Assistance Agreement, between the City, GREDA and SE 7<sup>th</sup> Ave. Distribution, LLC. As we also discussed at that meeting, L&M Supply is in the final steps of receiving an award from the MN DEED Job Creation Fund (JCF) program. Like their Minnesota Investment Fund (MIF) program, the JCF has a very specific and strict "But For" clause that prohibits L&M and SE 7<sup>th</sup> Avenue Distribution from signing development agreements and purchase agreements prior to a JCF Grant Award Letter being issued.

On November 1, DEED held their mandatory online public hearing regarding the proposed JCF assistance. Only DEED, L&M and GREDA staff provided comments, and thus the recommendation for approval is being forwarded to the DEED Commissioner. The routing of documents at DEED to L&M to complete the JCF process will not likely be complete by the November 8<sup>th</sup> closing. Therefore, the Purchase Agreement and Development Assistance Agreement will not yet be signed by L&M and SE 7<sup>th</sup> Avenue.

To proceed with the closing, our attorney is recommending that GREDA consider a motion to waive the Buyer contingency in Section 4(e).

**RECOMMENDATION:**

**REQUIRED ACTION:** Pass a motion to waive a Buyer contingency in Section 4(e) of the Purchase Agreement with the Moyer Family Trust.