

**EDA Members:**  
Dan Roe,  
President  
Lisa  
Laliberte,  
Vice  
President  
Wayne  
Groff,  
Treasurer  
Robert  
Willmus  
Jason  
Etten



**Economic Development Authority  
Meeting Agenda  
Monday, June 22, 2020  
6:00pm**

**Address:**  
2660 Civic Center Dr.  
Roseville, MN 55113

**Phone:**  
651-792-7000

**Website:**  
[www.growroseville.com](http://www.growroseville.com)

Following guidance from state health officials, EDA Members will participate in upcoming meetings electronically pursuant to Minn. Stat. § 13D.021.

Members of the public who wish speak during public comment or an agenda item during this meeting can do so virtually by registering at [www.cityofroseville.com/attendmeeting](http://www.cityofroseville.com/attendmeeting)

1. 6:00 P.M. Roll Call  
Voting & Seating Order: Willmus, Laliberte, Groff, Etten, and Roe
2. Pledge Of Allegiance
3. Approve Agenda
4. 6:01 P.M. Public Comment
5. Business Items (Action Items)
  - 5.A. 6:03 PM Authorization To Enter Into A Private Redevelopment Contract And Awarding The Sale Of, And Providing The Form, Terms, Covenants And Directions For Issuance Of Its Tax Increment Revenue Note To Roseville Leased Housing Associates I, LLLP, And Approve Subordinations Of Contract For Private Redevelopment And Of TBRA Loan Documents Between The REDA And Consents To Collateral Assignment Of Contract And TIF Note  
  
Documents:  
  
[5A REPORT AND ATTACHMENTS.PDF](#)  
[5A BENCH HANDOUT.PDF](#)
  - 5.B. 6:15 PM Consider A Request For Tax Increment Financing Assistance In Connection With The Acquisition And Rehabilitation Of Existing Multifamily Housing Located At 1720, 1721, 1736, 1740, 1746, 1750 Marion St.; 175 And 195 Larpenteur Ave. W; And 1722, 1725, 1735, And 1736 Woodbridge Court.  
  
Documents:  
  
[5B REPORT AND ATTACHMENTS.PDF](#)
6. 6:45 P.M. Adjourn To City Council





# REQUEST FOR ECONOMIC DEVELOPMENT AUTHORITY ACTION

Date: June 22, 2020  
Item No.: 5.a

Department Approval

Executive Director Approval

*Janeé Gundlach*

*Pam Trugen*

Item Description: Authorization to enter into a Private Redevelopment Contract and Awarding the Sale of, and Providing the Form, Terms, Covenants and Directions for Issuance of its Tax Increment Revenue Note to Roseville Leased Housing Associates I, LLLP, and Approve Subordinations of Contract for Private Redevelopment and of TBRA Loan Documents Between the REDA and Consents to Collateral Assignment of Contract and TIF Note

## BACKGROUND

On July 15, 2019 the Roseville Economic Development Authority authorized providing financial assistance for the redevelopment of properties addressed 1705, 1717, 1743, and 1755 County Road C located in the Twin Lakes Redevelopment Area (Attachment A). Dominion has received Housing Revenue Bonds from Minnesota Management and Budget (MMB), which the City approved issuance at the May 18, 2020 City Council meeting. Housing Tax Credits from the Minnesota Housing Finance Agency (MHFA) were awarded, which provides equity from investors to assist with the financing of the construction of 228 family affordable housing units (Oasis) (attachment B). The senior housing project is on a waiting list for Housing Revenue Bonds, which should become available later this year or beginning of 2021.

### Family Development

<u>Units</u>	<u>Number of Units</u>
1 BR /1 BA	43
2 BR /2 BA	118
3 BR / 2 BA	67

Dominium provided an update of the Site Plan amenities proposed for the family apartments at the June 3, 2020 Planning Commission meeting (Attachment C). Those amenities include in-unit laundry, an internal trail system, outdoor pool, outdoor playground, indoor playground, clubhouse, gyms, a green courtyard space the size of a football field, and Green Communities construction standards. In addition, Dominion has committed upfront funding of \$1.377 million, for the family portion of the project, to assist with completion of the trails over the future piping of the ditch.

Normally, developments appear before the REDA three separate times for the approval of various documents as closing nears on the financing for a development. In this particular situation, the Housing Revenue Bonds dictate that the closing must occur by July 10<sup>th</sup>. Since all investors and lenders have been identified, and to

23 ensure meeting MMB's closing deadline, the REDA is being asked to authorize three separate actions: 1) the  
24 Contract for Private Redevelopment, 2) Subordination, and 3) Collateral Assignment of the Contract for Private  
25 Redevelopment. In order to meet the July 10<sup>th</sup> deadline, lenders, along with the developer, have set a closing  
26 date of June 29, 2020.

27  
28 The first action of the REDA will be to authorize, by resolution, entering into the Contract for Redevelopment  
29 and award the sale of, and provide the form, terms, covenants and directions for the issuance of its Tax  
30 Increment Revenue Note to Roseville Leased Housing Associates I, LLLP (Attachment D). The following  
31 document is attached as it relates to the resolution:

- 32 • Contract for Private Redevelopment (Attachment E)

33  
34 The second and third action of the REDA will be to authorize, by resolution, approval of subordinations of the  
35 Contract for Private Redevelopment and the TBRA Loan Documents between the REDA, American First  
36 Multifamily Investors, L.P., and U.S. Bank National Association and consents to the Collateral Assignment of  
37 the Contract and TIF Note (Attachment F). The following documents are attached as it relates to this  
38 resolution:

- 39 • Subordination Agreement Governmental Entity (Attachment G)
- 40 • Subordination Agreement Regulator Agreement Only Governmental Entity (Attachment H)
- 41 • Collateral Assignment of Contract for Private Redevelopment – Taxable Loan (Attachment I)
- 42 • Collateral Assignment of Contract for Private Redevelopment – Tax-Exempt Loan (Attachment J)

43  
44 Martha Ingram from Kennedy Graven will address any questions the REDA may have as it relates to these  
45 actions and documents. This type of financing for affordable housing developments are very complicated, so  
46 there is language within the resolutions that provides for modifications that do not alter the substance of the  
47 transaction if changes need to be made after tonight's authorizations.

48  
49 **STAFF RECOMMENDATION**

- 50 Staff recommends adoption the following two resolutions, requiring two separate motions:
- 51 1. Approve Contract for Private Redevelopment with and Awarding the Sale of, and Providing the Form, Terms,  
52 Covenants and Directions for the Issuance of its Tax Increment Revenue Note to Roseville Leased Housing  
53 Associates I, LLLP.
  - 54 2. Approve Subordinations of Contract for Private Redevelopment and of TBRA Loan Documents between  
55 the REDA, America First Multifamily Investors, L.P. and U.S. Bank National Association and Consents  
56 to Collateral Assignment of Contract and TIF Note.

57  
58 **REQUESTED REDA ACTION**

- 59 Motion to adopt the following resolutions:
- 60 1. Approve Contract for Private Redevelopment with and Awarding the Sale of, and Providing the Form, Terms,  
61 Covenants and Directions for the Issuance of its Tax Increment Revenue Note to Roseville Leased Housing  
62 Associates I, LLLP.
  - 63 2. Approve Subordinations of Contract for Private Redevelopment and of TBRA Loan Documents between  
64 the REDA, America First Multifamily Investors, L.P. and U.S. Bank National Association and Consents  
65 to Collateral Assignment of Contract and TIF Note.

66  
67 Prepared by: Jeanne Kelsey, Housing and Economic Development Program Manager, 651-792-7086

Attachment A: Resolution #47 Financial Support for TIF

- B: Site Plan
- C: PowerPoint presentation to Planning Commission June 3, 2020
- D: Resolution authorizing entering into the Contract for Redevelopment and Issuance of Note
- E: Contract for Private Redevelopment
- F: Resolution authorizing Subordination and Collateral Assignment of Private Redevelopment
- G: Subordination Agreement Governmental Entity
- H: Subordination Agreement Regulator Agreement Only Governmental Entity
- I: Collateral Assignment of Contract for Private Redevelopment – Taxable Loan
- J: Collateral Assignment of Contract for Private Redevelopment – Tax-Exempt Loan

**EXTRACT OF MINUTES OF MEETING  
OF THE  
ROSEVILLE ECONOMIC DEVELOPMENT AUTHORITY**

\* \* \* \* \*

Pursuant to due call and notice thereof, a regular meeting of the Roseville Economic Development Authority, County of Ramsey, Minnesota was duly held on the 15th day of July, 2019, at 6:00 p.m.

The following members were present: Willmus, Laliberte, Groff, Etten, and Roe

and the following were absent: none.

Member Willmus introduced the following resolution and moved its adoption:

**RESOLUTION No. 47**

**RESOLUTION EXPRESSING SUPPORT FOR REDEVELOPMENT TAX  
INCREMENT FINANCING ASSISTANCE REQUESTED IN CONNECTION  
WITH A PROPOSED MULTIFAMILY HOUSING DEVELOPMENT ON ALL  
OR A PORTION OF PARCEL ID NOS. 042923430005, 042923430013, AND  
042923430014 AT COUNTY ROAD C**

WHEREAS, pursuant to Minnesota Statutes, Sections 469.174 to 469.1794 (the "TIF Act") and Sections 469.090 to 469.1081 (the "EDA Act"), the Roseville Economic Development Authority ("EDA") is authorized to create and administer tax increment financing districts within the City of Roseville (the "City"); and

WHEREAS, the EDA is further authorized to identify and utilize other funds for the purpose of assisting redevelopment; and

WHEREAS, Dominion or an affiliate thereof (the "Redeveloper") has requested tax increment financing assistance in connection with Redeveloper's proposed redevelopment of certain property located on all or a portion of Parcel ID Nos. 042923430005, 042923430013, and 042923430014 at County Road C in the City (the "Property"), in order to construct approximately 224 units of affordable rental housing and 252 units of senior affordable rental housing on the Property, as well as approximately 56,200 square feet of commercial/retail space for which the Redeveloper is not requesting assistance (the "Improvements"); and

WHEREAS, the EDA has previously expressed support for the creation of a redevelopment tax increment financing district in connection with both the

proposed redevelopment of 2720 Fairview Avenue and the Improvements, and is willing to explore tax increment and other financial assistance at a level to be determined, subject to a pro forma analysis by the EDA's municipal advisor, to finance a portion of the extraordinary redevelopment costs of the Improvements.

NOW, THEREFORE, BE IT RESOLVED, that subject to (i) further verification of Redeveloper's need for financial assistance and (ii) negotiation and approval of a Contract for Private Redevelopment that addresses (among other things) the terms under which the Redeveloper will construct the Improvements on the Property, the terms and conditions under which the EDA will provide financial assistance, and the sources of such financial assistance, the EDA agrees to create a redevelopment tax increment financing district for the purpose of financing a portion of the extraordinary costs of the Improvements in compliance with the TIF Act and the EDA Act.

The motion for the adoption of the foregoing resolution was duly seconded by Member Groff, and upon a vote being taken thereon, the following voted in favor thereof:

Willmus, Laliberte, Groff, Etten, and Roe

and the following voted against the same: None.

WHEREUPON said resolution was declared duly passed and adopted.

Certificate

I, the undersigned, being duly appointed Executive Director of the Roseville Economic Development Authority, hereby certify that I have carefully compared the attached and foregoing resolution with the original thereof on file in my office and further certify that the same is a full, true, and complete copy of a resolution which was duly adopted by the Board of Commissioners of said Authority at a duly called and regular meeting thereof on July 15, 2019.

I further certify that Commissioner Willmus introduced said resolution and moved its adoption, which motion was duly seconded by Commissioner Groff, and that upon roll call vote being taken thereon, the following Commissioners voted in favor thereof:

Willmus, Laliberte, Groff, Etten, and Roe

and the following voted against the same: None.

whereupon said resolution was declared duly passed and adopted.

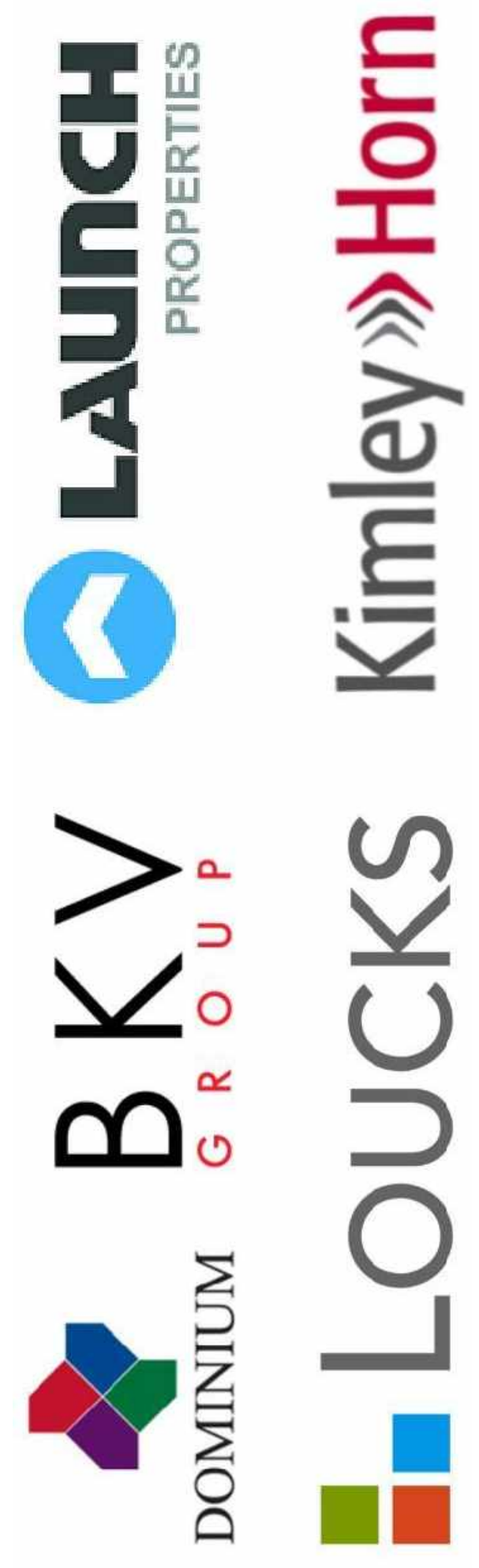
Witness my hand as the Executive Director of the Authority this 15<sup>th</sup> day of July, 2019.




Patrick Trudgeon, Executive Director  
Roseville Economic Development  
Authority







**G100 - OVERALL SITE RENDERING**  
**TWIN LAKES STATION**  
 Roseville, MN  
 March 06, 2020

Scale: 1' = 40' 



JUNE 3, 2020



DOMINIUM

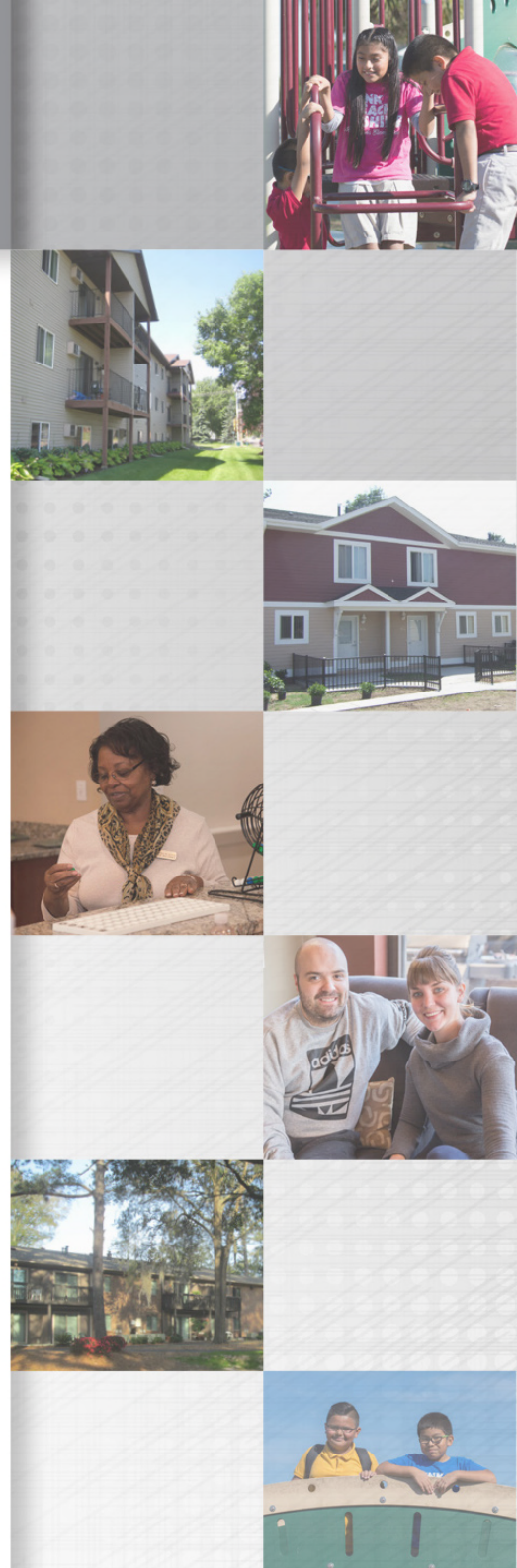
# THE OASIS AT TWIN LAKES



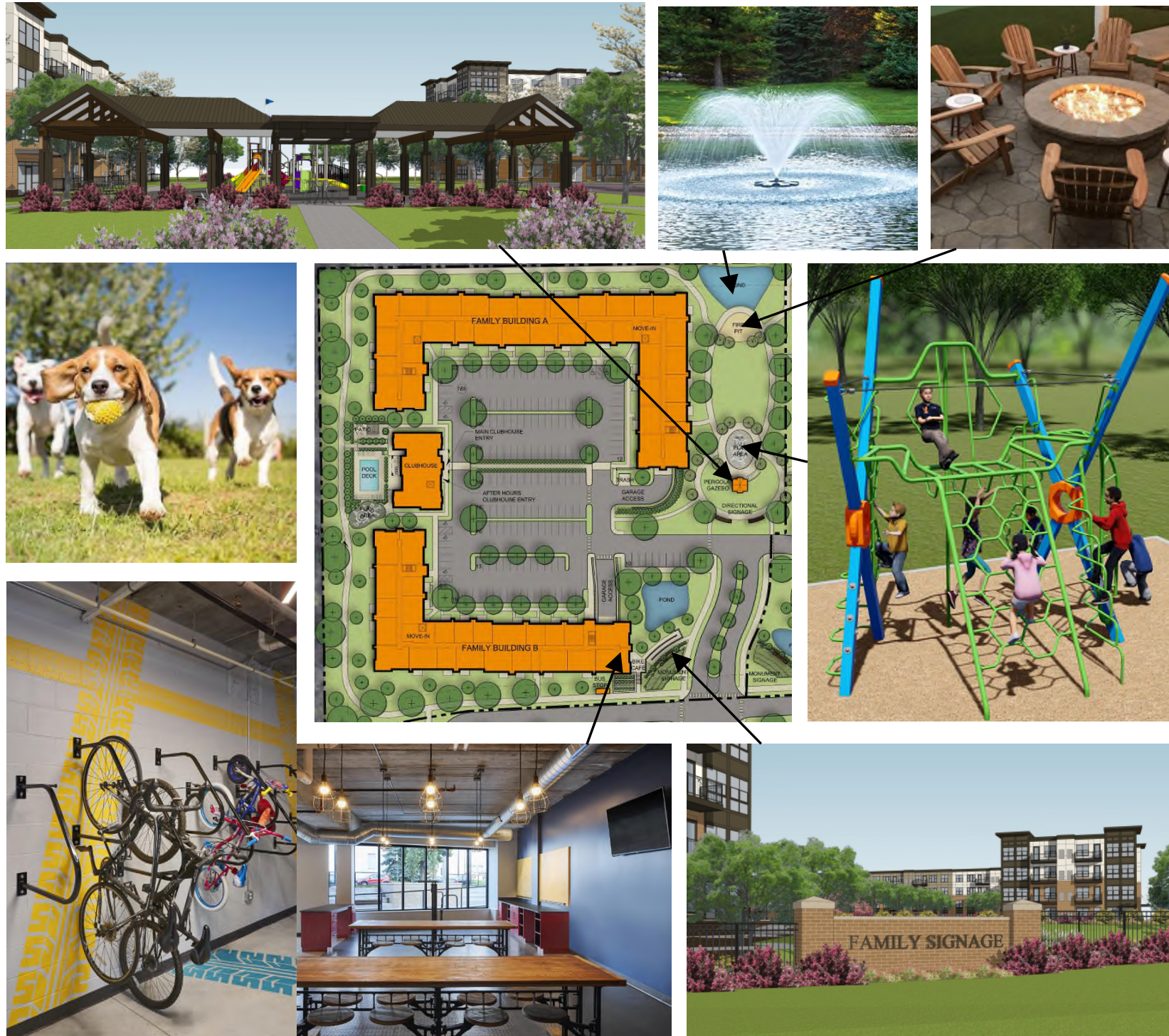
# Proposed Site Plan



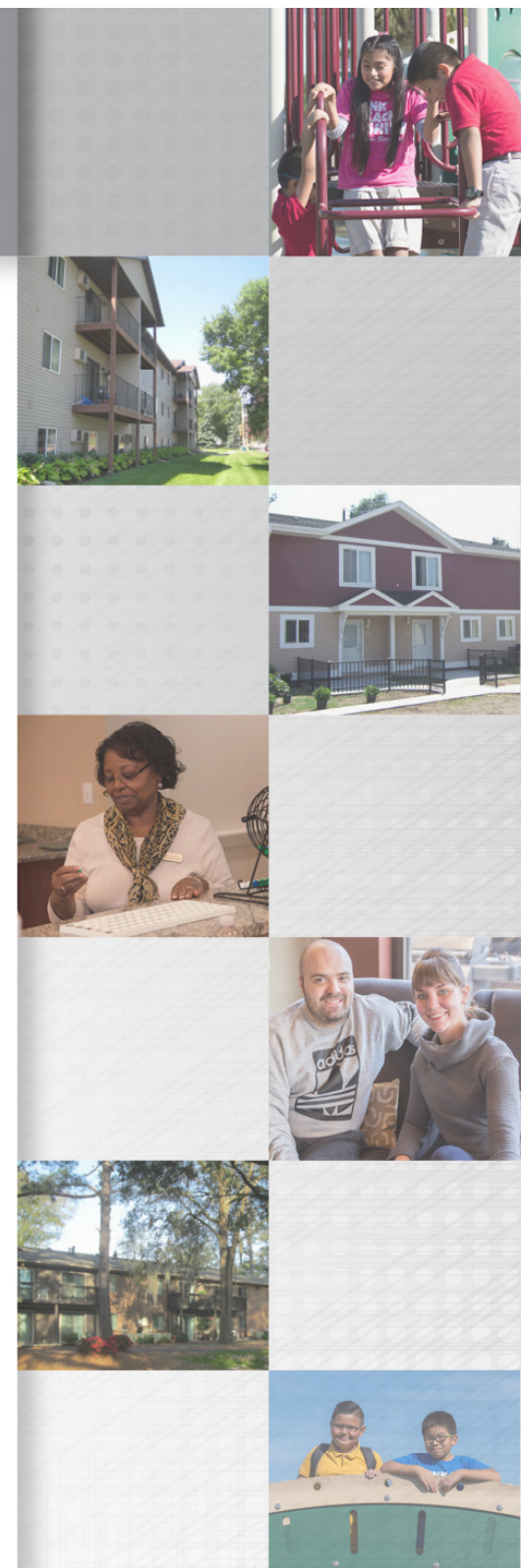
Green Space  
Comparison to Standard Football Field  
Including End Zones – 120 Yards  
(Shown Dashed)



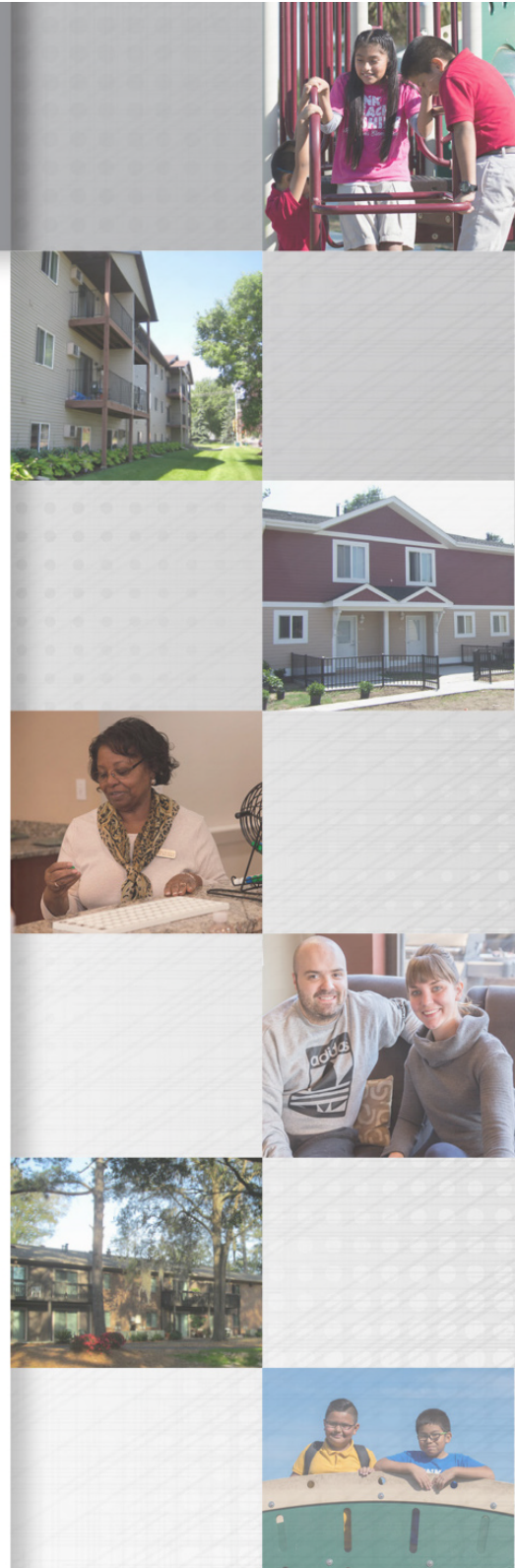
# Site Amenities



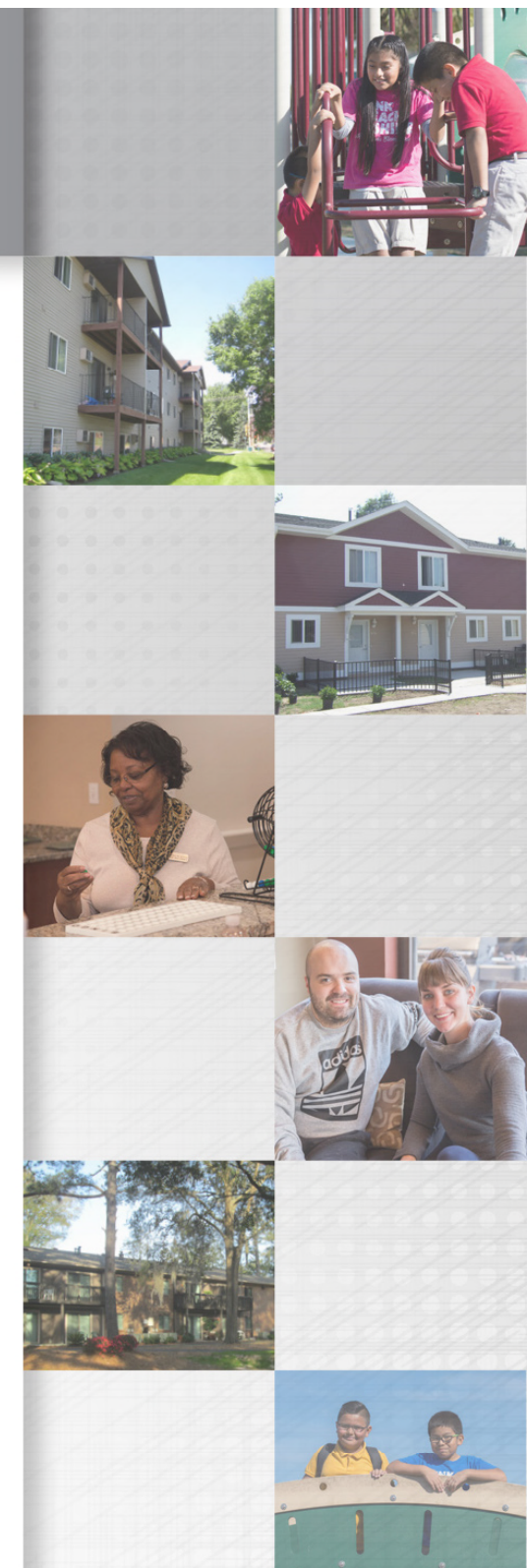
- Two Outdoor Play Structures
- Gazebo/Outdoor Seating Area
- Pool and multiple outdoor patio/grill areas
- Open Green Space equivalent to a football field
- Bike Café and Bus Stop
- Multiple Fire Pit locations
- Trail System Around Site Perimeter
- Clubhouse with indoor playroom, fitness center, clubroom and community kitchen, on-site management and leasing offices



# Site Amenities



# Clubhouse Layout

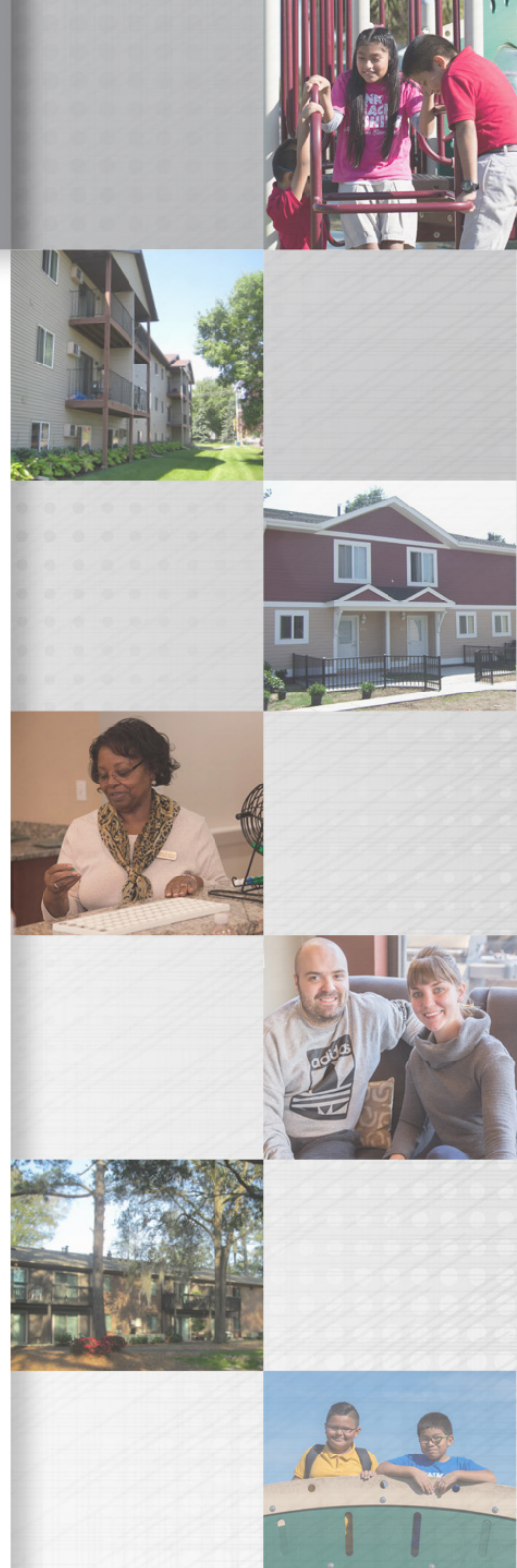




# Trail Connection



- **Dominium is working closely with Rice Creek Watershed District on the potential ditch conversion project.**
- **If the project moves forward, the site plan will be adjusted to provide logical connections to the ditch.**
- **Dominium has agreed to pay to the City of Roseville a \$1,377,000 Twin Lakes Infrastructure Improvement Fee on this project to help convert the drainage ditch into a greenway trail system and provide other improvements related to the development.**

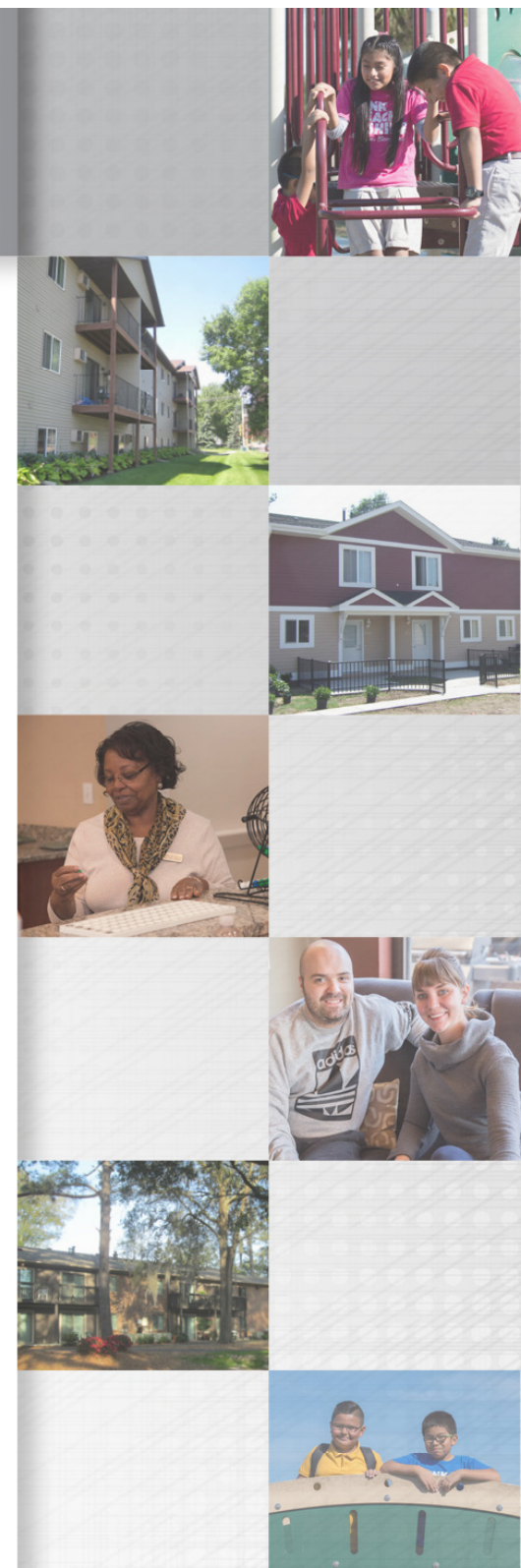


# Minnesota Green Communities

- **MHFA requires all affordable projects to comply with Green Community Standards**

The design of this project will provide the community a compact high density development to help maximize existing infrastructure and resources including access to public transportation. In addition, it proposes to utilize a variety of environmentally friendly and sustainable features. The most prominent of these items include;

- Energy Star appliances
- Energy Star windows & exterior doors
- Low water conserving plumbing fixtures
- High efficiency domestic water heaters
- High efficiency mechanical equipment in common areas
- High efficiency mechanical equipment in units
- Nearly 100% use of LED lighting with energy efficient starters.
- Occupancy Sensor controlled lighting in most common areas
- Programmable thermostats in the units will help conserve energy.
- The exterior wall cladding is of low maintenance materials. These materials resist damage from the humidity and the cold of Minnesota's climate, resists flame spread, resists impact damage, and resists damage from insects.
- To the greatest extent possible the project will incorporate locally available materials.
- Low to no VOC interior paints are used to enhance quality of life by creating healthier indoor air.
- Large windows of access to natural light
- Recycling storage
- Reduction of the heat island effect via the reduction of vehicular paving in favor of pervious landscape areas
- Outdoor recreation areas for healthy living



**ROSEVILLE ECONOMIC DEVELOPMENT AUTHORITY**

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION APPROVING CONTRACT FOR PRIVATE REDEVELOPMENT WITH AND AWARDING THE SALE OF, AND PROVIDING THE FORM, TERMS, COVENANTS AND DIRECTIONS FOR THE ISSUANCE OF ITS TAX INCREMENT REVENUE NOTE TO ROSEVILLE LEASED HOUSING ASSOCIATES I, LLLP**

BE IT RESOLVED BY the Board of Commissioners (“Board”) of the Roseville Economic Development Authority (the “Authority”) as follows:

Section 1. Background; Authorization; Award of Sale.

1.01. Background; Authorization. (a) The Authority and the City of Roseville, Minnesota (the “City”) have heretofore approved the establishment of Tax Increment Financing District No. 22 (the “TIF District”) within Development District No. 1 (“Project”), and have adopted a tax increment financing plan for the purpose of financing certain improvements within the Project.

(b) Pursuant to Minnesota Statutes, Section 469.178, the Authority is authorized to issue and sell its bonds for the purpose of financing a portion of the public redevelopment costs of the TIF District. The Authority hereby finds and determines that it is in the best interests of the Authority that it issue and sell its Tax Increment Revenue Note (Roseville Leased Housing Project) (the “Note”) for the purpose of financing certain public redevelopment costs of the Project, pursuant to the terms of this resolution.

1.02. Agreement Approved; Issuance, Sale, and Terms of the Note. (a) The Authority hereby approves the Contract for Private Redevelopment, dated June 22, 2020 (the “Agreement”), between the Authority and Roseville Leased Housing Associates I, LLLP (the “Owner”), and authorizes the President and Executive Director of the Board to execute such Agreement in substantially the form on file with City, subject to modifications that do not alter the substance of the transaction and are approved by such officials, provided that execution of the Agreement by such officials is conclusive evidence of their approval. The Authority further authorizes the President and Executive Director to execute any documents referenced within the Agreement to which the Authority is a party, including without limitation the TBRA Documents. All capitalized terms in this resolution have the meaning provided in the Agreement or the Note unless the context requires otherwise.

(b) The Authority hereby authorizes the President and Executive Director of the Board to issue the Note in accordance with the Agreement.

(c) The Note shall be issued in the principal amount of \$3,629,000 to the Owner (subject to adjustment as provided in the Agreement), in consideration of certain eligible costs incurred by the

Owner under the Agreement, shall be dated the date of delivery thereof, and shall bear interest at the rate that is the lesser of 5.0% or the Owner's actual financing rate. The Note will be issued in the principal amount of the Public Redevelopment Costs submitted and approved in accordance with Section 3.3 of the Agreement. The Note is secured by Available Tax Increment, as further described in the form of the Note set forth in Exhibit A attached hereto. The Authority hereby delegates to the Executive Director the determination of the date on which the Note is to be delivered, in accordance with the Agreement.

Section 2. Form of Note. The Notes shall be in substantially the form set forth in Exhibit A attached hereto, with the interest rate adjusted as of the date of delivery.

Section 3. Terms, Execution and Delivery.

3.01. Denomination, Payment. The Note shall be issued as a single typewritten note numbered R-1.

The Note shall be issuable only in fully registered form. Principal of and interest on the Note shall be payable by check or draft issued by the Registrar described herein.

3.02. Payment Dates. Principal of and interest on the Note shall be payable by mail to the owner of record thereof as of the close of business on the fifteenth day of the month preceding the Payment Date (as defined in the Note), whether or not such day is a business day.

3.03. Registration. The Authority hereby appoints the City Finance Director to perform the functions of registrar, transfer agent and paying agent (the "Registrar"). The effect of registration and the rights and duties of the Authority and the Registrar with respect thereto shall be as follows:

(a) Register. The Registrar shall keep at its office a bond register in which the Registrar shall provide for the registration of ownership of the Note and the registration of transfers and exchanges of the Note.

(b) Transfer of Note. Upon surrender for transfer of the Note duly endorsed by the registered owner thereof or accompanied by a written instrument of transfer, in form reasonably satisfactory to the Registrar, duly executed by the registered owner thereof or by an attorney duly authorized by the registered owner in writing, the Registrar shall authenticate and deliver, in the name of the designated transferee or transferees, a new Note of a like aggregate principal amount, interest rate, and maturity, as requested by the transferor. The Registrar may close the books for registration of any transfer after the fifteenth day of the month preceding each Payment Date and until such Payment Date.

(c) Cancellation. The Note surrendered upon any transfer shall be promptly cancelled by the Registrar and thereafter disposed of as directed by the Authority.

(d) Improper or Unauthorized Transfer. When the Note is presented to the Registrar for transfer, the Registrar may refuse to transfer the same until it is satisfied that the endorsement on such

Note or separate instrument of transfer is legally authorized. The Registrar shall incur no liability for its refusal, in good faith, to make transfers which it, in its judgment, deems improper or unauthorized.

(e) Persons Deemed Owners. The Authority and the Registrar may treat the person in whose name the Note is at any time registered in the bond register as the absolute owner of the Note, whether the Note shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on such Note and for all other purposes, and all such payments so made to any such registered owner or upon the owner's order shall be valid and effectual to satisfy and discharge the liability of the Authority upon such Note to the extent of the sum or sums so paid.

(f) Taxes, Fees and Charges. For every transfer or exchange of the Note, the Registrar may impose a charge upon the owner thereof sufficient to reimburse the Registrar for any tax, fee, or other governmental charge required to be paid with respect to such transfer or exchange.

(g) Mutilated, Lost, Stolen or Destroyed Note. In case any Note shall become mutilated or be lost, stolen, or destroyed, the Registrar shall deliver a new Note of like amount, interest rate, maturity dates and tenor in exchange and substitution for and upon cancellation of such mutilated Note or in lieu of and in substitution for such Note lost, stolen, or destroyed, upon the payment of the reasonable expenses and charges of the Registrar in connection therewith; and, in the case the Note lost, stolen, or destroyed, upon filing with the Registrar of evidence satisfactory to it that such Note was lost, stolen, or destroyed, and of the ownership thereof, and upon furnishing to the Registrar of an appropriate bond or indemnity in form, substance, and amount satisfactory to it, in which both the Authority and the Registrar shall be named as obligees. The Note so surrendered to the Registrar shall be cancelled by it and evidence of such cancellation shall be given to the Authority. If the mutilated, lost, stolen, or destroyed Note has already matured or been called for redemption in accordance with its terms, it shall not be necessary to issue a new Note prior to payment.

3.04. Preparation and Delivery. The Note shall be prepared under the direction of the Executive Director and shall be executed on behalf of the Authority by the signatures of its President and Executive Director. In case any officer whose signature shall appear on the Note shall cease to be such officer before the delivery of the Note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery. When the Note has been so executed, it shall be delivered by the Executive Director to the Owner thereof in accordance with the Agreement.

#### Section 4. Security Provisions.

4.01. Pledge. The Authority hereby pledges to the payment of the principal and interest on the Note all Available Tax Increment, as defined in, and subject to the terms described in, the Note. Available Tax Increment shall be applied to payment of the principal and interest on the Note in accordance with the terms of the form of Note set forth in Exhibit A attached hereto.

4.02. Bond Fund. Until the date the Note is no longer outstanding and no principal or interest thereof (to the extent required to be paid pursuant to this resolution) remains unpaid, the Authority shall maintain a separate and special "Bond Fund" to be used for no purpose other than the payment of the principal of and interest on the Note. The Authority irrevocably agrees to appropriate

to the Bond Fund in each year Available Tax Increment. Any Available Tax Increment remaining in the Bond Fund shall be transferred to the Authority's account for the TIF District upon the termination of the Note in accordance with its terms.

4.03. Additional Obligations. The Authority will issue no obligations secured by Available Tax Increment unless such pledge is on a subordinate basis to the pledge to the Note.

Section 5. Certification of Proceedings.

5.01. Certification of Proceedings. The officers of the Authority are hereby authorized and directed to prepare and furnish to the Owner of the Note certified copies of all proceedings and records of the Authority, and such other affidavits, certificates, and information as may be required to show the facts relating to the legality and marketability of the Note as the same appear from the books and records under their custody and control or as otherwise known to them, and all such certified copies, certificates, and affidavits, including any heretofore furnished, shall be deemed representations of the Authority as to the facts recited therein.

Section 6. Effective Date. This resolution shall be effective upon full execution of the Agreement.

Adopted this 22nd day of June, 2020.

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President

ATTEST:

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Secretary

**Exhibit A to Authorizing Resolution****FORM OF NOTE**

UNITED STATES OF AMERICA  
 STATE OF MINNESOTA  
 COUNTY OF RAMSEY  
 ROSEVILLE ECONOMIC DEVELOPMENT AUTHORITY

No. R-1

\$3,629,000

TAX INCREMENT REVENUE NOTE  
 (ROSEVILLE LEASED HOUSING PROJECT)

<u>Rate</u>	<u>Date</u>
____%	<u>of Original Issue</u>

The Roseville Economic Development Authority (“Authority”) for value received, certifies that it is indebted and hereby promises to pay to Roseville Leased Housing Associates I, LLLP or its registered assigns (the "Owner"), the principal sum of Three Million Six Hundred Twenty-Nine Thousand and no/100 Dollars (\$3,629,000.00) and to pay interest thereon at the rate of \_\_\_\_% per annum, but solely from the sources and to the extent set forth herein. Unless the context clearly requires otherwise, capitalized terms in this Note have the meaning provided in the Contract for Private Redevelopment between the Authority and Owner dated as of June 22, 2020 (the “Agreement”).

1. Payments. Principal and interest (“Payments”) shall be paid on August 1, 2023 and each February 1 and August 1 thereafter to and including February 1, 2042 (“Payment Dates”) in the amounts set forth herein, payable solely from and to the extent of the sources set forth in Section 3 hereof. Payments shall be applied first to accrued interest, and then to unpaid principal.

Payments are payable by mail to the address of the Owner or such other address as the Owner may designate upon thirty (30) days written notice to the Authority. Payments on this Note are payable in any coin or currency of the United States of America which, on the Payment Date, is legal tender for the payment of public and private debts.

2. Interest. Simple interest at the rate stated herein shall accrue on the unpaid principal, commencing on the deemed date of original issue as described in Section 3.3 of the Agreement. Interest shall be computed on the basis of a year of 360 days consisting of twelve months of thirty days, and charged for actual days principal is unpaid.

3. Available Tax Increment. (a) Payments on this Note are payable on each Payment Date solely from and in the amount of “Available Tax Increment,” which shall mean ninety percent

(90%) of the total Tax Increment attributable to the Minimum Improvements and Redevelopment Property that has been paid to the Authority by Ramsey County in the six (6) months prior to the subject Payment Date.

(b) The Authority shall have no obligation to pay principal and interest on this Note on each Payment Date from any source other than Available Tax Increment, and the failure of the Authority to pay the entire amount of principal or interest on this Note on any Payment Date shall not constitute a default hereunder as long as the Authority pays principal and interest hereon to the extent of Available Tax Increment. The Authority shall have no obligation to pay any unpaid balance of principal or accrued interest that may remain after the final Payment.

4. Default. If on any Payment Date there has occurred and is continuing any Event of Default by the Owner under the Agreement, the Authority may withhold payments of all Available Tax Increment hereunder as provided in Section 9.2 of the Agreement. If the Event of Default is thereafter cured in accordance with the Agreement, the Available Tax Increment withheld under this Section shall be deferred and paid, without interest thereon, within thirty (30) days after the Event of Default is cured. Subject to Section 9.3 of the Agreement, if the Event of Default is not cured within three hundred sixty-five (365) days following the Authority's written notice to the Owner of such default, the Authority may terminate this Note by written notice to the Owner in accordance with the Agreement.

5. Prepayment.

(a) The principal sum and all accrued interest payable under this Note is prepayable in whole or in part at any time by the Authority without premium or penalty. No partial prepayment shall affect the amount or timing of any other regular payment otherwise required to be made under this Note.

(b) Upon completion of the lookback calculations as described in Section 3.5(b)(1) or (2) of the Agreement, any amounts resulting from such calculations will be deemed to constitute, and will be applied to, prepayment of the principal amount of this Note. Such deemed prepayment is effective as of the date of delivery of such statement to the Owner, and will be recorded by the Registrar in its records for the Note. Upon request of the Owner, the Authority will deliver to the Owner a statement of the outstanding principal balance of the Note after application of the deemed prepayment under this paragraph.

6. Nature of Obligation. This Note is one of an issue in the total principal amount of \$3,629,000 (subject to adjustment as described in Section 3.5 of the Agreement) issued to aid in financing certain public redevelopment costs of a Project undertaken by the Authority pursuant to Minnesota Statutes, Sections 469.001 through 469.047, and is issued pursuant to an authorizing resolution (the "Resolution") duly adopted by the Authority on June 22, 2020, and pursuant to and in full conformity with the Constitution and laws of the State of Minnesota, including Minnesota Statutes, Sections 469.174 to 469.1794. This Note is a limited obligation of the Authority which is payable solely from Available Tax Increment pledged to the payment hereof under the Resolution. This Note shall not be deemed to constitute a general obligation of the State of Minnesota or any political subdivision thereof, including, without limitation, the Authority or the City. Neither the State



of Minnesota, nor any political subdivision thereof shall be obligated to pay the principal of or interest on this Note or other costs incident hereto except out of Available Tax Increment, and neither the full faith and credit nor the taxing power of the State of Minnesota or any political subdivision thereof is pledged to the payment of the principal of or interest on this Note or other costs incident hereto.

7. Registration and Transfer. This Note is issuable only as a fully registered note without coupons. As provided in the Resolution, and subject to certain limitations set forth therein, this Note is transferable upon the books of the Authority kept for that purpose at the principal office of the City Finance Director, by the Owner hereof in person or by such Owner's attorney duly authorized in writing, upon surrender of this Note together with a written instrument of transfer satisfactory to the Authority, duly executed by the Owner. Upon such transfer or exchange and the payment by the Owner of any tax, fee, or governmental charge required to be paid by the Authority with respect to such transfer or exchange, there will be issued in the name of the transferee a new Note of the same aggregate principal amount, bearing interest at the same rate and maturing on the same date.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions, and things required by the Constitution and laws of the State of Minnesota to be done, to exist, to happen, and to be performed in order to make this Note a valid and binding limited obligation of the Authority according to its terms, have been done, do exist, have happened, and have been performed in due form, time and manner as so required.

IN WITNESS WHEREOF, the Board of Commissioners of the Roseville Economic Development Authority has caused this Note to be executed with the manual signatures of its President and Executive Director, all as of the Date of Original Issue specified above.

ROSEVILLE ECONOMIC  
DEVELOPMENT AUTHORITY

\_\_\_\_\_  
Executive Director

\_\_\_\_\_  
President

#### REGISTRATION PROVISIONS

The ownership of the unpaid balance of the within Note is registered in the bond register of the City Finance Director, in the name of the person last listed below.

Date of Registration	Registered Owner	Signature of City Finance Director
_____	Roseville Leased Housing Associates I, LLLP Federal Tax I.D. No.	_____

Sixth draft, June 17, 2020

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**CONTRACT  
FOR  
PRIVATE REDEVELOPMENT**

**By and Between**

**ROSEVILLE ECONOMIC DEVELOPMENT AUTHORITY**

**and**

**ROSEVILLE LEASED HOUSING ASSOCIATES I, LLLP**

**Dated as of June \_\_, 2020**

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This document was drafted by:

KENNEDY & GRAVEN, Chartered (MNI)  
470 U.S. Bank Plaza  
Minneapolis, Minnesota 55402  
(612) 337-9300  
<http://www.kennedy-graven.com>

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**CONTRACT FOR PRIVATE REDEVELOPMENT**

THIS AGREEMENT, made as of the \_\_\_ day of June, 2020, by and between the Roseville Economic Development Authority, a public body corporate and politic and a political subdivision under the laws of Minnesota (the “Authority”), and Roseville Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the “Redeveloper”).

WITNESSETH:

WHEREAS, the City of Roseville (the “City”) has undertaken a program to promote the development and redevelopment of land which is underutilized within the City, and in this connection created its Development District No. 1 (hereinafter referred to as the “Project”), the geographic boundaries of which are coterminous with those of the City, pursuant to Minnesota Statutes, Sections 469.124 to 469.134; and

WHEREAS, the City has created the Authority and authorized the Authority to transact business and exercise its powers by an enabling resolution of the City Council, pursuant to Minnesota Statutes, Sections 469.090 to 469.1081 (the “Act”); and

WHEREAS, the City has transferred the control and administration of the Project and all current and future tax increment financing districts within the Project to the Authority, and the Authority has accepted such transfer; and

WHEREAS, pursuant to the Act and to Minnesota Statutes, Sections 469.001 to 469.047 (the “HRA Act”), the Authority is authorized to undertake certain activities to prepare real property for development and redevelopment by private enterprise; and

WHEREAS, the Redeveloper is under contract to acquire certain property (the “Redevelopment Property”) within the Project to redevelop as a multifamily housing facility (the “Minimum Improvements”), as further described herein; and

WHEREAS, the Authority has established Tax Increment Financing District No. 22: Twin Lakes II (the “TIF District”), a redevelopment district, pursuant to Minnesota Statutes, Sections 469.174 to 469.1794, as amended (the “TIF Act”), consisting, in part, of the Redevelopment Property located within the Project; and

WHEREAS, the Authority believes that the redevelopment of the Redevelopment Property pursuant to and in general fulfillment of this Agreement is in the vital and best interests of the City, will promote the health, safety, morals, and welfare of its residents, and will be in accord with the public purposes and provisions of the applicable State and local laws and requirements under which the Project has been undertaken and is being assisted.

NOW, THEREFORE, in consideration of the premises and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

## ARTICLE I

### Definitions

Section 1.1. Definitions. In this Agreement, unless a different meaning clearly appears from the context:

“Act” means Minnesota Statutes Sections 469.090 to 469.1081, as amended.

“Affiliate” means with respect to Redeveloper (a) any corporation, partnership, limited liability company or other business entity or person controlling, controlled by or under common control with the Redeveloper, or for which the controlling interest is commonly owned, and (b) any successor to such party by merger, acquisition, reorganization or similar transaction involving all or substantially all of the assets of such party (or such Affiliate). For the purpose hereof the words “controlling”, “controlled by” and “under common control with” shall mean, with respect to any corporation, partnership, limited liability company or other business entity, the ownership of fifty percent or more of the voting interests in such entity or possession, directly or indirectly, of the power to direct or cause the direction of management policies of such entity, whether through ownership of voting securities or by contract or otherwise.

“Agreement” means this Agreement, as the same may be from time to time modified, amended, or supplemented.

“Assessment Agreement” has the meaning provided in Section 6.3 hereof and shall be substantially in the form attached hereto as Schedule F.

“Authority” means the Roseville Economic Development Authority.

“Authority Representative” means the Executive Director of the Authority, or any person designated by the Executive Director to act as the Authority Representative for the purposes of this Agreement.

“Authorizing Resolution” means the resolution of the Authority authorizing issuance of the TIF Note, in substantially the form attached to this Agreement as Schedule B.

“Available Tax Increment” has the meaning provided in the Authorizing Resolution.

“Business Day” means any day except a Saturday, Sunday, legal holiday, a day on which the City is closed for business, or a day on which banking institutions in the City are authorized by law or executive order to close.

“Business Subsidy Act” means Minnesota Statutes, Sections 116J.993 to 116J.995, as amended.

“City” means the City of Roseville, Minnesota.

“Certificate of Completion” means the certification provided to the Redeveloper pursuant to Section 4.4 of this Agreement.

“Construction Plans” means the plans, specifications, drawings and related documents on the construction work to be performed by the Redeveloper on the Redevelopment Property which (a) shall be as detailed as the plans, specifications, drawings and related documents which are submitted to the appropriate building officials of the City, and (b) shall include at least the following: (1) site plan; (2) floor plan; (3) cross sections of each (length and width); (4) elevations (all sides); (5) landscape plan; and (6) such other plans or supplements to the foregoing plans as the Authority may reasonably request to allow it to ascertain the nature and quality of the proposed construction work.

“Consultant” means the Authority’s municipal advisor. As of the date of this Agreement, the Consultant is Ehlers and Associates, Inc.

“County” means the County of Ramsey, Minnesota.

“Development Program” means the Development Program for the Project, as amended.

“Environmental Costs” has the meaning provided in Section 3.4 hereof

“Event of Default” means an action by the Redeveloper listed in Article IX of this Agreement.

“Holder” means the owner of a Mortgage.

“HRA Act” means Minnesota Statutes, Sections 469.001 to 469.047, as amended.

“MOU” means the Memorandum of Understanding between the City and the Redeveloper, to be executed in connection with multifamily management and public safety services for the Minimum Improvements, which MOU is incorporated herein by reference.

“Minimum Improvements” means the construction of a multifamily rental housing facility on the Redevelopment Property consisting of two four-story buildings with a total of 228 apartments units, along with a stand-alone clubhouse building and associated structured parking to be integrated into such buildings.

“Mortgage” means any mortgage made by the Redeveloper that is secured, in whole or in part, with the Redevelopment Property and that is approved or deemed approved pursuant to the provisions of Article VII of this Agreement.

“MPCA” means the Minnesota Pollution Control Agency.

“Project” means the Authority’s Development District No. 1.



“Public Redevelopment Costs” has the meaning provided in Section 3.3(a) hereof.

“RAP” has the meaning provided in Section 3.2 hereof.

“Redeveloper” means Roseville Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership, or its permitted successors and assigns.

“Redevelopment Property” means the real property described in Schedule A of this Agreement.

“State” means the state of Minnesota.

“Tax Increment” means that portion of the real property taxes that is paid with respect to the Redevelopment Property and that is remitted to the Authority as tax increment pursuant to the Tax Increment Act.

“Tax Increment Act” or “TIF Act” means the Tax Increment Financing Act, Minnesota Statutes Sections 469.174 to 469.1794, as amended.

“Termination Date” means the earlier of (a) the date the final payment of principal and interest on the TIF Note has been paid in full or defeased or the TIF Note has been earlier terminated in accordance with its terms, or (b) the date the TIF District has been decertified.

“TIF District” means Tax Increment Financing District No. 22: Twin Lakes II, a redevelopment district, created by the City and Authority on August 12, 2019.

“TIF Note” means the Tax Increment Revenue Note (Oasis at Twin Lakes Project), as shown in Exhibit A of the Authorizing Resolution set forth in Schedule B attached hereto.

“Tax Increment Plan” or “TIF Plan” means the Tax Increment Financing Plan for the TIF District approved by the City Council on August 12, 2019, and as it may be amended.

“Transfer” has the meaning set forth in Section 8.2(a) hereof.

“Unavoidable Delays” means delays beyond the reasonable control of the party seeking to be excused as a result thereof which are the direct result of strikes, other labor troubles, prolonged adverse weather, public health emergencies (including without limitation the COVID-19 pandemic), acts of God, fire or other casualty to the Minimum Improvements, litigation commenced by third parties which, by injunction or other similar judicial action, directly results in delays, or acts of any federal, state or local governmental unit (other than the Authority or City in exercising their rights under this Agreement), including without limitation condemnation or threat of condemnation of any portion of the Redevelopment Property, which directly result in delays. Unavoidable Delays shall not include delays experienced by the Redeveloper in obtaining permits or governmental approvals necessary to enable construction of the Minimum Improvements by the dates such construction is required under Section 4.3 of this Agreement, unless (a) Redeveloper has timely filed any application and materials required by the Authority

or City for such permit or approvals, and (b) the delay is beyond the reasonable control of the Redeveloper.

(The remainder of this page is intentionally left blank.)

## ARTICLE II

### **Representations and Warranties**

#### Section 2.1. Representations and Covenants by the Authority.

(a) The Authority is an economic development authority duly organized and existing under the laws of the State. Under the provisions of the Act and the HRA Act, the Authority has the power to enter into this Agreement and carry out its obligations hereunder.

(b) The Authority will use its best efforts to facilitate redevelopment of the Minimum Improvements, including but not limited to cooperating with the Redeveloper in obtaining necessary administrative and land use approvals and financing pursuant to Section 7.1 hereof.

(c) The activities of the Authority (including without limitation those undertaken pursuant to the TIF Act) are undertaken for the purpose of fostering the development and redevelopment of certain real property that is occupied by a substandard and obsolete building, which will increase diverse housing opportunities, revitalize this portion of the Project, and increase the tax base.

(d) The Minimum Improvements are allowed uses under the zoning ordinances of the City and are consistent with the Development Program.

(e) Subject to all the terms and conditions of this Agreement, the Authority will issue the TIF Note to the Redeveloper.

(f) The Authority will take no action, nor omit to take any action, regarding the TIF District that materially impairs the collection or payment of Available Tax Increment.

(g) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with or results in a breach of, the terms, conditions or provisions of charter or statutory limitation or any indebtedness, agreement or instrument of whatever nature to which the Authority is now a party or by which it is bound, or constitutes a default under any of the foregoing.

Section 2.2. Representations and Warranties by the Redeveloper. The Redeveloper represents and warrants that:

(a) The Redeveloper is a limited liability limited partnership, duly organized and in good standing under the laws of the State of Minnesota, is not in violation of any provisions of its organizational documents, is duly qualified and authorized to transact business within the State, has power to enter into this Agreement and has duly authorized the execution, delivery, and performance of this Agreement by proper action of its partners.

(b) The Redeveloper will construct the Minimum Improvements in accordance with the terms of this Agreement, the Development Program, and all applicable local, state and federal laws and regulations (including, but not limited to, environmental, zoning, building code, labor, and public health laws and regulations).

(c) The Redeveloper will use reasonable efforts to secure all permits, licenses, and approvals necessary for construction of the Minimum Improvements.

(d) The Redeveloper has received no written notice or other written communication from any local, state or federal official that the activities of the Redeveloper or the Authority on the Redevelopment Property may be or will be in violation of any environmental law or regulation (other than those notices or communications which have been disclosed to the Authority). Assuming that the Minimum Improvements are constructed in accordance with the Construction Plans and implementation of the RAP, the Redeveloper is aware of no facts the existence of which would cause it to be in violation of or give any person a valid claim under any local, state, or federal environmental law, regulation or review procedure.

(e) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with or results in a breach of, the terms, conditions or provisions of any corporate restriction or any evidences of indebtedness, agreement or instrument of whatever nature to which the Redeveloper is now a party or by which it is bound, or constitutes a default under any of the foregoing.

(f) The proposed construction of the Minimum Improvements by the Redeveloper hereunder would not occur but for the tax increment financing assistance being provided by the Authority hereunder.

[The remainder of this page is intentionally left blank.]

## ARTICLE III

### **Property Acquisition; Acquisition Costs**

Section 3.1. Status of Redevelopment Property. The Redevelopment Property consists of the parcel legally described in Schedule A hereof. As of the date of this Agreement, the Redeveloper is under contract to acquire the Redevelopment Property. The Redeveloper acknowledges that the Authority has no obligation to acquire any of the Redevelopment Property.

#### Section 3.2. Environmental Undertakings.

(a) The Redeveloper has submitted a response action plan (the “RAP”) to the MPCA, providing for remediation of hazardous wastes and contaminants on the Redevelopment Property and certain property adjacent thereto, which was previously approved by the MPCA. Upon commencement of construction of the Minimum Improvements, Redeveloper shall promptly undertake remediation and any other actions required under the RAP (as it may be amended from time to time), subject to the reimbursement as further described in this Agreement.

(b) The Redeveloper acknowledges that the Authority makes no representations or warranties as to soil and environmental condition on the Redevelopment Property or the fitness of the Redevelopment Property for construction of the Minimum Improvements or any other purpose for which the Redeveloper may make use of such property, and that the assistance provided to the Redeveloper under this Agreement neither implies any responsibility by the Authority for any contamination of the Redevelopment Property or poor soil conditions nor imposes any obligation on the Authority to participate in any cleanup of the Redevelopment Property and/or correction of any soil problems (other than associated with the financing described herein).

(c) Without limiting its obligations under Section 8.3 of this Agreement the Redeveloper further agrees that it will indemnify, defend, and hold harmless the Authority, the City, and their governing body members, officers, and employees, from any claims or actions arising out of the presence, if any, of hazardous wastes or pollutants existing on or in the Redevelopment Property unless and to the extent that such hazardous wastes or pollutants are present as a result of the actions or omissions of the indemnitees. Nothing in this Section will be construed to limit or affect any limitations on liability of the City or the Authority under State or federal law, including without limitation Minnesota Statutes, Sections 466.04 and 604.02.

#### Section 3.3. Issuance of TIF Note.

(a) *Public Redevelopment Costs.* In order to make construction of the Minimum Improvements financially feasible, the Authority will reimburse the Redeveloper for a portion of the costs of soil remediation (to the extent not reimbursed as an Environmental Cost pursuant to Section 3.4 hereof), land acquisition, and structured parking incurred by the Redeveloper on the Redevelopment Property (the “Public Redevelopment Costs”), through issuance of the TIF Note in accordance with this Section.

(b) *Terms.* The Authority shall issue and the Redeveloper shall purchase the TIF Note in the maximum principal amount of \$3,629,000. The TIF Note will be issued as reimbursement of Public Redevelopment Costs, and will be secured solely by Available Tax Increment. The terms of the TIF Note, including maturity and payment dates, will be substantially those set forth in the form of the TIF Note shown in Exhibit A of the Authorizing Resolution set forth in Schedule B attached hereto, and the TIF Note will be subject to all terms of the Authorizing Resolution, which is incorporated herein by reference. The Authority shall deliver the TIF Note to the Redeveloper upon execution in full of this Agreement. The TIF Note shall not be deemed issued, and interest shall not accrue, until satisfaction of the following:

(i) the Redeveloper has delivered to the Authority a signed statement including written evidence satisfactory to the Authority that Redeveloper has incurred Public Redevelopment Costs (as defined herein) in an amount at least equal to the principal amount of the TIF Note, which evidence must include copies of the paid invoices or other comparable evidence for costs of allowable Public Redevelopment Costs;

(ii) the Redeveloper has delivered to the Authority a signed statement that no uncured Event of Default by the Redeveloper has occurred and is continuing pursuant to Section 9.1 hereof;

(iii) the Redeveloper has submitted and obtained Authority approval of financing in accordance with Section 7.1; and

(iv) the Redeveloper has executed and delivered to the Authority an investment letter in a form reasonably satisfactory to the Authority.

No payment of Available Tax Increment shall be made under the TIF Note until the Redeveloper has complied with the lookback provisions set forth in Section 3.5 hereof, unless the Authority is in default of its obligations under Section 3.5(b)(3).

(c) *Termination of right to TIF Note.* All conditions for delivery of the TIF Note must be met by no later than the date which is five (5) years after the date of certification of the TIF District by the County and complies with the so-called five-year rule under Section 469.1763, subdivision 3(c) of the TIF Act. If the conditions for delivery of the TIF Note are not satisfied by the date described in this paragraph, the Authority has no further obligations under this Section.

(d) *Assignment of TIF Note.* The Authority acknowledges that the Redeveloper may assign the TIF Note to a third party. The Authority consents to such an assignment, conditioned upon receipt of an investment letter from such third party in a form reasonably acceptable to the Authority.

(e) *Qualifications.* The Redeveloper understands and acknowledges that all Public Redevelopment Costs must first be paid by or on behalf of the Redeveloper and will be reimbursed from Available Tax Increment pursuant to the terms of the TIF Note. The Authority

makes no representations or warranties regarding the amount of Tax Increment, or that revenues pledged to the TIF Note will be sufficient to pay the principal of the TIF Note. Any estimates of Tax Increment prepared by the Authority or its financial advisors in connection with the TIF District or this Agreement are for the benefit of the Authority, and are not intended as representations on which the Redeveloper may rely. In the event of legislative changes reducing the tax rate classification of certain qualified low-income rental housing under Minnesota Statutes, Section 273.13, subd. 25(e), the Redeveloper expressly agrees and acknowledges that the Authority may adjust the principal amount of the TIF Note to reflect such reduction. The parties agree that they will work in good faith to determine the appropriate amount of such reduction, it being the intent that the aggregate effect of such changes (i.e., the projected expense savings to the Redeveloper attributable to the reduction to the annual tax liability with regard to the Project and the projected income reduction to the Redeveloper attributable to the reduction in the amount of payments under the TIF Note) will be revenue-neutral to the Redeveloper. If the principal amount of the TIF Note is reduced pursuant to this Section 3.3(e), and there is subsequently a legislative change which increases the tax rate classification (i.e., the legislation giving rise to the reduction is repealed), the Authority shall adjust the principal amount of the TIF Note to reflect such increased tax burden in the same manner as the reduction aforesaid; provided, however, that any such increase shall be limited to the aggregate amount by which the principal balance of the TIF Note was previously reduced pursuant to this Section 3.3(e). Public Redevelopment Costs exceeding the principal amount of the TIF Note are the sole responsibility of Redeveloper, subject to Section 3.4 of this Agreement.

#### Section 3.4. Environmental Costs.

(a) Upon the Redeveloper's request the Authority has applied for and received two environmental remediation grants (the "Third-Party Grants") to finance a portion of the extraordinary costs of environmental remediation required to redevelop the Redevelopment Property and certain real property adjacent thereto pursuant to the RAP in effect for the Redevelopment Property and such real property adjacent thereto (the "Environmental Costs"). The Third-Party Grants consist of a grant from the Minnesota Department of Employment and Economic Development in the amount of \$179,514 (the "DEED Grant") and a grant from the Metropolitan Council in the amount of \$722,500 (the "TBRA Grant"), for a total aggregate award of \$902,014. The Authority will pay or reimburse the Redeveloper for Environmental Costs from and to the extent of the grant proceeds received in accordance with the terms of the DEED Grant agreement, the TBRA Grant agreement, and the terms of this Section. Any reimbursement pursuant to the TBRA Grant by the Authority under this Section will be in the form of a deferred loan to the Redeveloper, as provided in the forms of TBRA loan agreement, mortgage and promissory note attached hereto as Schedule G. **Notwithstanding anything to the contrary herein, if Environmental Costs exceed the amount to be reimbursed under this Section under the Third-Party Grants, such excess shall be the sole responsibility of the Redeveloper (except to the extent reimbursable under the TIF Note).**

(b) All disbursements will be made subject to the conditions precedent that on the date of such disbursement:

(1) The Authority has received a written statement from the Redeveloper's authorized representative certifying with respect to each payment: (a) that none of the items

for which the payment is proposed to be made has formed the basis for any payment previously made under this Section (or before the date of this Agreement); (b) that each item for which the payment is proposed is an Environmental Cost; and (c) that the Redeveloper reasonably anticipates completion of the Environmental Costs and the Minimum Improvements in accordance with the terms of this Agreement.

(2) No Event of Default under this Agreement or event which would constitute such an Event of Default but for the requirement that notice be given or that a period of grace or time elapse, shall have occurred and be continuing.

(3) No license or permit necessary for undertaking the Environmental Costs or constructing the Minimum Improvements shall have been revoked or the issuance thereof subjected to challenge before any court or other governmental authority having or asserting jurisdiction thereover.

(4) The Redeveloper has submitted, and the Authority has approved, Construction Plans for the Minimum Improvements in accordance with Article IV hereof.

(c) Whenever the Redeveloper desires a disbursement to be made hereunder, which shall be no more often than biweekly, the Redeveloper shall submit to the Authority a draw request in the form attached as Schedule C duly executed on behalf of the Redeveloper accompanied by paid invoices or other comparable evidence that the cost has been incurred and paid or is payable by Redeveloper. Each draw request shall constitute a representation and warranty by the Redeveloper that all representations and warranties set forth in this Agreement are true and correct as of the date of such draw request.

(d) If the Redeveloper has performed all of its agreements and complied with all requirements theretofore to be performed or complied with hereunder, including satisfaction of all applicable conditions precedent contained in Section 3.4(b) hereof, the Authority shall make a disbursement to Commercial Partners Title, LLC (the "Disbursement Agent"), which shall be disbursed in accordance with a disbursement agreement between the Disbursement Agent, the Redeveloper, and certain other financing parties for the Minimum Improvements in the amount of the requested disbursement or such lesser amount as shall be approved, within twenty (20) Business Days after the date of the Authority's receipt of the draw request, or, if later, upon receipt of Third-Party Grant proceeds from the respective agency, as the case may be. Each disbursement shall be paid from the grant designated by the Authority at its discretion, subject to the Authority's determination that the relevant Environmental Cost is payable from the designated source under the respective grant agreement.

(e) The making of the final disbursement by the Authority under this Section shall be subject to the condition precedent that the Redeveloper shall be in compliance with all conditions set forth in this Section and further, that the Authority shall have received a lien waiver from each contractor for all work done and for all materials furnished by it for the Environmental Costs.

(f) The Authority may, in its sole discretion, without notice to or consent from any other party, waive any or all conditions for disbursement set forth in this Article. However, the making of any disbursement prior to fulfillment of any condition therefor shall not be construed as a waiver of



such condition, and the Authority shall have the right to require fulfillment of any and all such conditions prior to authorizing any subsequent disbursement.

(g) Notwithstanding anything to the contrary contained herein, the parties agree, to the extent permitted by the documents evidencing the Third-Party Grants, that: (i) the Authority shall fully disburse the TBRA Grant funds prior to disbursing the DEED Grant funds (or shall first disburse TBRA Grant funds to the greatest extent feasible prior to disbursing DEED Grant funds), and (ii) at Redeveloper's request, return all or a portion of the DEED Grant funds and/or seek to terminate the DEED Grant to the extent that Redeveloper reasonably determines that there are insufficient permitted uses for such funds or that receipt of the DEED Grant funds will materially and adversely affect the construction and/or operation of the Minimum Improvements.

### Section 3.5. TIF Lookback.

(a) *Generally.* The financial assistance to the Redeveloper under this Agreement is based on certain assumptions regarding likely costs and expenses associated with constructing the Minimum Improvements. The Authority and the Redeveloper agree that those assumptions will be reviewed at the times described in this Section, and that the amount of Tax Increment assistance provided under Section 3.3 will be adjusted accordingly.

(b) *Lookback Calculations.* Within six (6) months after completion of construction of the Minimum Improvements, as evidenced by the delivery by the Authority of a Certificate of Completion pursuant to Section 4.4 hereof, the Redeveloper shall deliver an accounting of total overall development costs, including Public Redevelopment Costs, actually incurred in the construction of the Minimum Improvements.

(1) If the amount of the Public Redevelopment Costs actually incurred by the Redeveloper is less than the amount of Public Redevelopment Costs subject to reimbursement pursuant to Section 3.3 hereof, the financial assistance for the Public Redevelopment Costs will be reduced on a dollar for dollar basis in the amount of such deficiency and the principal amount of the TIF Note will be adjusted accordingly, and the Redeveloper shall deliver or cause to be delivered the TIF Note to the Authority in exchange for a new TIF Note in the adjusted principal amount upon the Authority's written request.

(2) If the amount of the total overall development costs actually incurred by the Redeveloper is less than the amount of estimated total development costs projected in Schedule D attached hereto, the financial assistance for the Public Redevelopment Costs will be reduced by fifty percent (50%) of such deficiency and the principal amount of the TIF Note will be adjusted accordingly, and the Redeveloper shall deliver the TIF Note to the Authority in exchange for a new TIF Note in the adjusted principal amount upon the Authority's written request.

(3) The Authority shall, within ninety (90) days of its receipt of the accounting of total overall development costs provided to the Authority by the Redeveloper pursuant to this Section 3.5(b), provide to Redeveloper a written response which states one of the following: (i) that the Authority has performed the calculations

under Sections 3.5(b)(1) and 3.5(b)(2) hereof and determined that the principal amount of the TIF Note is not required to be reduced, (ii) that the Authority has performed the calculations under Sections 3.5(b)(1) and 3.5(b)(2) hereof and determined that the principal amount of TIF Note is required to be reduced, and the amount by which the TIF Note principal balance is required to be reduced, or (iii) that the Authority is unable to perform the calculations under Sections 3.5(b)(1) and 3.5(b)(2) hereof and includes a list of additional information required of Redeveloper in order for the Authority to perform such calculations. If the Authority delivers a written notice pursuant to clause (i) of this Section 3.5(b)(3), such written notice shall constitute conclusive evidence that Redeveloper has satisfied all lookback obligations under this Agreement. If the Authority delivers a written notice pursuant to clause (ii) of this Section 3.5(b)(3), and the TIF Note is exchanged for a new TIF Note in accordance with Section 3.5(b)(2), such exchange shall constitute conclusive evidence that Redeveloper has satisfied all lookback obligations under this Agreement. If the Authority's written notice indicates that the Authority requires additional information pursuant to clause (iii) in the preceding sentence, Redeveloper shall submit such information within thirty (30) days of receiving the Authority's written notice (or such longer period as may be required if such information is not reasonably obtainable by Redeveloper within such time period), and the process outlined in the first sentence of this Section 3.5(b)(3) shall commence upon the Authority's receipt of such additional information.

Section 3.6. Business Subsidy. The parties agree and understand that the financial assistance described in this Agreement does not constitute a business subsidy within the meaning of the Business Subsidy Act, because the assistance is for housing, an enumerated exception under Section 116J.993, subdivision 3(7) of the Business Subsidy Act. The Redeveloper releases and waives any claim against the Authority and its governing body members, officers, agents, servants and employees thereof arising from application of the Business Subsidy Act to this Agreement, including without limitation any claim that the Authority failed to comply with the Business Subsidy Act with respect to this Agreement.

Section 3.7. Payment of Authority Costs. The Redeveloper agrees that it will pay, within thirty (30) days after written notice from the Authority, the reasonable costs of consultants and attorneys retained by the Authority in connection with the creation of the TIF District and the negotiation in preparation of this Agreement and other incidental agreements and documents related to the development contemplated hereunder (the "Authority Costs"). The Authority will provide written reports describing the costs accrued under this Section upon request from the Redeveloper, but not more often than intervals of forty-five (45) days. Notwithstanding the foregoing, any Authority Costs incurred by the Authority after the receipt by the Authority of the first payment of Tax Increment by the County will be paid by the Authority, and the Redeveloper will have no obligation to pay any Authority Costs incurred after such date. The sum of \$17,500, which was deposited by the Redeveloper upon filing its application for tax increment financing with the Authority, will be credited to the Redeveloper's obligation under this Section. Upon termination of this Agreement in accordance with its terms, the Redeveloper remains obligated under this Section for costs incurred through the effective date of termination. Authority Costs do not include any payments for City and Authority staff costs and expenses.

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## ARTICLE IV

### **Construction of Minimum Improvements**

Section 4.1. Construction of Improvements. The Redeveloper agrees that it will construct or cause construction of the Minimum Improvements on the Redevelopment Property materially in accordance with the approved Construction Plans and that it will, during any period while the Redeveloper retains ownership of any portion of the Minimum Improvements, operate and maintain, preserve and keep the Minimum Improvements or cause the Minimum Improvements to be maintained, preserved and kept with the appurtenances and every part and parcel thereof, in good repair and condition.

#### Section 4.2. Construction Plans.

(a) Before commencing construction of the Minimum Improvements, the Redeveloper shall submit to the Authority the Construction Plans. The Construction Plans shall provide for the construction of the Minimum Improvements and shall be in conformity with this Agreement, the Development Program and all applicable State and local laws and regulations. The Authority will approve the Construction Plans in writing (which approval shall conclusively be deemed given upon issuance by the City of a building permit for the Minimum Improvements) if (i) the Construction Plans conform to all terms and conditions of this Agreement; (ii) the Construction Plans conform to the goals and objectives of the Development Program; (iii) the Construction Plans conform to all applicable federal, State and local laws, ordinances, rules and regulations; (iv) Construction Plans are adequate to provide for construction of the Minimum Improvements; (v) the Redeveloper certifies that the Redeveloper reasonably anticipates that the Construction Plans do not provide for expenditures in excess of the funds available to the Redeveloper for construction of the Minimum Improvements; and (vi) no Event of Default has occurred and remains outstanding. No approval by the Authority shall relieve the Redeveloper of the obligation to comply with the terms of this Agreement, applicable federal, State, and local laws, ordinances, rules and regulations, or to construct the Minimum Improvements in accordance therewith. No approval by the Authority shall constitute a waiver of an Event of Default. If approval of the Construction Plans is requested by the Redeveloper in writing at the time of submission, such Construction Plans shall be deemed approved unless rejected in writing by the Authority, in whole or in part. Such rejections shall set forth in detail the reasons therefor based upon the criteria set forth in (i) through (vi) above, and shall be made within twenty (20) days after the date of receipt of final plans from the Redeveloper. If the Authority fails to reject any Construction Plans submitted to the Authority within said twenty- (20) day period, the Authority shall be deemed to have approved such plans. If the Authority rejects any Construction Plans in whole or in part, the Redeveloper shall submit new or corrected Construction Plans within twenty (20) days after written notification to the Redeveloper of the rejection. The provisions of this Section relating to approval, rejection and resubmission of corrected Construction Plans shall continue to apply until the Construction Plans have been approved by the Authority. The Authority's approval shall not be unreasonably withheld. Said approval shall constitute a conclusive determination that the approved

Construction Plans and the Minimum Improvements if constructed pursuant thereto comply to the Authority's satisfaction with the provisions of this Agreement relating thereto.

The Redeveloper hereby waives any and all claims and causes of action whatsoever resulting from the review of the Construction Plans by the Authority and/or any changes in the Construction Plans requested by the Authority. Neither the Authority nor any employee or official of the Authority shall be responsible in any manner whatsoever for any defect in the Construction Plans or in any work done pursuant to the Construction Plans, including changes requested by the Authority.

(b) If the Redeveloper desires to make any material change in the Construction Plans or any component thereof after their approval by the Authority, the Redeveloper shall submit the proposed change to the Authority for its approval. For the purpose of this Section 4.2, the term "material" means changes that increase or decrease construction costs by 10% or more of the total construction costs. If the Construction Plans, as modified by the proposed material change, conform to the requirements of this Section with respect to such previously approved Construction Plans, the Authority shall approve the proposed material change and notify the Redeveloper in writing of its approval. Such material change in the Construction Plans shall, in any event, be deemed approved by the Authority unless rejected, in whole or in part, by written notice by the Authority to the Redeveloper, setting forth in detail the reasons therefor. Such rejection shall be made within ten (10) days after receipt of the notice of such material change. The Authority's approval of any such material change in the Construction Plans will not be unreasonably withheld. No Authority approval is required for any change to the Construction Plans that is not material as defined herein.

Section 4.3. Commencement and Completion of Construction. Subject to Unavoidable Delays, the Redeveloper shall commence construction of the Minimum Improvements by December 31, 2020. Subject to Unavoidable Delays, the Redeveloper shall substantially complete the construction of the Minimum Improvements by December 31, 2022. All work with respect to the Minimum Improvements to be constructed or provided by the Redeveloper on the Redevelopment Property shall be in conformity with the Construction Plans as submitted by the Redeveloper and approved by the Authority. For purposes of this Agreement, construction shall be deemed to commence upon the commencement of environmental remediation activities necessary to carry out the construction of the Minimum Improvements.

The Redeveloper agrees for itself, its successors, and assigns, and every successor in interest to the Redevelopment Property, or any part thereof, that the Redeveloper, and such successors and assigns, shall promptly begin and diligently prosecute to completion the development of the Redevelopment Property through the construction of the Minimum Improvements thereon, and that such construction shall in any event be commenced and completed within the period specified in this Section. After the date of this Agreement and until the Minimum Improvements have been fully constructed, the Redeveloper shall make reports, in such detail and at such times as may reasonably be requested by the Authority, but no more than monthly, as to the actual progress of the Redeveloper with respect to such construction.

Section 4.4. Certificate of Completion.

(a) Within fifteen (15) days after substantial completion of the Minimum Improvements in accordance with those provisions of this Agreement relating solely to the obligations of the Redeveloper to construct the Minimum Improvements (including the dates for beginning and completion thereof), the Authority Representative shall deliver to the Redeveloper a Certificate of Completion in substantially the form shown as Schedule E, in recordable form and executed by the Authority. Such certification by the Authority shall be a conclusive determination of satisfaction and termination of the agreements and covenants in the Agreement with respect to the obligations of the Redeveloper, and its successors and assigns, to construct the Minimum Improvements and the date for the completion thereof. Such certification and such determination shall not constitute evidence of compliance with or satisfaction of any obligation of the Redeveloper to any Holder of a Mortgage, or any insurer of a Mortgage, securing money loaned to finance the Minimum Improvements, or any part thereof.

(b) If the Authority Representative shall refuse or fail to provide any certification in accordance with the provisions of this Section, the Authority Representative shall, within thirty (30) days after written request by the Redeveloper, provide the Redeveloper with a written statement, indicating in adequate detail in what respects the Redeveloper has failed to complete the Minimum Improvements in accordance with the provisions of this Agreement, or is otherwise in default, and what measures or acts it will be necessary, in the opinion of the Authority, for the Redeveloper to take or perform in order for the Authority to issue the Certificate of Completion. Issuance of the Certificate of Completion shall not be unreasonably withheld.

(c) The construction of the Minimum Improvements shall be deemed to be complete upon (i) issuance of a certificate of occupancy for the Minimum Improvements, and (ii) determination by the Authority Representative that all related site improvements on the Redevelopment Property have been substantially completed in accordance with the approved Construction Plans.

Section 4.5. Affordable Housing Covenant. The Redeveloper represents, warrants, and covenants that for a period of 20 years from the date of the Certificate of Completion, 100% of the residential units of the Minimum Improvements shall be occupied or held vacant and available for occupancy by individuals whose income does not exceed an imputed income limitation of 20 percent, 30 percent, 40 percent, 50 percent, 60 percent, 70 percent or 80 percent of area median gross income (including adjustments for family size) as determined in accordance with Section 42 of the Internal Revenue Code of 1986, as amended (the "Code"), as designated by the Owner. The average of the imputed income limitations designated by the Owner with respect to the low-income units shall not exceed 60 percent of area median gross income. The Owner shall designate the number of low-income units with an imputed income limitation at or below 80 percent of area median gross income. The imputed income limitation of any unit designated shall be 20 percent, 30 percent, 40 percent, 50 percent, 60 percent, 70 percent or 80 percent of area median gross income (including adjustments for family size) as determined in accordance with Section 42 of the Code. The Owner may change from time to time the Owner's designations unless prohibited by the Code or regulations or rules promulgated thereunder. The determination of whether an individual or family is of low or moderate income will be made at the time the tenancy commences and on an

ongoing basis thereafter to the extent required by and determined in accordance with Section 42 of the Code.

Section 4.6. Public Improvements. The City intends, but is not obligated, to construct a recreational trail over a portion of the Redevelopment Property in conjunction with a watershed management project (the “Trail Improvements”). The Authority and Redeveloper agree that the Redeveloper will pay an infrastructure improvement fee in connection with such watershed management project in an amount equal to \$1,377,000 (the “Infrastructure Improvement Fee”). The Redeveloper agrees and acknowledges that the Infrastructure Improvement Fee and, if constructed, the Trail Improvements, will benefit the Minimum Improvements and the Redevelopment Property, and agrees to pay the Infrastructure Improvement Fee to the City prior to the issuance of any City permits for the construction of the Minimum Improvements. The Redeveloper and Authority agree that (i) by accepting the Infrastructure Improvement Fee, neither the Authority nor the City is obligating itself to build the Trail Improvements and (ii) Redeveloper will not be obligated to contribute additional money other than the Infrastructure Improvement Fee to the City or EDA for the construction of the Trail Improvements (provided that the Redeveloper agrees and acknowledges that the Redevelopment Property may be subject to a special assessment by the watershed district related to certain piping activities).

Section 4.7. Management. The Redeveloper shall at all times engage a property management company with substantial experience in operating multifamily housing developments, subject to approval by the Authority, which approval will not be unreasonably withheld. The Redeveloper will submit evidence of such management upon request by the Authority. The Authority approves Dominion Management Services, LLC as the initial property manager of the Minimum Improvements. If the Redeveloper intends to retain a different property management company the Redeveloper must do so in compliance with this Section.

The Redeveloper shall further enter into a Memorandum of Understanding (the “Memorandum”) with the City in connection with public safety services to be provided by the City to the Minimum Improvements, which Memorandum is incorporated into this Agreement by reference.

Section 4.8. Records. The Authority, through any authorized representatives, shall have the right at all reasonable times after reasonable notice to inspect, examine and copy all books and records of the Redeveloper relating to the Minimum Improvements. Such records shall be kept and maintained by the Redeveloper through the Termination Date.

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## ARTICLE V

### Insurance

#### Section 5.1. Insurance.

(a) The Redeveloper will provide and maintain at all times during the process of constructing the Minimum Improvements an All Risk Broad Form Basis Insurance Policy and, from time to time during that period, at the request of the Authority, furnish the Authority with proof of payment of premiums on policies covering the following:

(i) Builder's risk insurance, written on the so-called "Builder's Risk -- Completed Value Basis," in an amount equal to 100% of the principal amount of the TIF Note, and with coverage available in nonreporting form on the so-called "all risk" form of policy. The interest of the Authority shall be protected in accordance with a clause in form and content satisfactory to the Authority;

(ii) Comprehensive general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations, and contractual liability insurance) together with an Owner's Protective Liability Policy with limits against bodily injury and property damage of not less than \$1,000,000 for each occurrence (to accomplish the above-required limits, an umbrella excess liability policy may be used). The Authority shall be listed as an additional insured on the policy; and

(iii) Workers' compensation insurance, with statutory coverage, provided that the Redeveloper may be self-insured with respect to all or any part of its liability for workers' compensation.

(b) Upon completion of construction of the Minimum Improvements and prior to the Termination Date, the Redeveloper shall maintain, or cause to be maintained, at its cost and expense, and from time to time at the request of the Authority shall furnish proof of the payment of premiums on, insurance as follows:

(i) Insurance against loss and/or damage to the Minimum Improvements under a policy or policies covering such risks as are ordinarily insured against by similar businesses.

(ii) Comprehensive general public liability insurance, including personal injury liability (with employee exclusion deleted), against liability for injuries to persons and/or property, in the minimum amount for each occurrence and for each year of \$1,000,000, and shall be endorsed to show the City and Authority as additional insureds.

(iii) Such other insurance, including workers' compensation insurance respecting all employees of the Redeveloper, in such amount as is customarily carried by



like organizations engaged in like activities of comparable size and liability exposure; provided that the Redeveloper may be self-insured with respect to all or any part of its liability for workers' compensation.

(c) All insurance required in Article V of this Agreement shall be taken out and maintained in responsible insurance companies selected by the Redeveloper that are authorized under the laws of the State to assume the risks covered thereby. Upon request, the Redeveloper will deposit annually with the Authority a certificate or certificates or binders of the respective insurers stating that the insurance required herein is in force and effect. Unless otherwise provided in this Article each policy shall contain a provision that the insurer shall not cancel the policy without giving written notice to the Redeveloper and the Authority at least thirty (30) days before the cancellation becomes effective. In lieu of separate policies, the Redeveloper may maintain a single policy, blanket or umbrella policies, or a combination thereof, having the coverage required herein, in which event the Redeveloper shall deposit with the Authority a certificate or certificates of the respective insurers as to the amount of coverage in force upon the Minimum Improvements.

(d) The Redeveloper agrees to notify the Authority immediately in the case of damage exceeding \$250,000 in amount to, or destruction of, the Minimum Improvements or any portion thereof resulting from fire or other casualty. Subject to the terms of Redeveloper's financing documents, including without limitation any Mortgage, in such event the Redeveloper will forthwith repair, reconstruct, and restore the Minimum Improvements to substantially the same or an improved condition or value as it existed prior to the event causing such damage and, to the extent necessary to accomplish such repair, reconstruction, and restoration, the Redeveloper will apply the net proceeds of any insurance relating to such damage received by the Redeveloper to the payment or reimbursement of the costs thereof. Any net proceeds remaining after completion of such repairs, construction, and restoration shall be the property of the Redeveloper.

(e) In lieu of its obligation to reconstruct the Minimum Improvements as set forth in this Section, the Redeveloper shall have the option of waiving its right to receive subsequent payments under the TIF Note.

(f) The Redeveloper and the Authority agree that all of the insurance provisions set forth in this Article shall terminate upon the termination of this Agreement.

Section 5.2. Subordination. Notwithstanding anything to the contrary herein, the rights of the Authority with respect to the receipt and application of any insurance proceeds shall, in all respects, be subordinate and subject to the rights of any Holder under a Mortgage allowed pursuant to Article VII of this Agreement.

## ARTICLE VI

### **Tax Increment; Taxes**

Section 6.1. Right to Collect Delinquent Taxes. The Redeveloper acknowledges that the Authority is providing substantial aid and assistance in furtherance of the development through reimbursement of Public Redevelopment Costs. The Redeveloper understands that the Tax Increments pledged to payment on the TIF Note are derived from real estate taxes on the Redevelopment Property, which taxes must be promptly and timely paid. To that end, the Redeveloper agrees for itself, its successors and assigns, that in addition to the obligation pursuant to statute to pay real estate taxes, it is also obligated by reason of this Agreement to pay before delinquency all real estate taxes assessed against the Redevelopment Property and the Minimum Improvements. The Redeveloper acknowledges that this obligation creates a contractual right on behalf of the Authority to sue the Redeveloper or its successors and assigns to collect delinquent real estate taxes and any penalty or interest thereon and to pay over the same as a tax payment to the county auditor. In any such suit, the Authority shall also be entitled to recover its costs, expenses, and reasonable attorney fees.

Section 6.2. Review of Taxes. The Redeveloper agrees that prior to the Termination Date, it will not cause a reduction in the real property taxes paid in respect of the Redevelopment Property through: (A) willful destruction of the Redevelopment Property or any part thereof; or (B) willful refusal to reconstruct damaged or destroyed property pursuant to Section 5.1 of this Agreement, except as provided in Sections 5.1(d) and (e). The Redeveloper also agrees that it will not, prior to the Termination Date, seek exemption from property tax for the Redevelopment Property or any portion thereof or transfer or permit the transfer of the Redevelopment Property to any entity that is exempt from real property taxes and state law (other than any portion thereof dedicated or conveyed to the City in accordance with platting of the Redevelopment Property), or apply for a deferral of property tax on the Redevelopment Property pursuant to any law.

Section 6.3. Assessment Agreement. (a) Upon execution of this Agreement, the Redeveloper shall, with the Authority, execute an Assessment Agreement pursuant to Minnesota Statutes, Section 469.177, subdivision 8, specifying an assessor's minimum market value (the "Market Value") for the Redevelopment Property and the Minimum Improvements constructed thereon. The amount of the minimum Market Value shall be \$41,040,000 as of January 2, 2022, and each January 2 thereafter, notwithstanding the status of construction by such dates.

(b) The Assessment Agreement shall be substantially in the form attached hereto as Schedule F. Nothing in the Assessment Agreement shall limit the discretion of the County assessor to assign a market value to the Redevelopment Property and Minimum Improvements in excess of such assessor's minimum Market Value. The Assessment Agreement shall remain in force for the period specified in the Assessment Agreement.

(c) Nothing in this Agreement or in the Assessment Agreement shall limit the right of the Redeveloper, or its successors and assigns, to bring a tax petition challenging a Market Value determination that exceeds the established minimum Market Value for the Redevelopment Property

or the Minimum Improvements; provided that if the Redeveloper brings such a challenge, the Redeveloper must inform the Authority of such tax petition in writing. During the pendency of such challenge, the Authority will pay principal of and interest on the TIF Note only to the extent of the Available Tax Increment attributable to the greater of the minimum Market Value of the Redevelopment Property and the Minimum Improvements established in the Assessment Agreement or the amount in excess of such minimum Market Value uncontested by the Redeveloper; provided that if the Redeveloper fails to notify the Authority of the tax petition, the Authority shall have the right to withhold all payments of principal of and interest on the TIF Note until the Redeveloper's challenge is resolved. Upon resolution of Redeveloper's tax petition, any Available Tax Increment deferred and withheld under this Section shall be paid, without interest thereon, to the extent payable under the assessor's final determination of Market Value.

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## ARTICLE VII

### **Other Financing**

Section 7.1. Generally. Before delivery of the TIF Note , the Redeveloper shall submit to the Authority or provide access thereto for review by Authority staff, consultants and agents, evidence reasonably satisfactory to the Authority that Redeveloper has available funds, or commitments to obtain funds, whether in the nature of mortgage financing, equity, grants, loans, or other sources sufficient for paying the cost of developing the Minimum Improvements, provided that any lender or grantor commitments shall be subject only to such conditions as are normal and customary in the commercial lending industry. Delivery of the TIF Note constitutes the Authority's determination that the Redeveloper has available funds or other sources sufficient to pay the cost of developing the Minimum Improvements.

Section 7.2. Authority's Option to Cure Default on Mortgage. In the event that any portion of the Redeveloper's funds is provided through mortgage financing, and there occurs a default under any Mortgage reviewed by the Authority pursuant to Article VII of this Agreement, the Redeveloper shall cause the Authority to receive copies of any notice of default received by the Redeveloper from the holder of such Mortgage. Thereafter, the Authority shall have the right, but not the obligation, to cure any such default on behalf of the Redeveloper within such cure periods as are available to the Redeveloper under the Mortgage documents, to the extent the Mortgage documents permit the Authority to cure such default.

Section 7.3. Modification; Subordination. The Authority agrees to subordinate its rights under this Agreement to the Holder of any Mortgage securing construction or permanent financing, in accordance with the terms of a subordination agreement in a form reasonably acceptable to the Authority and approved by the Authority by formal action.

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## ARTICLE VIII

### **Prohibitions Against Assignment and Transfer; Indemnification**

Section 8.1. Representation as to Redevelopment. The Redeveloper represents and agrees that its purchase of the Redevelopment Property, and its other undertakings pursuant to this Agreement, are, and will be used, for the purpose of development of the Redevelopment Property and not for speculation in land holding.

Section 8.2. Prohibition Against Redeveloper's Transfer of Property and Assignment of Agreement. The Redeveloper represents and agrees that until the Termination Date:

(a) Except only by way of security for, and only for, the purpose of obtaining financing necessary to enable the Redeveloper or any successor in interest to the Redevelopment Property, or any part thereof, to perform its obligations with respect to undertaking the development contemplated under this Agreement, and any other purpose authorized by this Agreement, the Redeveloper has not made or created and will not make or create or suffer to be made or created any total or partial sale, assignment, conveyance, or lease, or any trust or power, or transfer in any other mode or form of or with respect to this Agreement or the Redevelopment Property or any part thereof or any interest therein, or any contract or agreement to do any of the same, to any person or entity whether or not related in any way to the Redeveloper (collectively, a "Transfer"), without the prior written approval of the Authority (whose approval will not be unreasonably withheld, subject to the standards described in paragraph (b) of this Section) unless the Redeveloper remains liable and bound by this Agreement in which event the Authority's approval is not required. Any such Transfer shall be subject to the provisions of this Agreement. For the purposes of this Agreement, the term Transfer does not include (i) acquisition of a controlling interest in the Redeveloper by another person or entity or merger of the Redeveloper with another entity; (ii) any sale, conveyance, or transfer in any form to any Affiliate; (iii) any lease, license, easement or similar arrangement entered into in the ordinary course of business related to operation of the Minimum Improvements; (iv) the admission of limited partners and any subsequent transfer of limited partnership interests in accordance with Redeveloper's agreement of limited liability limited partnership (the "Partnership Agreement"); or (v) the removal and replacement of the Redeveloper's general partner by the investor limited partner for cause in accordance with the terms of the Partnership Agreement.

(b) In the event the Redeveloper, upon Transfer of the Redevelopment Property or any portion thereof, seeks to be released from its obligations under this Agreement as to the portions of the Redevelopment Property that are transferred, the Authority shall be entitled to require, except as otherwise provided in this Agreement, as conditions to any such release that:

(i) Any proposed transferee shall have the qualifications and financial responsibility, in the reasonable judgment of the Authority, necessary and adequate to fulfill the obligations undertaken in this Agreement by the Redeveloper as to the portion of the Redevelopment Property to be transferred.

(ii) Any proposed transferee, by instrument in writing satisfactory to the Authority and in form recordable in the public land records of the County, shall, for itself and its successors and assigns, and expressly for the benefit of the Authority, have expressly assumed all of the obligations of the Redeveloper under this Agreement as to the portion of the Redevelopment Property to be transferred and agreed to be subject to all the conditions and restrictions to which the Redeveloper is subject as to such portion; provided, however, that the fact that any transferee of, or any other successor in interest whatsoever to, the Redevelopment Property, or any part thereof, shall not, for whatever reason, have assumed such obligations or so agreed, and shall not (unless and only to the extent otherwise specifically provided in this Agreement or agreed to in writing by the Authority) deprive the Authority of any rights or remedies or controls with respect to the Redevelopment Property, the Minimum Improvements or any part thereof or the construction of the Minimum Improvements; it being the intent of the parties as expressed in this Agreement that (to the fullest extent permitted at law and in equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement) no transfer of, or change with respect to, ownership in the Redevelopment Property or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, shall operate, legally, or practically, to deprive or limit the Authority of or with respect to any rights or remedies or controls provided in or resulting from this Agreement with respect to the Redevelopment Property that the Authority would have had, had there been no such transfer or change. In the absence of specific written agreement by the Authority to the contrary, no such transfer or approval by the Authority thereof shall be deemed to relieve the Redeveloper, or any other party bound in any way by this Agreement or otherwise with respect to the Redevelopment Property, from any of its obligations with respect thereto.

(iii) Any and all instruments and other legal documents involved in effecting the transfer of any interest in this Agreement or the Redevelopment Property governed by this Article, shall be in a form reasonably satisfactory to the Authority, other than amendments to the Partnership Agreement for the sole purpose of effecting the transfers referenced in Section 8.2(a)(iv) and 8.2(a)(v) hereof.

In the event the foregoing conditions are satisfied the Redeveloper shall be released from its obligation under this Agreement, as to the portion of the Redevelopment Property that is transferred, assigned, or otherwise conveyed.

### Section 8.3. Release and Indemnification Covenants.

(a) Except for any gross negligence or willful misconduct of the Indemnified Parties as hereinafter defined, and except for any breach by any of the Indemnified Parties of their obligations under this Agreement, the Redeveloper releases from and covenants and agrees that the Authority, and the governing body members, officers, agents, servants, and employees thereof (the "Indemnified Parties") shall not be liable for and agrees to indemnify and hold harmless the Indemnified Parties against any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the Redevelopment Property or the Minimum Improvements.

(b) Except for any gross negligence or willful or negligent misrepresentation of the Indemnified Parties, and except for any breach by any of the Indemnified Parties of their obligations under this Agreement, the Redeveloper agrees to protect and defend the Indemnified Parties, now and forever, and further agrees to hold the aforesaid harmless from any claim, demand, suit, action, or other proceeding whatsoever by any person or entity whatsoever arising or purportedly arising from this Agreement, or the transactions contemplated hereby or the acquisition, construction, installation, ownership, maintenance, and operation of the Redevelopment Property or the Minimum Improvements.

(c) Except for any gross negligence or willful or negligent misrepresentation of the Indemnified Parties, and except for any breach by any of the Indemnified Parties of their obligations under this Agreement, the Indemnified Parties shall not be liable for any damage or injury to the persons or property of the Redeveloper or its officers, agents, servants, or employees or any other person who may be about the Redevelopment Property or the Minimum Improvements.

(d) All covenants, stipulations, promises, agreements and obligations of the Authority contained herein shall be deemed to be the covenants, stipulations, promises, agreements, and obligations of such entity and not of any governing body member, officer, agent, servant, or employee of such entities in the individual capacity thereof.

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## ARTICLE IX

### Events of Default

Section 9.1. Events of Default Defined. The following shall be “Events of Default” under this Agreement and the term “Event of Default” shall mean, whenever it is used in this Agreement, any one or more of the following events, after the non-defaulting party provides thirty (30) days written notice to the defaulting party of the event, but only if the event has not been cured within said thirty (30) days or, if the event is by its nature incurable within thirty (30) days, the defaulting party does not, within such thirty- (30) day period, provide assurances reasonably satisfactory to the party providing notice of default that the event will be cured and will be cured as soon as reasonably possible:

(a) Failure by the Redeveloper or the Authority to observe or perform any material covenant, condition, obligation, or agreement on its part to be observed or performed under this Agreement, unless such failure to perform is the result of an Unavoidable Delay; or any certification, representation, or warranty by the Redeveloper to the City or the Authority that is substantiated by evidence to be untrue or misrepresented.

(b) If, before issuance of the Certificate of Completion for all the Minimum Improvements, the Redeveloper shall

(i) file any petition in bankruptcy or for any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the United States Bankruptcy Act or under any similar federal or State law, which action is not dismissed within sixty (60) days after filing; or

(ii) make an assignment for benefit of its creditors; or

(iii) admit in writing its inability to pay its debts generally as they become due;

or

(iv) be adjudicated as bankrupt or insolvent.

Section 9.2. Remedies on Default. Whenever any Event of Default referred to in Section 9.1 of this Agreement occurs, the non-defaulting party may:

(a) Suspend its performance under this Agreement until it receives assurances that the defaulting party will cure its default and continue its performance under this Agreement.

(b) Upon a default by the Redeveloper under this Agreement, the Authority may withhold payments under the TIF Note or, subject to the provisions of Section 9.3 hereof, terminate the TIF Note and this Agreement.



(c) Take whatever action, including legal, equitable, or administrative action, which may appear necessary or desirable to collect any payments due under this Agreement, or to enforce performance and observance of any obligation, agreement, or covenant under this Agreement, provided that nothing contained herein shall give the Authority the right to seek specific performance by the Redeveloper of the construction of the Minimum Improvements.

Section 9.3. Termination of TIF Note. After the Authority has issued the Certificate of Completion for the Minimum Improvements, the Authority may exercise its rights under Section 9.2(b) hereof or any other right under this Agreement that operates to cancel or terminate payments under the TIF Note only for the following Events of Default:

(a) the Redeveloper fails to pay real estate taxes or assessments on the Redevelopment Property or any part thereof when due, and the taxes or assessments have not been paid, or provision satisfactory to the Authority made for their payment, within thirty (30) days after written demand by the Authority to do so;

(b) the Redeveloper fails to comply with the Redeveloper's obligation to operate and maintain, preserve and keep the Minimum Improvements or cause the improvements to be maintained, preserved and kept with the appurtenances and every part and parcel thereof, in good repair and condition, pursuant to Sections 4.1 and 5.1(d) hereof; provided that, upon the Redeveloper's failure to comply with Redeveloper's obligations under Section 4.1 or 5.1(d) hereof, if uncured after thirty (30) days' written notice to the Redeveloper of the failure, the Authority may only suspend payments under the TIF Note until the Redeveloper complies with said obligations, but if the Redeveloper fails to comply with said obligations for a period of 365 days, the Authority may terminate the TIF Note; or

(c) the Redeveloper fails to comply with the rent and income restrictions as provided in Section 4.5 hereof.

Section 9.4. No Remedy Exclusive. No remedy herein conferred upon or reserved to any party is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. To entitle the Authority to exercise any remedy reserved to it, it shall not be necessary to give notice, other than such notice as may be required in this Article.

Section 9.5. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

Section 9.6. Attorneys' Fees. Whenever any Event of Default occurs and the Authority employs attorneys or incurs other expenses for the collection of payments due or to become due

or for the enforcement of performance or observance of any obligation or agreement on the part of the Redeveloper under this Agreement, the Redeveloper agrees it shall, on demand therefor, pay to the Authority the reasonable fees of such attorneys and such other expenses so incurred by the Authority.

Section 9.7. Rights of Limited Partners. Whenever Authority delivers any notice of default hereunder, Authority shall concurrently deliver a copy of such notice to the limited partner of Redeveloper in accordance with Section 10.6 hereof. The limited partner shall have the same right as Redeveloper to cure or remedy any default hereunder within the cure period provided to Redeveloper.

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## ARTICLE X

### Additional Provisions

Section 10.1. Conflict of Interests; Representatives Not Individually Liable. The Authority and the Redeveloper, to the best of their respective knowledge, represent and agree that no member, official, or employee of the Authority shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to this Agreement that affects his or her personal interests or the interests of any corporation, partnership, or association in which he or she, directly or indirectly, is interested. No member, official, or employee of the City or the Authority shall be personally liable to the Redeveloper, or any successor in interest, in the event of any default or breach by the Authority or for any amount that may become due to the Redeveloper or successor or on any obligations under the terms of this Agreement.

Section 10.2. Equal Employment Opportunity. The Redeveloper, for itself and its successors and assigns, agrees that during the construction of the Minimum Improvements provided for in this Agreement it will comply with all applicable federal, state, and local equal employment and non-discrimination laws and regulations.

Section 10.3. Restrictions on Use. The Redeveloper agrees that until the Termination Date, the Redeveloper, and such successors and assigns, shall devote the Redevelopment Property to the operation of the Minimum Improvements as defined in Section 1.1 hereof, and shall not discriminate upon the basis of race, color, creed, sex or national origin in the sale, lease, or rental or in the use or occupancy of the Redevelopment Property or any improvements erected or to be erected thereon, or any part thereof.

Section 10.4. Provisions Not Merged With Deed. None of the provisions of this Agreement are intended to or shall be merged by reason of any deed transferring any interest in the Redevelopment Property and any such deed shall not be deemed to affect or impair the provisions and covenants of this Agreement.

Section 10.5. Titles of Articles and Sections. Any titles of the several parts, Articles, and Sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 10.6. Notices and Demands. Except as otherwise expressly provided in this Agreement, a notice, demand, or other communication under this Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, to the following addresses (or to such other addresses as either party may notify the other):

To Redeveloper: Roseville Leased Housing Associates I, LLLP  
Attn: Ryan Lunderby and Mark Moorhouse  
2905 Northwest Boulevard, Suite 150  
Plymouth, Minnesota, 55441

With a copy to: Winthrop & Weinstine, P.A.  
Attn: John Stern and Scott Jahnke  
225 South Sixth Street, Suite 3500  
Minneapolis, Minnesota 55402

With a copy to: RBC Community Investments, LLC  
600 Superior Avenue, Suite 2300  
Cleveland, Ohio 44114  
Attention: President and General Counsel

With a copy to: Nixon Peabody LLP  
Exchange Place  
53 State Street  
Boston, MA 02109  
Attention: Roger W. Holmes

To Authority: Roseville Economic Development Authority  
Attn: Executive Director  
2660 Civic Center Drive  
Roseville, Minnesota 55113

Section 10.7. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 10.8. Recording. The Authority may record this Agreement and any amendments thereto with the Ramsey County recorder. The Redeveloper shall pay all costs for recording. The Redeveloper's obligations under this Agreement are covenants running with the land for the term of this Agreement, enforceable by the Authority against the Redeveloper, its successor and assigns, and every successor in interest to the Redevelopment Property, or any part thereof or any interest therein.

Section 10.9. Amendment. This Agreement may be amended only by written agreement approved by the Authority and the Redeveloper.

Section 10.10. Authority Approvals. Unless otherwise specified, any approval required by the Authority under this Agreement may be given by the Authority Representative, except that final approval of issuance of the TIF Note shall be made by the Authority's board of commissioners pursuant to the Authorizing Resolution.

[The remainder of this page is intentionally left blank.]



ROSEVILLE LEASED HOUSING ASSOCIATES I, LLLP, a Minnesota limited liability limited partnership

By: Roseville Leased Housing Associates I, LLC, a Minnesota limited liability company, its General Partner

By: \_\_\_\_\_  
Ryan Lunderby, its Vice President

STATE OF MINNESOTA    )  
  ) SS.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by Ryan Lunderby, the Vice President of Roseville Leased Housing I, LLC, a Minnesota limited liability company, as General Partner of Roseville Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership, on behalf of the company.

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

**SCHEDULE A**  
**REDEVELOPMENT PROPERTY**

Lot 1, Block 1, Twin Lakes 3<sup>rd</sup> Addition, Ramsey County, Minnesota.



**SCHEDULE B**

**FORM OF AUTHORIZING RESOLUTION**

**ROSEVILLE ECONOMIC DEVELOPMENT AUTHORITY**

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION APPROVING CONTRACT FOR PRIVATE REDEVELOPMENT WITH AND AWARDING THE SALE OF, AND PROVIDING THE FORM, TERMS, COVENANTS AND DIRECTIONS FOR THE ISSUANCE OF ITS TAX INCREMENT REVENUE NOTE TO ROSEVILLE LEASED HOUSING ASSOCIATES I, LLLP**

BE IT RESOLVED BY the Board of Commissioners (“Board”) of the Roseville Economic Development Authority (the “Authority”) as follows:

Section 1. Background; Authorization; Award of Sale.

1.01. Background; Authorization. (a) The Authority and the City of Roseville, Minnesota (the “City”) have heretofore approved the establishment of Tax Increment Financing District No. 22 (the “TIF District”) within Development District No. 1 (“Project”), and have adopted a tax increment financing plan for the purpose of financing certain improvements within the Project.

(b) Pursuant to Minnesota Statutes, Section 469.178, the Authority is authorized to issue and sell its bonds for the purpose of financing a portion of the public redevelopment costs of the TIF District. The Authority hereby finds and determines that it is in the best interests of the Authority that it issue and sell its Tax Increment Revenue Note (Roseville Leased Housing Project) (the “Note”) for the purpose of financing certain public redevelopment costs of the Project, pursuant to the terms of this resolution.

1.02. Agreement Approved; Issuance, Sale, and Terms of the Note. (a) The Authority hereby approves the Contract for Private Redevelopment, dated June \_\_, 2020 (the “Agreement”), between the Authority and Roseville Leased Housing Associates I, LLLP (the “Owner”), and authorizes the President and Executive Director of the Board to execute such Agreement in substantially the form on file with City, subject to modifications that do not alter the substance of the transaction and are approved by such officials, provided that execution of the Agreement by such officials is conclusive evidence of their approval. All capitalized terms in this resolution have the meaning provided in the Agreement or the Note unless the context requires otherwise.

(b) The Authority hereby authorizes the President and Executive Director of the Board to issue the Note in accordance with the Agreement.

(c) The Note shall be issued in the maximum principal amount of \$3,629,000 to the Owner (subject to adjustment as provided in the Agreement), in consideration of certain eligible costs incurred by the Owner under the Agreement, shall be dated the date of delivery thereof, and shall bear interest at the rate that is the lesser of 5.0% or the Owner's actual financing rate. The Note will be issued in the principal amount of the Public Redevelopment Costs submitted and approved in accordance with Section 3.3 of the Agreement. The Note is secured by Available Tax Increment, as further described in the form of the Note set forth in Exhibit A attached hereto. The Authority hereby delegates to the Executive Director the determination of the date on which the Note is to be delivered, in accordance with the Agreement.

Section 2. Form of Note. The Notes shall be in substantially the form set forth in Exhibit A attached hereto, with the interest rate adjusted as of the date of delivery.

Section 3. Terms, Execution and Delivery.

3.01. Denomination, Payment. The Note shall be issued as a single typewritten note numbered R-1.

The Note shall be issuable only in fully registered form. Principal of and interest on the Note shall be payable by check or draft issued by the Registrar described herein.

3.02. Payment Dates. Principal of and interest on the Note shall be payable by mail to the owner of record thereof as of the close of business on the fifteenth day of the month preceding the Payment Date (as defined in the Note), whether or not such day is a business day.

3.03. Registration. The Authority hereby appoints the City Finance Director to perform the functions of registrar, transfer agent and paying agent (the "Registrar"). The effect of registration and the rights and duties of the Authority and the Registrar with respect thereto shall be as follows:

(a) Register. The Registrar shall keep at its office a bond register in which the Registrar shall provide for the registration of ownership of the Note and the registration of transfers and exchanges of the Note.

(b) Transfer of Note. Upon surrender for transfer of the Note duly endorsed by the registered owner thereof or accompanied by a written instrument of transfer, in form reasonably satisfactory to the Registrar, duly executed by the registered owner thereof or by an attorney duly authorized by the registered owner in writing, the Registrar shall authenticate and deliver, in the name of the designated transferee or transferees, a new Note of a like aggregate principal amount, interest rate, and maturity, as requested by the transferor. The Registrar may close the books for registration of any transfer after the fifteenth day of the month preceding each Payment Date and until such Payment Date.

(c) Cancellation. The Note surrendered upon any transfer shall be promptly cancelled by the Registrar and thereafter disposed of as directed by the Authority.

(d) Improper or Unauthorized Transfer. When the Note is presented to the Registrar for transfer, the Registrar may refuse to transfer the same until it is satisfied that the endorsement on such Note or separate instrument of transfer is legally authorized. The Registrar shall incur no liability for its refusal, in good faith, to make transfers which it, in its judgment, deems improper or unauthorized.

(e) Persons Deemed Owners. The Authority and the Registrar may treat the person in whose name the Note is at any time registered in the bond register as the absolute owner of the Note, whether the Note shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on such Note and for all other purposes, and all such payments so made to any such registered owner or upon the owner's order shall be valid and effectual to satisfy and discharge the liability of the Authority upon such Note to the extent of the sum or sums so paid.

(f) Taxes, Fees and Charges. For every transfer or exchange of the Note, the Registrar may impose a charge upon the owner thereof sufficient to reimburse the Registrar for any tax, fee, or other governmental charge required to be paid with respect to such transfer or exchange.

(g) Mutilated, Lost, Stolen or Destroyed Note. In case any Note shall become mutilated or be lost, stolen, or destroyed, the Registrar shall deliver a new Note of like amount, interest rate, maturity dates and tenor in exchange and substitution for and upon cancellation of such mutilated Note or in lieu of and in substitution for such Note lost, stolen, or destroyed, upon the payment of the reasonable expenses and charges of the Registrar in connection therewith; and, in the case the Note lost, stolen, or destroyed, upon filing with the Registrar of evidence satisfactory to it that such Note was lost, stolen, or destroyed, and of the ownership thereof, and upon furnishing to the Registrar of an appropriate bond or indemnity in form, substance, and amount satisfactory to it, in which both the Authority and the Registrar shall be named as obligees. The Note so surrendered to the Registrar shall be cancelled by it and evidence of such cancellation shall be given to the Authority. If the mutilated, lost, stolen, or destroyed Note has already matured or been called for redemption in accordance with its terms, it shall not be necessary to issue a new Note prior to payment.

3.04. Preparation and Delivery. The Note shall be prepared under the direction of the Executive Director and shall be executed on behalf of the Authority by the signatures of its President and Executive Director. In case any officer whose signature shall appear on the Note shall cease to be such officer before the delivery of the Note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery. When the Note has been so executed, it shall be delivered by the Executive Director to the Owner thereof in accordance with the Agreement.

Section 4. Security Provisions.

4.01. Pledge. The Authority hereby pledges to the payment of the principal and interest on the Note all Available Tax Increment, as defined in, and subject to the terms described in, the Note. Available Tax Increment shall be applied to payment of the principal and interest on the Note in accordance with the terms of the form of Note set forth in Exhibit A attached hereto.

4.02. Bond Fund. Until the date the Note is no longer outstanding and no principal or interest thereof (to the extent required to be paid pursuant to this resolution) remains unpaid, the Authority shall maintain a separate and special "Bond Fund" to be used for no purpose other than the payment of the principal of and interest on the Note. The Authority irrevocably agrees to appropriate to the Bond Fund in each year Available Tax Increment. Any Available Tax Increment remaining in the Bond Fund shall be transferred to the Authority's account for the TIF District upon the termination of the Note in accordance with its terms.

4.03. Additional Obligations. The Authority will issue no obligations secured by Available Tax Increment unless such pledge is on a subordinate basis to the pledge to the Note.

Section 5. Certification of Proceedings.

5.01. Certification of Proceedings. The officers of the Authority are hereby authorized and directed to prepare and furnish to the Owner of the Note certified copies of all proceedings and records of the Authority, and such other affidavits, certificates, and information as may be required to show the facts relating to the legality and marketability of the Note as the same appear from the books and records under their custody and control or as otherwise known to them, and all such certified copies, certificates, and affidavits, including any heretofore furnished, shall be deemed representations of the Authority as to the facts recited therein.

Section 6. Effective Date. This resolution shall be effective upon full execution of the Agreement.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

**Exhibit A to Authorizing Resolution****FORM OF NOTE**

UNITED STATES OF AMERICA  
STATE OF MINNESOTA  
COUNTY OF RAMSEY  
ROSEVILLE ECONOMIC DEVELOPMENT AUTHORITY

No. R-1

\$3,629,000

TAX INCREMENT REVENUE NOTE  
(ROSEVILLE LEASED HOUSING PROJECT)

Rate  
\_\_\_\_%

Date  
of Original Issue

The Roseville Economic Development Authority (“Authority”) for value received, certifies that it is indebted and hereby promises to pay to Roseville Leased Housing Associates I, LLLP or its registered assigns (the "Owner"), the principal sum of Three Million Six Hundred Twenty-Nine Thousand and no/100 Dollars (\$3,629,000.00) and to pay interest thereon at the rate of \_\_\_\_% per annum, but solely from the sources and to the extent set forth herein. Unless the context clearly requires otherwise, capitalized terms in this Note have the meaning provided in the Contract for Private Redevelopment between the Authority and Owner dated as of June \_\_, 2020 (the “Agreement”).

1. Payments. Principal and interest (“Payments”) shall be paid on August 1, 2023 and each February 1 and August 1 thereafter to and including February 1, 2042 (“Payment Dates”) in the amounts set forth herein, payable solely from and to the extent of the sources set forth in Section 3 hereof. Payments shall be applied first to accrued interest, and then to unpaid principal.

Payments are payable by mail to the address of the Owner or such other address as the Owner may designate upon thirty (30) days written notice to the Authority. Payments on this Note are payable in any coin or currency of the United States of America which, on the Payment Date, is legal tender for the payment of public and private debts.

2. Interest. Simple interest at the rate stated herein shall accrue on the unpaid principal, commencing on the deemed date of original issue as described in Section 3.3 of the Agreement. Interest shall be computed on the basis of a year of 360 days consisting of twelve months of thirty days, and charged for actual days principal is unpaid.

3. Available Tax Increment. (a) Payments on this Note are payable on each Payment Date solely from and in the amount of “Available Tax Increment,” which shall mean ninety percent (90%) of the total Tax Increment attributable to the Minimum Improvements and Redevelopment Property that has been paid to the Authority by Ramsey County in the six (6) months prior to the subject Payment Date.

(b) The Authority shall have no obligation to pay principal and interest on this Note on each Payment Date from any source other than Available Tax Increment, and the failure of the Authority to pay the entire amount of principal or interest on this Note on any Payment Date shall not constitute a default hereunder as long as the Authority pays principal and interest hereon to the extent of Available Tax Increment. The Authority shall have no obligation to pay any unpaid balance of principal or accrued interest that may remain after the final Payment.

4. Default. If on any Payment Date there has occurred and is continuing any Event of Default by the Owner under the Agreement, the Authority may withhold payments of all Available Tax Increment hereunder as provided in Section 9.2 of the Agreement. If the Event of Default is thereafter cured in accordance with the Agreement, the Available Tax Increment withheld under this Section shall be deferred and paid, without interest thereon, within thirty (30) days after the Event of Default is cured. Subject to Section 9.3 of the Agreement, if the Event of Default is not cured within three hundred sixty-five (365) days following the Authority’s written notice to the Owner of such default, the Authority may terminate this Note by written notice to the Owner in accordance with the Agreement.

5. Prepayment.

(a) The principal sum and all accrued interest payable under this Note is prepayable in whole or in part at any time by the Authority without premium or penalty. No partial prepayment shall affect the amount or timing of any other regular payment otherwise required to be made under this Note.

(b) Upon completion of the lookback calculations as described in Section 3.5(b)(1) or (2) of the Agreement, any amounts resulting from such calculations will be deemed to constitute, and will be applied to, prepayment of the principal amount of this Note. Such deemed prepayment is effective as of the date of delivery of such statement to the Owner, and will be recorded by the Registrar in its records for the Note. Upon request of the Owner, the Authority will deliver to the Owner a statement of the outstanding principal balance of the Note after application of the deemed prepayment under this paragraph.

6. Nature of Obligation. This Note is one of an issue in the total principal amount of \$3,629,000 (subject to adjustment as described in Section 3.5 of the Agreement) issued to aid in financing certain public redevelopment costs of a Project undertaken by the Authority pursuant to Minnesota Statutes, Sections 469.001 through 469.047, and is issued pursuant to an authorizing resolution (the “Resolution”) duly adopted by the Authority on \_\_\_\_\_, 2020, and pursuant to and in full conformity with the Constitution and laws of the State of Minnesota, including Minnesota Statutes, Sections 469.174 to 469.1794. This Note is a limited obligation of the Authority which is payable solely from Available Tax Increment pledged to the payment hereof

under the Resolution. This Note shall not be deemed to constitute a general obligation of the State of Minnesota or any political subdivision thereof, including, without limitation, the Authority or the City. Neither the State of Minnesota, nor any political subdivision thereof shall be obligated to pay the principal of or interest on this Note or other costs incident hereto except out of Available Tax Increment, and neither the full faith and credit nor the taxing power of the State of Minnesota or any political subdivision thereof is pledged to the payment of the principal of or interest on this Note or other costs incident hereto.

7. Registration and Transfer. This Note is issuable only as a fully registered note without coupons. As provided in the Resolution, and subject to certain limitations set forth therein, this Note is transferable upon the books of the Authority kept for that purpose at the principal office of the City Finance Director, by the Owner hereof in person or by such Owner's attorney duly authorized in writing, upon surrender of this Note together with a written instrument of transfer satisfactory to the Authority, duly executed by the Owner. Upon such transfer or exchange and the payment by the Owner of any tax, fee, or governmental charge required to be paid by the Authority with respect to such transfer or exchange, there will be issued in the name of the transferee a new Note of the same aggregate principal amount, bearing interest at the same rate and maturing on the same date.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions, and things required by the Constitution and laws of the State of Minnesota to be done, to exist, to happen, and to be performed in order to make this Note a valid and binding limited obligation of the Authority according to its terms, have been done, do exist, have happened, and have been performed in due form, time and manner as so required.

IN WITNESS WHEREOF, the Board of Commissioners of the Roseville Economic Development Authority has caused this Note to be executed with the manual signatures of its President and Executive Director, all as of the Date of Original Issue specified above.

ROSEVILLE ECONOMIC  
DEVELOPMENT AUTHORITY

\_\_\_\_\_  
Executive Director

\_\_\_\_\_  
President

#### REGISTRATION PROVISIONS

The ownership of the unpaid balance of the within Note is registered in the bond register of the City Finance Director, in the name of the person last listed below.

_____ Date of Registration	_____ Registered Owner	_____ Signature of City Finance Director
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Roseville Leased Housing  
Associates I, LLLP  
Federal Tax I.D. No.

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**SCHEDULE C**  
**FORM OF DRAW REQUEST**

TO: Roseville Economic Development Authority  
2660 Civic Center Drive  
Roseville, MN 55113

DISBURSEMENT DIRECTION

The undersigned authorized representative (the “Authorized representative”) of Roseville Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the “Redeveloper”), hereby authorizes and requests you to disburse from proceeds of the Third-Party Grants in accordance with the terms of the Contract for Private Redevelopment, dated June \_\_, 2020 (the “Agreement”), between the Roseville Economic Development Authority (“Authority”) and the Redeveloper, the following amount to the following person and for the following proper Environmental Costs:

- 1. Amount: \_\_\_\_\_
- 2. Payee: \_\_\_\_\_
- 3. Purpose: \_\_\_\_\_
- 4. Grant Source: \_\_\_\_\_

all as defined and provided in the Agreement. The undersigned further certifies to the Authority that (a) none of the items for which the payment is proposed to be made has formed the basis for any payment previously made under Section 3.4 of the Agreement (or before the date of the Agreement); (b) that each item for which the payment is proposed is an Environmental Cost, eligible for funding from the grant source(s) identified above; and (c) the Redeveloper reasonably anticipates completion of the Environmental Costs and the Minimum Improvements in accordance with the terms of the Agreement.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Redeveloper’s Authorized Representative

**SCHEDULE D**

**REDEVELOPMENT COSTS AND LOOKBACK PROFORMA**

<b>Exhibit D</b>			
	<b>Amount</b>	<b>% of Cost</b>	<b>Per Unit</b>
<b>ACQUISITION COSTS</b>	<b>5,900,000</b>	<b>8.8%</b>	<b>25,877</b>
Land Cost	5,900,000	8.8%	25,877
Building Cost (if applicable)		0.0%	0
Assessments		0.0%	0
Other		0.0%	0
<b>CONSTRUCTION COSTS</b>	<b>44,341,440</b>	<b>66.3%</b>	<b>194,480</b>
Residential Building	36,725,000	54.9%	161,075
Parking	636,000	1.0%	2,789
General Requirements	2,244,000	3.4%	9,842
Builder's Overhead	748,000	1.1%	3,281
Builder's Profit	2,244,000	3.4%	9,842
Construction Contingency	1,705,440	4.0%	7,480
Other	39,000	0.1%	171
<b>ENVIRONMENTAL ABATEMENT/SOIL CORRECTION</b>	<b>1,234,572</b>	<b>1.8%</b>	<b>5,415</b>
Soil Remediation Work	776,572	1.2%	3,406
Asbestos Abatement work	100,000	0.1%	439
Other	358,000	0.5%	1,570
<b>PERMITS/FEES</b>	<b>2,110,453</b>	<b>3.2%</b>	<b>9,256</b>
Permits/Inspection	253,848	0.4%	1,113
Local SAC/WAC Connection Fees	479,605	0.7%	2,104
Other	1,377,000	2.1%	6,039
<b>PROFESSIONAL SERVICES</b>	<b>2,409,971</b>	<b>3.6%</b>	<b>10,570</b>
Appraisals	15,000	0.0%	66
Architectural & Engineering Fees	1,097,000	1.6%	4,811
Architectural Reimbursements	25,000	0.0%	110
Construction Testing	68,000	0.1%	298
Cost Certification/Audit	12,000	0.0%	53
Energy Audit/Energy Consulting	164,171	0.2%	720
FF&E	456,000	0.7%	2,000
Legal - Development	250,000	0.4%	1,096
Market Research	10,000	0.0%	44
Marketing/Leasing	22,800	0.0%	100
Soft Cost Contingency	150,000	0.2%	658
Soils Consultant	10,000	0.0%	44
Survey	15,000	0.0%	66
Civil/Structural	115,000	0.2%	504
<b>FINANCING COSTS</b>	<b>4,221,750</b>	<b>6.3%</b>	<b>18,516</b>
Bond - Counsel	80,000	0.1%	351
Bond - Issuance Fee	340,000	0.5%	1,491
Bond - Trustee	7,500	0.0%	33
Bond - Other	31,800	0.0%	139
Bridge Loan Fees	279,032	0.4%	1,224
Construction Period Interest	1,752,755	2.6%	7,688
Inspections - Lenders	319,770	0.5%	1,403
Insurance - Hazard/Liability	19,950	0.0%	88
Lender Legal	90,000	0.1%	395
Loan Origination Fees	195,800	0.3%	859
Other Fee (e.g. MHFA, HUD, and FHA Fees)	182,392	0.3%	800
Real Estate Taxes During Construction	238,537	0.4%	1,046
Syndication Fees	150,000	0.2%	658
Tax Credit & Compliance Fees	132,170	0.2%	580
Title & Recording	162,974	0.2%	715
Other Inspection	750	0.0%	3
Due Diligence	130,000	0.2%	570
TIF Costs	108,320	0.2%	475
<b>DEVELOPER FEE</b>	<b>5,818,111</b>	<b>8.7%</b>	<b>25,518</b>
Developer Fee	5,818,111	8.7%	25,518
<b>CASH ACCOUNTS/ESCROWS/RESERVES</b>	<b>799,717</b>	<b>1.2%</b>	<b>3,508</b>
Management Startup/Leasing	130,000	0.2%	570
Operating Reserves	669,717	1.0%	2,937
<b>TOTAL USES</b>	<b>66,836,014</b>	<b>100%</b>	<b>293,140</b>

*Note: Items highlighted in gray are public redevelopment costs*

5/29/2020

**SCHEDULE E**  
**CERTIFICATE OF COMPLETION**

(See following page.)

**CERTIFICATE OF COMPLETION**

WHEREAS, the Roseville Economic Development Authority (the “Authority”) and Roseville Leased Housing Associates I, LLLP (the “Redeveloper”) entered into a certain Contract for Private Redevelopment dated as of June \_\_, 2020 (the “Agreement”), filed of record as Document No. \_\_\_\_\_ on \_\_\_\_\_, 2020; and

WHEREAS, the Agreement contains certain covenants and restrictions set forth in Articles III and IV thereof related to completing certain Minimum Improvements; and

WHEREAS, the Redeveloper has performed said covenants and conditions insofar as it is able in a manner deemed sufficient by the Authority to permit the execution and recording of this certification;

NOW, THEREFORE, this is to certify that all construction and other physical improvements related to the Minimum Improvements specified to be done and made by the Redeveloper have been completed and the agreements and covenants in Articles III and IV of the Agreement have been performed by the Redeveloper, and this Certificate of Completion is intended to be a conclusive determination of the satisfactory termination of the covenants and conditions of Articles III and IV of the Agreement related to completion of the Minimum Improvements, but any other covenants in the Agreement shall remain in full force and effect until the Termination Date (as such term is defined in the Agreement).

Dated: \_\_\_\_\_, 20\_\_.

ROSEVILLE ECONOMIC DEVELOPMENT  
AUTHORITY

By \_\_\_\_\_  
Authority Representative

STATE OF MINNESOTA    )  
  ) SS.  
COUNTY OF RAMSEY    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, the \_\_\_\_\_ of the Roseville Economic Development Authority, a public body corporate and politic and political subdivision of the State of Minnesota, on behalf of the Authority.

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

This document drafted by:

Kennedy & Graven, Chartered (MNI)  
470 U.S. Bank Plaza  
Minneapolis, Minnesota 55402  
Phone: 612-337-9300

**SCHEDULE F**

---

**ASSESSMENT AGREEMENT**

**and**

**ASSESSOR'S CERTIFICATION**

**By and Between**

**ROSEVILLE ECONOMIC DEVELOPMENT AUTHORITY**

**and**

**ROSEVILLE LEASED HOUSING ASSOCIATES I, LLLP**

---

This Document was drafted by:

KENNEDY & GRAVEN, Chartered (MNI)  
470 U.S. Bank Plaza  
Minneapolis, Minnesota 55402

## ASSESSMENT AGREEMENT

THIS AGREEMENT, made on or as of the \_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the Roseville Economic Development Authority, a public body corporate and politic and political subdivision of the State of Minnesota (the “Authority”) and Roseville Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the “Redeveloper”).

WITNESSETH, that

WHEREAS, on or before the date hereof the Authority and Redeveloper have entered into a Contract for Private Redevelopment dated June \_\_, 2020 (the “Redevelopment Agreement”), pursuant to which the Authority is to facilitate the redevelopment of certain property in the City of Roseville, Minnesota (the “City”), hereinafter referred to as the “Property” and legally described in Exhibit A hereto; and

WHEREAS, pursuant to the Redevelopment Agreement the Redeveloper is obligated to construct certain improvements (the “Minimum Improvements”) upon the Property; and

WHEREAS, the Authority and the Redeveloper desire to establish a minimum market value for the Property and the Minimum Improvements to be constructed thereon, pursuant to Minnesota Statutes, Section 469.177, subdivision 8; and

WHEREAS, the Authority and the County Assessor of Ramsey County (the “Assessor”) have reviewed the preliminary plans and specifications for the improvements and have inspected such improvements;

NOW, THEREFORE, the parties to this Agreement, in consideration of the promises, covenants and agreements made by each to the other, do hereby agree as follows:

1. The minimum market value which shall be assessed for ad valorem tax purposes for the Property described in Exhibit A attached hereto, together with the Minimum Improvements constructed thereon, shall be \$41,040,000 as of January 2, 2022, and each January 2 thereafter, regardless of the status of construction on such dates, until termination of this Agreement under Section 2 hereof.

2. The minimum market value herein established shall be of no further force and effect and this Agreement shall terminate on the earlier of (a) the date of receipt by the Authority of the final payment from Ramsey County of Tax Increments (as defined in the Redevelopment Agreement) from Tax Increment Financing District No. 22: Twin Lakes II in the City; or (b) termination of the Redevelopment Agreement and/or the TIF Note issued thereunder pursuant to their respective terms.

3. This Agreement shall be promptly recorded by the Authority. The Redeveloper shall pay all costs of recording.

4. Neither the preambles nor provisions of this Agreement are intended to, nor shall they be construed as, modifying the terms of the Redevelopment Agreement between the Authority and the Redeveloper.

5. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

6. Each of the parties has authority to enter into this Agreement and to take all actions required of it, and has taken all actions necessary to authorize the execution and delivery of this Agreement.

7. In the event any provision of this Agreement shall be held invalid and unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

8. The parties hereto agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements, amendments and modifications hereto, and such further instruments as may reasonably be required for correcting any inadequate, or incorrect, or amended description of the Property or the Minimum Improvements or for carrying out the expressed intention of this Agreement, including, without limitation, any further instruments required to delete from the description of the Property such part or parts as may be included within a separate assessment agreement.

9. Except as provided in Section 8 hereof, this Agreement may not be amended nor any of its terms modified except by a writing authorized and executed by all parties hereto.

10. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

11. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.



**ROSEVILLE ECONOMIC DEVELOPMENT  
AUTHORITY**

By \_\_\_\_\_  
Its President

By \_\_\_\_\_  
Its Executive Director

STATE OF MINNESOTA    )  
  ) SS.  
COUNTY OF RAMSEY    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by Dan Roe and Patrick Trudgeon, the President and Executive Director of the Roseville Economic Development Authority, a public body corporate and politic and political subdivision of the State of Minnesota, on behalf of the Authority.

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

ROSEVILLE LEASED HOUSING ASSOCIATES I, LLLP, a Minnesota limited liability limited partnership

By: Roseville Leased Housing Associates I, LLC, a Minnesota limited liability company, its General Partner

By: \_\_\_\_\_  
Ryan Lunderby, its Vice President

STATE OF MINNESOTA    )  
  ) SS.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by Ryan Lunderby, the Vice President of Roseville Leased Housing I, LLC, a Minnesota limited liability company, as General Partner of Roseville Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership, on behalf of the company.

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

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



**EXHIBIT A of ASSESSMENT AGREEMENT**

**Legal Description of Property**

Lot 1, Block 1, Twin Lakes 3<sup>rd</sup> Addition, Ramsey County, Minnesota.

SCHEDULE G

TBRA Documents

**LOAN AGREEMENT**

This Loan Agreement (“Agreement”) is made this \_\_\_ day of \_\_\_\_\_, 2020, between Roseville Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (“Borrower”) and the Roseville Economic Development Authority (“Lender”), a public body corporate and politic under the laws of Minnesota.

RECITALS

A. The Lender and the Metropolitan Council (the “Council”) have entered into a Metropolitan Livable Communities Act Grant Agreement approved by the Council on January 22, 2020 (the “Grant Agreement”), committing grant funds from the Council’s Tax Base Revitalization Account (the “Grant”) to the Lender, to be used by the Lender to assist the Borrower with the costs of asbestos abatement, soil and vapor sampling, soil remediation and soil vapor mitigation, and related environmental oversight (the “Project Costs”) on certain property located in the City of Roseville described in Exhibit A (the “Property”).

B. In order to facilitate the use of low income tax credits for affordable multifamily rental housing on the Property (the “Affordable Housing”), the Borrower has requested that the Grant by the Lender to the Borrower be structured as a loan.

C. Lender agrees to loan to Borrower the proceeds of the Grant to finance a portion of the Project Costs on the Property, pursuant to the terms and conditions of this Agreement.

D. In consideration for the loan contemplated by this Agreement, Borrower is executing and delivering to Lender this Agreement.

ACCORDINGLY, to induce Lender to make the Loan (as defined hereinafter) to Borrower, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The Loan Amount. Subject to and upon the terms and conditions of this Agreement and the Grant Agreement, Lender agrees to loan to Borrower the sum of Seven Hundred Twenty-Two Thousand Five Hundred and no/100 Dollars (\$722,500), or so much thereof as may have been advanced to Borrower (the “Loan”). The Loan shall be evidenced by a promissory note (“Note”) payable by Borrower to Lender and substantially in the form of Exhibit B attached to this Agreement, which shall be dated as of the date of closing on the Loan (the “Loan Closing Date”). Proceeds of the Loan shall be disbursed in accordance with Section 3 hereof.

2. Repayment of Loan. The Loan shall be repaid with interest as follows:

(a) No interest shall accrue on the Note.

(b) The entire amount of principal and accrued interest on the Loan shall be due and payable on \_\_\_\_\_, 2060. The Borrower may prepay the Loan, in whole or in part, on any date, subject to the terms provided in the Note.

3. Disbursement of Loan Proceeds.

(a) The proceeds of the Loan shall be disbursed by the Lender to the Borrower in accordance with the terms and conditions of the Grant Agreement and with Section 3.4 of the Contract for Private Development between the Lender and the Borrower dated as of June \_\_, 2020 (the "Contract"). Notwithstanding anything to the contrary herein, any excess of the Project Costs over the principal amount of the Loan shall be the sole responsibility of the Borrower.

(b) Disbursement of the proceeds of the Loan will be made subject to the conditions precedent that on or prior to the Loan Closing Date:

(i) The Lender has received from Borrower, without expense to Lender, executed copies of this Agreement and the Note, and Borrower further having caused to be executed and delivered to Lender a mortgage in substantially the form set forth hereto at Exhibit C (the "Mortgage");

(ii) The Borrower has presented the Lender with evidence that the Loan funds are being allocated solely to the Affordable Housing on the Property; and

(iii) No Event of Default under this Agreement or the Contract as to the Grant Agreement shall have occurred and be continuing.

4. No Business Subsidy. The parties agree and acknowledge that the Loan is not a business subsidy as defined in Minnesota Statutes, Section 116J.993, because the assistance is for housing.

5. Representations and Warranties. Borrower represents and warrants to Lender that:

(a) Borrower is duly authorized and empowered to execute, deliver, and perform this Agreement and to borrow money from Lender.

(b) The execution and delivery of this Agreement, and the performance by Borrower of its obligations hereunder, do not and will not violate or conflict with any provision of law and do not and will not violate or conflict with, or cause any default or event of default to occur under, any agreement binding upon Borrower.

(c) The execution and delivery of this Agreement has been duly approved by all necessary action of Borrower, and this Agreement has in fact been duly executed and delivered by Borrower and constitutes its lawful and binding obligation, legally enforceable against it.

(d) Borrower warrants that it shall keep and maintain books, records, and other documents relating directly to the receipt and disbursements of Loan proceeds and that any duly authorized representative of Lender shall, at all reasonable times, have access to and the right to inspect, copy, audit, and examine all such books, records, and other documents of Borrower pertaining to the Loan disbursements until the completion of all closeout procedures and the final settlement and conclusion of all issues arising out of this Loan.

(e) Borrower warrants that it has fully complied with all applicable state and federal laws pertaining to its business and will continue to comply throughout the terms of this Agreement. If at any time Borrower receives notice of noncompliance from any governmental entity, Borrower agrees to take any necessary action to comply with the state or federal law in question.

(f) Borrower warrants that it will use the proceeds of the Loan made by Lender solely for the Project Costs.

(g) Borrower warrants that it will not create, permit to be created, or allow to exist any liens, charges, or encumbrances prior to the obligation created by this Loan Agreement, except as otherwise authorized in writing by Lender and except as may be allowed pursuant to the Mortgage.

6. Event of Default by Borrower. The following shall be Events of Default under this Agreement, subject to any cure or grace periods contained in the Loan Documents:

(a) failure to pay any principal or interest on the Loan when due;

(b) any material representation or warranty made by Borrower herein or in any document, instrument, or certificate given in connection with this Agreement, the Note, or the Mortgage (the "Loan Documents") which is materially false when made;

(c) Borrower fails to pay its debts as they become due, makes an assignment for the benefit of its creditors, admits in writing its inability to pay its debts as they become due, files a petition under any chapter of the Federal Bankruptcy Code or any similar law, state or federal, now or hereafter existing, becomes "insolvent" as that term is generally defined under the Federal Bankruptcy Code, files an answer admitting insolvency or inability to pay its debts as they become due in any involuntary bankruptcy case commenced against it, or fails to obtain a dismissal of such case within thirty (30) days after its commencement or convert the case from one chapter of the Federal Bankruptcy Code to another chapter, or be the subject of an order for relief in such bankruptcy case, or be adjudged a bankrupt or insolvent, or has a custodian, trustee, or receiver appointed for, or has any court take jurisdiction of its property, or any part thereof, in any proceeding for the purpose of

reorganization, arrangement, dissolution, or liquidation, and such custodian, trustee, or receiver is not discharged, or such jurisdiction is not relinquished, vacated, or stayed within thirty (30) days of the appointment;

(d) a garnishment summons or writ of attachment is issued against or served upon Lender for the attachment of any property of Borrower in Lender's possession or any indebtedness owing to Borrower, unless appropriate papers are filed by Borrower contesting the same within thirty (30) days after the date of such service or such shorter period of time as may be reasonable in the circumstances;

(e) Borrower breaches or fails to perform any other term or condition of this Agreement not specifically described as an Event of Default in this Agreement and such breach or failure continues for a period of thirty (30) days after Lender has given written notice to Borrower specifying such default or breach, unless Lender agrees in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, Lender will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Borrower within the applicable period and is being diligently pursued until the Default is corrected, but no such extension shall be given for an Event of Default that can be cured by the payment of money (i.e., payment of taxes, insurance premiums, or other amounts required to be paid hereunder);

(f) Borrower fails to perform any requirement under the Grant Agreement; or

(g) any breach by Borrower of any other agreement between Borrower and Lender and/or the City of Roseville.

Notwithstanding anything to the contrary in the Loan Documents, the limited partner of the Borrower ("Investor") shall have the right, but not the obligation, to cure any default of Borrower, and Lender agrees to accept cures tendered by Investor as follows: (i) with respect to any monetary default, Lender shall notify Investor in writing of such monetary default, and Investor shall have ten (10) days after the receipt of such notice of such monetary default to cure such monetary default; and (ii) with respect to any non-monetary default, Lender shall notify Investor in writing of such non-monetary default, and Investor shall have thirty (30) days after the receipt of such notice of such non-monetary default to cure such non-monetary default; provided, however, that if such non-monetary default cannot be cured within such thirty- (30-) day cure period, then Lender shall permit additional time to cure such non-monetary default as long as Investor is diligently pursuing such cure.

Notwithstanding anything to the contrary contained in the Loan Documents, the following transfers of interests in Borrower (or in the interests of the members of Borrower) shall be expressly permitted under the Loan Documents, and shall not be deemed an Event of Default or trigger any due on sale or other similar provisions in the Loan Documents: (a) the sale, transfer, conveyance or pledge of the Investor's or of any limited partner of the Borrower's ("Special Limited Partner") interest in Borrower; (b) the sale, transfer,



conveyance or pledge of any interests within the Investor or Special Limited Partner; (c) the removal of the general partner of Borrower for cause under the terms of the Borrower's then current partnership agreement and the admission of a new or additional substitute general partner; and (d) any amendment to the operating agreement evidencing the transfers described above.

7. Lender's Remedies upon Borrower's Default. Upon an Event of Default by Borrower and after provision by Lender of written notice, and subject to any cure or grace periods contained in the Loan Documents, Lender shall have the right to exercise any or all of the following remedies (and any other rights and remedies available to it):

- (a) declare the principal amount of the Loan and any accrued interest thereon to be immediately due and payable upon providing written notice to Borrower;
- (b) suspend its performance under this Loan Agreement;
- (c) take any action provided for at law to enforce compliance by Borrower with the terms of this Agreement and the Note;
- (d) exercise its rights under the Mortgage.

In addition to any other amounts due on the Loan, and without waiving any other right of Lender under any this Agreement or any other instrument securing the Loan applicable documents, Borrower shall pay to Lender a late fee of \$250 for any payment not received in full by Lender within 30 calendar days of the date on which it is due. Furthermore, interest will continue to accrue on any amount due until the date on which it is paid to Lender, and all such interest will be due and payable at the same time as the amount on which it has accrued.

8. Lender's Costs of Enforcement of Agreement. If an Event of Default has occurred as provided herein, then upon demand by Lender, Borrower shall pay or reimburse Lender for all expenses, including all reasonable attorneys' fees and expenses incurred by Lender in connection with the enforcement of this Agreement and the Note, or in connection with the protection or enforcement of the interests and collateral security of Lender in any litigation or bankruptcy or insolvency proceeding or in any action or proceeding relating in any way to the transactions contemplated by this Agreement.

9. Indemnification.

(a) Except for any claims, lawsuits, or damages arising or related to the gross negligence or willful misconduct of the Lender, Borrower shall and does hereby agree to indemnify against and to hold Lender, and its officers, agents, and employees, harmless of and from any and all liability, loss, or damage that it may incur under or by reason of this Agreement, and of and from any and all claims and demands whatsoever that may be asserted against Lender by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained herein.



Roseville, MN 55113  
Attn: Executive Director

To Redeveloper: Roseville Leased Housing Associates I, LLLP  
Attn: Ryan J. Lunderby  
2905 Northwest Boulevard, Suite 150  
Plymouth, Minnesota, 55441

With a copy to: Winthrop & Weinstine, P.A.  
Attn: John Stern and Scott Jahnke  
225 South Sixth Street, Suite 3500  
Minneapolis, Minnesota 55402

With a copy to: RBC Community Investments, LLC  
600 Superior Avenue, Suite 2300  
Cleveland, Ohio 44114  
Attention: President and General Counsel

With a copy to: Nixon Peabody LLP  
Exchange Place  
53 State Street  
Boston, MA 02109  
Attention: Roger W. Holmes

(f) Termination. Subject to extensions agreed to by the Lender and Borrower and approved by the Council, if the Loan is not disbursed pursuant to this Agreement and the Grant Agreement by December 31, 2022, this Agreement shall terminate and neither party shall have any further obligation to the other, except that if the Loan is not disbursed because Borrower has failed to use its best efforts to comply with the conditions set forth in Section 3 of this Agreement then Borrower shall pay to Lender all reasonable attorneys' fees, costs, and expenses incurred by Lender in connection with this Agreement and the Note.

(g) Entire Agreement. This Agreement, together with the Exhibits hereto, which are incorporated by reference, constitutes the complete and exclusive statement of all mutual understandings between the parties with respect to this Agreement, superseding all prior or contemporaneous proposals, communications, and understandings, whether oral or written, concerning the Loan.

(h) Headings. The headings appearing at the beginning of the several sections contained in this Agreement have been inserted for identification and reference purposes only and shall not be used in the construction and interpretation of this Agreement.

(i) Land Use Restriction. Notwithstanding any provision to the contrary in the Loan Documents, Lender acknowledges and agrees that (a) the Property is or will be subject to a Land Use Restriction Agreement (as defined below); (b) the recordation of the Land Use Restriction Agreement against the Property is permitted under the terms of the Loan Documents; and (c) the

lien of any Loan Documents, and the terms and provision thereof, shall be subordinate to the Land Use Restriction Agreement, regardless of the order of recording of either document. "Land Use Restriction Agreement" means the extended low-income housing commitment, regulatory agreement or restrictive covenants executed or to be executed by Borrower, as may be amended, setting forth certain terms and conditions under which the Property is to be operated and which shall meet the requirements of Section 42(h)(6)(B) of the Internal Revenue Code of 1986, as amended.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the proper officers thereunto duly authorized on the day and year first written above.

ROSEVILLE ECONOMIC  
DEVELOPMENT AUTHORITY

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

Its President

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

Its Executive Director

[SIGNATURE PAGE TO LOAN AGREEMENT – ROSEVILLE ECONOMIC DEVELOPMENT AUTHORITY]

ROSEVILLE LEASED HOUSING ASSOCIATES I,  
LLLP, a Minnesota limited liability limited  
partnership

By Roseville Leased Housing Associates I, LLC  
Its General Partner

By: \_\_\_\_\_  
Ryan J. Lunderby  
Title: Vice President

[SIGNATURE PAGE TO LOAN AGREEMENT – ROSEVILLE LEASED HOUSING ASSOCIATES I, LLLP]

**EXHIBIT A**

**PROPERTY**

Lot 1, Block 1, Twin Lakes 3<sup>rd</sup> Addition, Ramsey County, Minnesota.

Abstract property.

**EXHIBIT B**

\$722,500  
PROMISSORY NOTE  
given by

**ROSEVILLE LEASED HOUSING ASSOCIATES I, LLLP,  
a Minnesota limited liability limited partnership to**

**THE ROSEVILLE ECONOMIC DEVELOPMENT AUTHORITY  
a public body corporate and politic  
and political subdivision of the State of Minnesota**

Dated: \_\_\_\_\_, 2020

At: Roseville, Minnesota

**FOR VALUE RECEIVED**, the undersigned, **ROSEVILLE LEASED HOUSING ASSOCIATES I, LLLP**, a Minnesota limited liability limited partnership (the “Borrower”), hereby promises to pay to the order of **THE ROSEVILLE ECONOMIC DEVELOPMENT AUTHORITY**, a public body corporate and politic and political subdivision of the State of Minnesota (“Holder”) at the offices of the Holder or such other place as the Holder may, from time to time, designate in writing, the principal sum of Seven Hundred Twenty-Two Thousand Five Hundred and No/100 Dollars (\$722,500), or so much thereof as may be advanced to Borrower (the “Loan”). This Note shall not bear interest. The entire principal balance of this Note is due and payable on \_\_\_\_\_, 2060.

This Note is secured by, among other things, a Loan Agreement between Holder and Borrower dated as of \_\_\_\_\_, 2020 (the “Loan Agreement”) and a Mortgage dated the date hereof from Borrower, as Borrower, to the Holder, as Holder (the “Mortgage”), on property owned by Borrower (the “Project”). This Note is issued pursuant to that certain TBRA Grant Agreement between the Metropolitan Council and Holder and defined in the Loan Agreement and Mortgage. All of the agreements, conditions, covenants, provisions and stipulations contained in the Loan Agreement and Mortgage are hereby made a part of this Note to the same extent and with the same force and effect as if they were fully set forth herein. Time is of the essence hereof. In the event of any default in the payment of any principal or other indebtedness due hereunder, or if the Borrower defaults on any of its other obligations under this Note, the Loan Agreement, or the Mortgage, the Holder may, at its right and option, declare immediately due and payable the principal balance of this Note, together with any attorneys’ fees incurred by the Holder in collecting or enforcing payment thereof, whether suit be brought or not, and all other sums due hereunder and payment thereof may be enforced and recovered in whole or in part at any time by one or more of the remedies provided in any document securing this Note, including any Mortgage. The Holder may extend the time of payment of principal of this Note without notice to or consent of any party liable hereon and without releasing such party.

The Borrower hereby waives demand, presentment, notice of nonpayment, protest, notice of protest, notice of dishonor and diligence in collection and agree that without any notice the Holder hereof may take and/or release additional security herefor or the Holder hereof may, from time to time, release any part or parts of security interests from Borrower in favor of Holder with



or without consideration and that in any such case the Borrower and any guarantor, surety or endorser shall remain liable to pay the unpaid balance of the indebtedness evidenced hereby as so additionally secured, extended, renewed or modified and notwithstanding any such release.

The remedies of the Holder, as provided herein and in any document securing this Note shall be cumulative and concurrent and may be pursued singly, successively or together, at the sole discretion of the Holder, and may be exercised as often as occasion therefor shall occur. The Holder may, in its discretion, waive any default hereunder and its consequences and rescind any declaration of acceleration of principal; provided, however, that no action or inaction by the Holder shall be deemed a waiver of any of the Holder's rights or remedies unless the Holder specifically agrees in writing that such action or inaction shall constitute a waiver of its rights or remedies. Any waiver shall only apply to the particular instance for which it was agreed. No delay in exercising and no failure in exercising any right or remedy hereunder or afforded by law shall be a waiver of or preclude the exercise of any right or remedy hereunder or provided by law, whether on such occasion or any future occasion, nor shall such delay be construed as a waiver of any default or acquiescence therein. The exercise or the beginning of the exercise of one right or remedy shall not be deemed a waiver of the right to exercise at the same time or thereafter any other right or remedy.

In the event of any default hereunder the Borrower agrees to pay the costs of collection including reasonable attorneys' fees.

This Note may be prepaid in whole or in part without penalty.

The obligations of the Borrower hereunder are unconditional except as otherwise stated herein, irrespective of any defense or any rights of setoff, recoupment or counterclaim it might otherwise have against the Holder or any governmental body or other person.

The indebtedness evidenced by this Note is and shall be subordinate in right of payment to the prior payment in full of the indebtedness evidenced by a Promissory Note ("Promissory Note") of even date herewith in the original aggregate principal amount stated therein issued by Borrower, and payable to America First Multifamily Investors, LP, a Delaware limited partnership, its successors and assigns ("Senior Lender"), or order, to the extent and in the manner provided in that certain Subordination Agreement ("Subordination Agreement") of even date herewith between the payee of this Note, the Senior Lender, and the Holder. The Mortgage securing this Note is and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the Senior Lender mortgage securing the Promissory Note as more fully set forth in the Subordination Agreement. The rights and remedies of the payee and each subsequent holder of this Note under the Mortgage securing this Note are subject to the restrictions and limitations set forth in the Subordination Agreement. Each subsequent holder of this Note shall be deemed, by virtue of such holder's acquisition of the Note, to have agreed to perform and observe all of the terms, covenants and conditions to be performed or observed by the Holder under the Subordination Agreement.

The Loan is a non-recourse obligation of the Borrower. Neither the Borrower nor any of its partners or officers, nor any other party, shall have any personal liability for repayment of the Loan. The sole recourse of Holder for repayment of the Loan shall be the exercise of its rights against the Project and related security thereunder.

This Note may not be sold, transferred, assigned or pledged without the prior written

approval of the Senior Lender and of the Investor or Special Limited Partner (as such terms are defined in the Loan Agreement) of the Borrower.

This Note shall be governed by and construed in accordance with the laws of the State of Minnesota.

If any of the terms of this Note, or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Note, or the application of such terms to persons or circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each of the terms of this Note shall be valid and enforceable to the fullest extent permitted by law.

**IT IS HEREBY CERTIFIED AND RECITED** that all conditions, acts and things required to exist, to happen and to be performed precedent to or in the issuance of this Note do exist, have happened and have been performed in regular and due form as required by law.

*[Signature Page Follows]*

**IN WITNESS WHEREOF**, the Borrower has caused this Note to be duly executed by its authorized representative, all on the date and year first above written.

BORROWER:

ROSEVILLE LEASED HOUSING ASSOCIATES I,  
LLLP

By Roseville Leased Housing Associates I, LLC  
Its General Partner

By: \_\_\_\_\_  
Its Vice President

**EXHIBIT C**

**MORTGAGE  
(\$722,500 TBRA Loan)**

**THIS MORTGAGE IS EXEMPT FROM MORTGAGE REGISTRATION TAX PURSUANT TO MINN STAT SECTION 287.04 (f) BECAUSE THIS MORTGAGE WAS MADE UNDER THE MORTGAGEE’S LOW AND MODERATE INCOME OR OTHER AFFORDABLE HOUSING PROGRAM THAT PROVIDES FOR LOANS THAT MEET THE INCOME LIMITS AND SALES PRICE LIMITS AS DETERMINED UNDER FEDERAL AND STATE LAW.**

**THIS MORTGAGE** is made this \_\_\_ day of \_\_\_\_\_, 2020 by and between **ROSEVILLE LEASED HOUSING ASSOCIATES I, LLLP**, a Minnesota limited liability limited partnership (the “Mortgagor”) in favor of **THE ROSEVILLE ECONOMIC DEVELOPMENT AUTHORITY**, a public body corporate and politic and political subdivision of the state of Minnesota (the “Mortgagee”).

**WHEREAS**, pursuant to that Loan Agreement between the Mortgagor and Mortgagee dated as of \_\_\_\_\_, 2020 (the “Loan Agreement”), Mortgagor executed that certain Promissory Note of even date herewith (the “Note”) in the amount of Seven Hundred Twenty-Two Thousand Five Hundred Dollars (\$722,500) evidencing the loan described in the Loan Agreement (the “Loan”); and

**WHEREAS**, pursuant to the Loan Agreement and the Note, the entire indebtedness of Mortgagor to Mortgagee of the Loan is due and payable in full on \_\_\_\_\_, 2060; and

**WHEREAS**, this Mortgage is given to secure repayment of all amounts due by Mortgagor to Mortgagee under the Loan Agreement and the Note, as well as other amounts due by Mortgagor to Mortgagee under the terms of this Mortgage.

**NOW, THEREFORE**, in consideration of the foregoing, and for other good and valuable consideration, Mortgagor hereby grants, bargains, sells and conveys to Mortgagee the following real property in Ramsey County, Minnesota (the “Premises”) legally described on Exhibit A attached hereto and incorporated herein to have and to hold the same, together with all the hereditaments and appurtenances thereto belonging or in anywhere appertaining, forever.

**PROVIDED NEVERTHELESS** that if Mortgagor, or Mortgagor’s successors or permitted assigns, shall (i) pay, or cause to be paid, to Mortgagee the principal amount of the Loan heretofore and hereafter advanced by Mortgagee to Mortgagor under the Note; (ii) pay all taxes and special assessments that are now or may be hereafter levied and assessed on and

against the Premises as they shall be due and before they become delinquent; (iii) keep the improvements on the Premises continuously insured as hereinafter provided; (iv) pay the principal and interest installments on any prior mortgage or mortgages as the same or any part thereof become due; and (v) keep and perform each and every covenant herein, then this Mortgage shall be null and void; otherwise it shall be and remain in full force and effect.

**MORTGAGOR WARRANTS AND COVENANTS** to and with Mortgagee as follows:

1. Mortgagor is lawfully seized of a fee simple interest in the Premises and has good right to sell and convey the same. The Premises are free from all liens and encumbrances, except any prior mortgage or mortgages of record and other matters listed in the Mortgagor's title policy. Mortgagor shall warrant and defend the title of the Premises against all lawful claims except such prior mortgage or mortgages of record. The foregoing covenants and warranties shall survive foreclosure of this Mortgage and shall run with the land.
2. Mortgagor shall pay the principal and interest (if any) as the same become due on any prior mortgage or mortgages on the Premises.
3. Mortgagor shall procure at Mortgagor's own expense fire and extended coverage insurance on the improvements on the Premises, payable in case of loss to Mortgagee, its successors and assigns, as its interest may appear, such insurance to be written by a reliable insurance company approved by Mortgagee in an amount at least equal to the full insurable value of such improvements.
4. Mortgagor shall pay all taxes and special assessments now and hereafter levied and assessed on the Premises before the same become delinquent, provided, however, that Mortgagor is permitted to contest the same in good faith.
5. Mortgagor shall keep the Premises in good repair, shall not remove the improvements from the Premises, unless promptly replaced with substantially similar improvements, and shall not commit waste or permit impairment or deterioration of the Premises.
6. Mortgagor shall comply with and perform all of the Mortgagor's obligations under the Loan Agreement, this Mortgage and the Note.
7. In the case of failure of Mortgagor to pay such taxes or special assessments or to keep said improvements insured as provided herein, or to pay the principal or interest (if any) on the prior mortgage or mortgages on the Premises, Mortgagee may at its option, after ten (10) days' written notice to Mortgagor, pay and discharge such taxes and assessments, effect such insurance on said improvements and pay the premiums thereon and pay the principal and interest (if any) that become due and remain unpaid on the prior mortgage or mortgages on the Premises, and the sum or sums that may be so paid by Mortgagee shall bear interest from the time of such payment at the rate of 8% per annum or the highest rate allowed by law, whichever is lower, and shall be deemed and is hereby declared to be an additional lien upon the Premises in the amount that shall be so paid, with interest thereon, as aforesaid, and shall be added to and be collectable as part of and in the same manner as the original debt which

this Mortgage is given to secure.

8. Reserved.

9. The following shall be Events of Default by Mortgagor; provided, however, that Mortgagee shall have given the Mortgagor notice of such Event of Default hereunder and at least thirty (30) days within which to cure such Event of Default, and that if such Event of Default cannot reasonably be cured within such thirty (30) days, Mortgagor shall have such additional time as may be reasonably necessary if Mortgagor commences to cure such Event of Default within such thirty (30) day period and thereafter diligently prosecutes such cure to completion:

- a) The failure to pay the indebtedness hereby secured, as it becomes due;
- b) The failure to pay, when due, the taxes or special assessments on the Premises;
- c) The failure to keep the improvements on the Premises insured as herein provided;
- d) The failure to keep and perform any of the covenants and agreements herein contained to be kept and performed by Mortgagor;
- e) Except as otherwise permitted in the Loan Agreement, the sale, assignment, conveyance or other transfer (whether by deed, contract for deed, lease or otherwise) of the Premises, except for leases for one year or less, not approved in advance by Mortgagee; or
- f) The failure to comply with and perform all of the requirements of the TBRA Grant Agreement (as defined below) related to the Premises, which failure results in the Mortgagee being obligated to indemnify or repay all or any portion of the TBRA grant funds to the Metropolitan Council.

Upon the occurrence of any Event of Default, Mortgagor hereby authorizes and empowers Mortgagee to declare the entire indebtedness hereby secured to be immediately due and payable, at Mortgagee's option, and to enforce the payment thereof and to foreclose this Mortgage by judicial proceedings or by sale of the Premises at public auction and convey the same to the purchaser in fee simple, pursuant to the statutes of the State of Minnesota, and out of the monies arising from said sale to retain (i) the principal which shall then be due on the indebtedness secured hereby, and interest, if any, accrued thereon, (ii) an amount equal to all taxes and special assessments paid by Mortgagee upon the Premises, or then levied and unpaid, (iii) any sum paid by Mortgagee for principal or interest on any prior mortgage or mortgages on the Premises, (iv) an amount equal to any insurance premiums paid by Mortgagee upon the Premises, (v) any other amounts payable by the Mortgagee to the Metropolitan Council as a result of the failure of the Mortgagor to comply with and perform all of the requirements of the TBRA Grant Agreement

related to the Premises, and (vi) costs and disbursements of such foreclosure, including statutory attorney's fees; and to pay the surplus, if any, to Mortgagor. In the event of any default hereunder the Mortgagor agrees to pay the costs of collection including reasonable attorneys' fees.

10. So long as this Mortgage and the Note evidencing the indebtedness secured hereby are held by Mortgagee, Mortgagor will not execute or file for record any instrument which imposes a restriction upon the sale or occupancy of the Premises on the basis of race, color, religion, or sex.

11. No delay by Mortgagee in exercising any right or remedy provided herein or otherwise afforded by law or equity shall be deemed a waiver of or preclude the exercise of such right or remedy. All such rights and remedies shall be distinct and cumulative and may be exercised singularly or serially (in any order) or concurrently, and as often as the occasion therefore arises.

12. Mortgagee may at any time and from time to time, without notice, release any person liable for the payment of any indebtedness under the Note, extend the time or agree to alter the terms of payment of any indebtedness, release any property securing any indebtedness, consent to the creation of any easement on the Premises, or agree to alter or amend the terms of this Mortgage in any way, all without in any way affecting the liability of any person (other than the person so released, if any) or the validity or priority of this Mortgage (except as it covers property so released, if any).

13. The covenants and agreements contained in this Mortgage shall bind, and the rights conferred hereby shall inure to, the respective, legal representatives, successors and assigns of Mortgagor and Mortgagee. Wherever used, the singular number shall include the plural, and the plural the singular. All covenants and agreements of Mortgagor shall be joint and several.

14. Mortgagee shall furnish to Mortgagor a conformed and fully completed copy of the Note and this Mortgage at the time that this Mortgage is executed or at a reasonable time after this Mortgage is recorded.

15. The Mortgagee, for itself and its successors and assigns, covenants and agrees that it will not commence procedures to foreclose on this Mortgage without the prior written consent of any of the senior lenders or the Minnesota Housing Finance Agency, or its successors and assigns ("MHFA") if there is a mortgage held by MHFA on the Project

16. The Loan is a non-recourse obligation of the Mortgagor. Neither Mortgagor nor any of its members or officers, nor any other party, shall have any personal liability for repayment of the Loan. The sole recourse of Mortgagee for repayment of the Loan shall be the exercise of its rights against the Premises and related security thereunder.

17. Except for willful misrepresentation, misconduct or negligence of the Indemnified Parties (as hereafter defined), and except for any breach by any of the Indemnified Parties of

their obligations under the Loan Agreement, this Mortgage or the Note, the Mortgagor agrees to protect and defend the Mortgagee and the governing body members, officers, agents, servants and employees thereof (the "Indemnified Parties"), now or forever, and further agrees to hold the Indemnified Parties harmless from any claim, demand, suit, action or other proceeding whatsoever by any person or entity whatsoever arising or purportedly arising from the Loan Agreement, this Mortgage, the Note, or the transactions contemplated hereby or the acquisition, construction, improvement, ownership, and operation of the Premises.

18. Mortgagee has been awarded a \$722,500 TBRA grant from the Metropolitan Council pursuant to the Metropolitan Livable Communities Act Grant Agreement approved by the Council on January 22, 2020, committing grant funds from the Council's Tax Base Revitalization Account to the Mortgagee (the "TBRA Grant Agreement"), and has agreed to loan such funds to finance certain costs of the Mortgagor's development of the Premises. Mortgagee is loaning the funds to Mortgagor pursuant to the Loan Agreement, this Mortgage and the Note subject to the following conditions:

(a) Loan funds can be used to finance only the costs of asbestos abatement, soil and vapor sampling, soil remediation and soil vapor mitigation, and related environmental oversight on the Premises, as more fully described in the TBRA Grant Agreement, and

(b) Loan funds may only be drawn down upon the Mortgagee's receipt of documentation demonstrating that the work for which the funds are being requested has been completed.

The Mortgagor shall comply with the foregoing and all other requirements of the TBRA Grant Agreement related to the Premises and if it fails to do so and the Mortgagee is obligated to repay all or any portion of the TBRA grant funds to the Metropolitan Council, the Mortgagor shall be liable to and shall pay to the Mortgagee the amount required to be repaid. The Mortgagor shall provide the Mortgagee all reports, certificates, information and documents which are necessary for the Mortgagee to comply with its obligations under the TBRA Grant Agreement.

19. Mortgagor will permit Mortgagee and its agents to enter and to authorize others to enter upon any or all of the Premises, or inspect Mortgagor's records regarding the Premises at reasonable times, to perform or observe any covenants, conditions, or terms which Mortgagor shall fail to perform, meet or comply with and which Mortgagee is authorized to perform under the terms of this Mortgage, or for any other purpose in connection with the protection or preservation of Mortgagee's security, without thereby becoming liable to Mortgagor or any person in possession under Mortgagor.

20. Mortgagee acknowledges that Mortgagor has entered into and delivered or intends to enter into and deliver concurrently with the execution and delivery of this Mortgage, a first lien Mortgage, Security Agreement, and Fixture Financing Statement ("Senior Mortgage") in favor of America First Multifamily Investors, LP, a Delaware limited partnership, its successors and assigns ("Senior Lender") securing indebtedness evidenced by that certain Promissory Note Secured by Mortgage ("Senior Note") payable to Senior Lender. Mortgagee agrees to subordinate the lien of this Mortgage to the Senior Mortgage and Senior



Mortgage loan documents, and that this Mortgage is and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the Senior Mortgage as more fully set forth in that certain Master Subordination Agreement and Estoppel Certificate of even date herewith between the Mortgagor, Senior Lender, and the Mortgagee.

(Execution page follows.)



**EXHIBIT A**

**LEGAL DESCRIPTION**

Lot 1, Block 3, Twin Lakes 3<sup>rd</sup> Addition, Ramsey County, Minnesota.

Abstract property.



46 Lenders with respect to the Minimum Improvements, as set forth in the  
47 subordination agreement between the Lenders, the Redeveloper, and  
48 REDA presented to REDA for review and approval (the “Contract  
49 Subordination”), as well as REDA’s consent to collateral assignments of  
50 the Contract and TIF Note to be issued pursuant to the Contract; and  
51

52 WHEREAS, Section 7.3 of the Contract provides for subordination of REDA’s rights  
53 under the Contract, so long as such subordination contains such reasonable  
54 terms and conditions as are mutually agreed by REDA and Lender in  
55 writing; and  
56

57 WHEREAS, as a further condition of providing financing for the Minimum  
58 Improvements, the Lenders require subordination of REDA’s rights under  
59 the loan documents evidencing the TBRA loan to the Redeveloper, as set  
60 forth in the TBRA Loan Subordination Agreement between Lenders and  
61 REDA (together with the Contract Subordination, the “Subordinations”); and  
62

63 WHEREAS, REDA’s Board of Commissioners and legal counsel have reviewed the  
64 Subordinations, as well as a Consent and Agreement of Authority to  
65 Collateral Assignment of Contract for Private Redevelopment for the benefit  
66 of each Lender (the “Consents”), and find that the approval and execution of  
67 the Subordinations and Consents are in the best interest of the City and its  
68 residents.  
69

70 NOW, THEREFORE, BE IT RESOLVED, that the Subordinations and Consents as  
71 presented to the Board are hereby in all respects approved, subject to  
72 modifications that do not alter the substance of the transaction and that are  
73 approved by the President and Executive Director, provided that execution  
74 of the Subordinations by such officials shall be conclusive evidence of  
75 approval.  
76

77 BE IT FURTHER RESOLVED that the President and Executive Director are hereby  
78 authorized to execute on behalf of REDA the Subordinations, the  
79 Consents, and any other documents requiring execution by REDA in order  
80 to carry out the transaction described in the Subordinations and Consents.  
81

82 BE IT FURTHER RESOLVED that REDA staff and consultants are authorized to take  
83 any actions necessary to carry out the intent of this resolution.  
84  
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86

87 The motion for the adoption of the foregoing resolution was duly seconded by Member  
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89 , and upon a vote being taken thereon, the following voted in favor thereof:  
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91 and the following voted against the same:

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WHEREUPON said resolution was declared duly passed and adopted.

Certificate

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I, the undersigned, being duly appointed Executive Director of the Roseville Economic Development Authority, Minnesota, hereby certify that I have carefully compared the attached and foregoing resolution with the original thereof on file in my office and further certify that the same is a full, true, and complete copy of a resolution which was duly adopted by the Board of Commissioners of said Authority at a duly called and regular meeting thereof on June 22, 2020.

I further certify that Commissioner \_\_\_\_\_ introduced said resolution and moved its adoption, which motion was duly seconded by Commissioner \_\_\_\_\_, and that upon roll call vote being taken thereon, the following Commissioners voted in favor thereof:

and the following voted against the same:

whereupon said resolution was declared duly passed and adopted.

Witness my hand as the Executive Director of the Authority this \_\_ day of June, 2020.

\_\_\_\_\_  
Patrick Trudgeon, Executive Director  
Roseville Economic Development  
Authority

PREPARED BY AND WHEN  
RECORDED RETURN TO:

Ann J. McGill  
Kutak Rock LLP  
1650 Farnam Street  
Omaha, Nebraska 68102

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(Space above reserved for recorder's use.)

Freddie Mac Loan Number: [ \_\_\_\_\_ ]  
Property Name: Twin Lakes Family Apartments

**SUBORDINATION AGREEMENT  
GOVERNMENTAL ENTITY – TEL (Forward)**

**(Revised 9-30-2019)**

**TBRA LOAN**

THIS SUBORDINATION AGREEMENT (“**Agreement**”) is entered into this \_\_\_ day of \_\_\_\_\_, 2020, by and between **U.S. BANK NATIONAL ASSOCIATION** (“**Tax-Exempt Lender**”), **AMERICA FIRST MULTIFAMILY INVESTORS, L.P.**, a Delaware limited partnership (“**Taxable Lender**”), and **ROSEVILLE ECONOMIC DEVELOPMENT AUTHORITY**, a public body corporate and politic and political subdivision of the state of Minnesota (“**Subordinate Lender**”).

**RECITALS**

- A. Roseville Leased Housing Associates I, LLLP, a limited liability limited partnership organized under the laws of the State of Minnesota (“**Borrower**”) is the owner of certain land located in Ramsey County, Minnesota, described in Exhibit A (“**Land**”). The Land is improved with a multifamily rental housing project (“**Improvements**”).
- B. The City of Roseville, Minnesota (“**Governmental Lender**”), the original holder of the Tax-Exempt Note, has made a loan to Borrower in the original principal amount of \$[ \_\_\_\_\_ ] (“**Tax-Exempt Loan**”) upon the terms and conditions of a Project Loan Agreement dated as of [ \_\_\_\_ ] 1, 2020 (“**Project Loan Agreement**”) among Governmental Lender, Tax-Exempt Lender (in its capacity as Fiscal Agent under the



Funding Loan Agreement (defined below)) and Borrower in connection with the Mortgaged Property. The Senior Loan is secured by a Tax-Exempt Mortgage, Security Agreement and Fixture Financing Statement dated as of [\_\_\_\_], 2020 (“**Tax-Exempt Mortgage**”) encumbering the Land, the Improvements and related personal and other property described and defined in the Tax-Exempt Mortgage as the “**Mortgaged Property.**”

- C. Pursuant to a **Loan Agreement** dated as of June \_\_, 2020 between Subordinate Lender and Borrower (“**Subordinate Loan Agreement**”), Subordinate Lender has made or is making a loan to Borrower in the original principal amount of \$722,500 (“**Subordinate Loan**”). The Subordinate Loan is or will be secured by a Mortgage dated as of [\_\_\_\_\_] (“**Subordinate Mortgage**”) encumbering all or a portion of the Mortgaged Property.
- D. The Senior Mortgage will be recorded in the real property records of Ramsey County, Minnesota (“**Recording Office**”) on or about the date hereof. The Subordinate Mortgage will be recorded in the Recording Office at following the recording of the Senior Mortgage.
- E. The Tax-Exempt Note was assigned by the Governmental Lender to Tax-Exempt Lender as security for the loan made by the Initial Funding Lender (as defined below) to the Governmental Lender pursuant to the Funding Loan Agreement (the “**Funding Loan**”). The Taxable Mortgage was assigned by the Governmental Lender to Tax-Exempt Lender as security for the Funding Loan pursuant to an Assignment of Tax-Exempt Mortgage, Security Agreement and Fixture Financing Statement and Tax-Exempt Assignment of Leases and Rents dated as of the date hereof to be recorded in the Recording Office contemporaneously herewith.
- F. Subject to the terms and conditions of that certain Construction Phase Financing Agreement (the “**Construction Phase Financing Agreement**”) dated as of June \_\_, 2020 between Borrower, America First Multifamily Investors, L.P. (“**Initial Funding Lender**”), Federal Home Loan Mortgage Corporation and Greystone Servicing Company LLC, a limited liability company organized under the laws of the State of Delaware (“**Permanent Funding Lender**”), Initial Funding Lender shall subsequently assign and deliver the documents comprising the Funding Loan to the Permanent Funding Lender and, in connection therewith, the Senior Note (as defined herein) and the Senior Mortgage will be amended and restated, and thereafter assigned to the Fiscal Agent (“**Conversion**”).
- G. Upon Conversion, the Funding Lender shall have the right to amend and restate the Senior Note and the Senior Mortgage, and the right to amend, waive, postpone, extend, renew, replace, reduce or otherwise modify any provision of any of the Senior Loan Documents (as defined herein), without notice to or the consent or joinder of the Subordinate Lender.
- H. Taxable Lender is making a taxable loan to Borrower pursuant to that certain Taxable Construction Loan Agreement, dated as of June 1, 2020, by and between Borrower and Taxable Loan Lender (as the same may be amended, supplemented or restated, the “**Taxable Construction Loan Agreement**”), Taxable Loan Lender has agreed to make a mortgage loan to Borrower in the maximum aggregate principal amount of \$\_\_\_ (the

“**Taxable Loan**”) to provide financing and refinancing for the Project, which Taxable Loan is evidenced by Borrower’s Taxable Promissory Note (Oasis at Twin Lakes Apartments Project), Series 2020 (as the same may be amended, supplemented or restated, the “**Taxable Note**”) dated June [ ], 2020.

- I. The Taxable Loan is or will be secured by, among other things, a Taxable Mortgage, Security Agreement and Fixture Financing Statement, dated as of the date hereof (the “**Taxable Mortgage**”), encumbering the Land, the Improvements and the related personal and other property described and defined in the Taxable Mortgage as the “**Mortgaged Property.**” The Taxable Construction Loan Agreement, the Taxable Note, Taxable Mortgage and any other documents evidencing or related to the Taxable Loan are referred to as the “**Taxable Financing Documents.**”
- H. The execution and delivery of this Agreement is a condition of Taxable Lender and Tax-Exempt Lender’s consenting to Subordinate Lender’s making of the Subordinate Loan and Borrower’s granting of the Subordinate Mortgage.

### AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. **Definitions.** The following terms, when used in this Agreement (including, as appropriate, when used in the above recitals), will have the following meanings.

The terms “**Condemnation,**” “**Imposition Reserve Deposits,**” “**Impositions,**” “**Leases,**” “**Rents**” and “**Restoration,**” as well as any term used in this Agreement and not otherwise defined in this Agreement, will have the meanings given to those terms in the Senior Loan Agreement.

“**Bankruptcy Proceeding**” means any bankruptcy, reorganization, insolvency, composition, restructuring, dissolution, liquidation, receivership, assignment for the benefit of creditors, or custodianship action or proceeding under any federal or state law with respect to Borrower, any guarantor of any of the Senior Indebtedness, any of their respective properties, or any of their respective partners, members, officers, directors, or shareholders.

“**Borrower**” means all persons or entities identified as “Borrower” in the first Recital of this Agreement, together with their successors and assigns, and any other person or entity who acquires title to the Mortgaged Property after the date of this Agreement; provided that the term “Borrower” will not include Tax-Exempt Lender, Funding Lender or Taxable Lender if Tax-Exempt Lender, Funding Lender or Taxable acquires title to the Mortgaged Property.

“**Casualty**” means the occurrence of damage to or loss of all or any portion of the Mortgaged Property by fire or other casualty.

**“Continuing Covenant Agreement”** means the Continuing Covenant Agreement to be executed by Borrower and Permanent Funding Lender at Conversion.

**“Enforcement Action”** means any of the following actions taken by or at the direction of Subordinate Lender: the acceleration of all or any part of the Subordinate Indebtedness, the advertising of or commencement of any foreclosure or trustee’s sale proceedings, the exercise of any power of sale, the acceptance of a deed or assignment in lieu of foreclosure or sale, the collecting of Rents, the obtaining of or seeking of the appointment of a receiver, the seeking of default interest, the taking of possession or control of any of the Mortgaged Property, the commencement of any suit or other legal, administrative, or arbitration proceeding based upon the Subordinate Note or any other of the Subordinate Loan Documents, the exercising of any banker’s lien or rights of set-off or recoupment, or the exercise of any other remedial action against Borrower, any other party liable for any of the Subordinate Indebtedness or obligated under any of the Subordinate Loan Documents, or the Mortgaged Property.

**“Enforcement Action Notice”** means a Notice given from Subordinate Lender to Tax-Exempt Lender, Funding Lender and Taxable Lender, following one or more Subordinate Mortgage Default(s) and the expiration of any applicable notice or cure periods, setting forth in reasonable detail the Subordinate Mortgage Default(s) and the Enforcement Actions proposed to be taken by Subordinate Lender.

**“Funding Lender”** shall mean Initial Funding Lender prior to Conversion and Permanent Funding Lender from and after Conversion, and any successor holder of the Governmental Note.

**“Funding Loan Agreement”** means the Funding Loan Agreement dated as of [\_\_\_\_] 1, 2020 among Funding Lender, Governmental Lender and Tax-Exempt Lender.

**“Governmental Note”** means the Multifamily Note delivered by the Governmental Lender evidencing the Funding Loan.

**“Lien”** means any lien, encumbrance, estate or other interest, recorded against or secured by the Mortgaged Property.

**“Loss Proceeds”** means all monies received or to be received under any insurance policy, from any condemning authority, or from any other source, as a result of any Condemnation or Casualty.

**“Notice”** means all notices, requests, demands, consents, approvals or other communication pursuant to this Agreement provided in accordance with the provisions of Section 10.

**“Senior Indebtedness”** means the “Indebtedness” of Borrower as evidenced by the Tax-Exempt Loan Documents and the “Indebtedness of Borrower as evidenced by the Taxable Loan Documents.

“**Tax-Exempt Lender**” is defined above. When any other person or entity becomes the legal holder of the Tax-Exempt Note, such other person or entity will automatically become Tax-Exempt Lender.

“**Taxable Lender**” is defined above. When any other person or entity becomes the legal holder of the Taxable Note, such other person or entity will automatically become Taxable Lender.

“**Senior Loan Agreement**” collectively means, prior to Conversion, the Project Loan Agreement and Construction Loan Agreement. From and after Conversion, “Senior Loan Agreement” means the Project Loan Agreement and/or the Continuing Covenant Agreement.

“**Senior Loan Documents**” collectively means prior to Conversion, the “Project Loan Documents” as defined in the Construction Phase Financing Agreement together with the “Financing Documents” as defined in the Construction Loan Agreement, together with the “Financing Documents” as defined in the Tax-Exempt Construction Loan Agreement. From and after Conversion, “Senior Loan Documents” shall also mean the “Financing Documents” as defined in the Continuing Covenant Agreement, as such documents may be amended.

“**Senior Mortgage Default**” means any act, failure to act, event, condition, or occurrence which constitutes, or which with the giving of Notice or the passage of time, or both, would constitute, an “Event of Default” as defined in the Senior Loan Documents.

“**Tax-Exempt Note**” means, prior to Conversion, the Project Note. From and after Conversion, “Senior Note” means the Project Note as defined in the Continuing Covenant Agreement.

“**Subordinate Indebtedness**” means all sums evidenced or secured or guaranteed by, or otherwise due and payable to Subordinate Lender pursuant to, the Subordinate Loan Documents.

“**Subordinate Lender**” means the person or entity named as such in the first paragraph of this Agreement and any other person or entity who becomes the legal holder of the Subordinate Note after the date of this Agreement.

“**Subordinate Loan Documents**” means the Subordinate Mortgage, the Subordinate Note, the Subordinate Loan Agreement, and all other documents at any time evidencing, securing, guaranteeing, or otherwise delivered in connection with the Subordinate Indebtedness, as such documents may be amended.

“**Subordinate Mortgage Default**” means any act, failure to act, event, condition, or occurrence which allows (but for any contrary provision of this Agreement) Subordinate Lender to take an Enforcement Action.

“**Subordinate Note**” means the promissory note or other evidence of the Subordinate Indebtedness and any replacement of the Subordinate Note.

“**Surplus Cash**” means, with respect to any period, any revenues of Borrower remaining after paying, or setting aside funds for paying, all the following:

- (i) All sums due or currently required to be paid under the Senior Loan Documents, including any reserves and Imposition Reserve Deposits.
- (ii) All reasonable operating expenses of the Mortgaged Property, including real estate taxes, insurance premiums, utilities, building maintenance, painting and repairs, management fees, payroll, administrative expenses, legal expenses and audit expenses (excluding any developer fees payable with respect to the Mortgaged Property).

## 2. **Subordinate Lender’s Representations and Warranties.**

- (a) Subordinate Lender represents and warrants that each of the following is true as of the date of this Agreement:
  - (i) Subordinate Lender is now the owner and holder of the Subordinate Loan Documents.
  - (ii) No Subordinate Mortgage Default has occurred and is continuing.
  - (iii) The current unpaid principal balance of the Subordinate Indebtedness is \$722,500.
  - (iv) No scheduled payments under the Subordinate Note have been prepaid.
- (b) Without the prior written consent of Tax-Exempt Lender, Funding Lender and Taxable Lender, Subordinate Lender will not do any of the following:
  - (i) Pledge, assign, transfer, convey, or sell any interest in the Subordinate Indebtedness or any of the Subordinate Loan Documents.
  - (ii) Take any action which has the effect of increasing the Subordinate Indebtedness, except to cure a Senior Mortgage Default as contemplated under Section 5(a) of this Agreement.
  - (iii) Accept any prepayment of the Subordinate Indebtedness.

### 3. Terms of Subordination.

- (a) Agreement to Subordinate. The Subordinate Indebtedness is and will at all times continue to be subject and subordinate in right of payment to the prior payment in full of the Senior Indebtedness. Each of the Subordinate Loan Documents is, and will at all times remain, subject and subordinate in all respects to the liens, terms, covenants, conditions, operations, and effects of each of the Senior Loan Documents.
- (b) Subordination of Subrogation Rights. If Subordinate Lender, by indemnification, subrogation or otherwise, acquires any Lien on any of the Mortgaged Property, then that Lien will be fully subject and subordinate to the receipt by Tax-Exempt Lender and Taxable Lender of payment in full of the Senior Indebtedness, and to the Senior Loan Documents, to the same extent as the Subordinate Indebtedness and the Subordinate Loan Documents are subordinate pursuant to this Agreement.
- (c) Payments Before Senior Loan Default; Soft Subordinate Debt. Until the occurrence of a Senior Mortgage Default, Subordinate Lender will be entitled to retain for its own account all payments of the principal of and interest on the Subordinate Indebtedness pursuant to the Subordinate Loan Documents; provided that Subordinate Lender expressly agrees that it will not accept any such payment that is made more than 10 days in advance of its due date and provided further that Subordinate Lender will not accept any payment in an amount that exceeds 75% of then available Surplus Cash.
- (d) Payments After Senior Loan Default or Bankruptcy.
  - (i) Immediately upon Subordinate Lender's receipt of Notice or actual knowledge of a Senior Mortgage Default, Subordinate Lender will not accept any payments of the Subordinate Indebtedness, and the provisions of Section 3(d) of this Agreement will apply.
  - (ii) If Subordinate Lender receives any of the following, whether voluntarily or by action of law, after a Senior Mortgage Default of which Subordinate Lender has actual knowledge (or is deemed to have actual knowledge as provided in Section 4(c)) or has been given Notice, such will be received and held in trust for Tax-Exempt Lender, Funding Lender and Taxable Lender:
    - (A) Any payment, property, or asset of any kind or in any form in connection with the Subordinate Indebtedness.
    - (B) Any proceeds from any Enforcement Action.

- (C) Any payment, property, or asset in or in connection with any Bankruptcy Proceeding.
- (iii) Subordinate Lender will promptly remit, in kind and properly endorsed as necessary, all such payments, properties, and assets described in Section 3(d)(ii) to Tax-Exempt Lender and Taxable Lender. Tax-Exempt Lender and Taxable Lender will apply any payment, asset, or property so received from Subordinate Lender to the Senior Indebtedness in such order, amount (with respect to any asset or property other than immediately available funds), and manner as Tax-Exempt Lender, Funding Lender and Taxable Lender determines in its sole and absolute discretion.
- (e) Bankruptcy. Without the prior written consent of Tax-Exempt Lender and Taxable Lender, Subordinate Lender will not commence, or join with any other creditor in commencing, any Bankruptcy Proceeding. In the event of a Bankruptcy Proceeding, Subordinate Lender will not vote affirmatively in favor of any plan of reorganization or liquidation unless Tax-Exempt Lender and Taxable Lender have also voted affirmatively in favor of such plan.

#### **4. Default Under Subordinate Loan Documents.**

- (a) Notice of Subordinate Loan Default and Cure Rights.
  - (i) Subordinate Lender will deliver to Tax-Exempt Lender, Funding Lender and Taxable Lender a copy of each Notice delivered by Subordinate Lender pursuant to the Subordinate Loan Documents within 5 Business Days of sending such Notice to Borrower. Neither giving nor failing to give a Notice to Tax-Exempt Lender, Funding Lender and Taxable Lender pursuant to this Section 4(a) will affect the validity of any Notice given by Subordinate Lender to Borrower.
  - (ii) For a period of 90 days following delivery to Tax-Exempt Lender, Funding Lender and Taxable Lender of an Enforcement Action Notice, Tax-Exempt Lender, Funding Lender and Taxable Lender will have the right, but not the obligation, to cure any Subordinate Mortgage Default. However, if such Subordinate Mortgage Default is a non-monetary default and is not capable of being cured within such 90-day period and Tax-Exempt Lender, Funding Lender or Taxable Lender has commenced and is diligently pursuing such cure to completion, Tax-Exempt Lender, Funding Lender and Taxable Lender will have such additional period of time as may be required to cure such Subordinate Mortgage Default or until such time, if ever, as Tax-Exempt Lender, Funding Lender or Taxable Lender takes either of the following actions:
    - (A) Discontinues its pursuit of any cure.

- (B) Delivers to Subordinate Lender written consent to the Enforcement Action described in the Enforcement Action Notice.
  - (iii) Tax-Exempt Lender, Funding Lender or Taxable Lender will not be subrogated to the rights of Subordinate Lender under the Subordinate Loan Documents as a result of Tax-Exempt Lender, Funding Lender or Taxable Lender having cured any Subordinate Mortgage Default.
  - (iv) Subordinate Lender acknowledges that all amounts advanced or expended by Tax-Exempt Lender, Funding Lender or Taxable Lender in accordance with the Senior Loan Documents or to cure a Subordinate Mortgage Default will be added to and become a part of the Senior Indebtedness and will be secured by the lien of the Senior Mortgage.
- (b) Subordinate Lender's Exercise of Remedies After Notice to Tax-Exempt Lender and Taxable Lender.
- (i) In the event of a Subordinate Mortgage Default, Subordinate Lender will not commence any Enforcement Action until 90 days after Subordinate Lender has delivered to Tax-Exempt Lender, Funding Lender and Taxable Lender an Enforcement Action Notice.
  - (ii) Subordinate Lender may not commence any other Enforcement Action, including any foreclosure action under the Subordinate Loan Documents, until the earlier of:
    - (A) The expiration of such 90-day period or such longer period as provided in Section 4(a).
    - (B) The delivery by Tax-Exempt Lender, Funding Lender and Taxable Lender to Subordinate Lender of Tax-Exempt Lender, Funding Lender and Taxable Lender's written consent to such Enforcement Action by Subordinate Lender.
  - (iii) Subordinate Lender acknowledges that Tax-Exempt Lender, Funding Lender or Taxable Lender may grant or refuse consent to Subordinate Lender's Enforcement Action in Tax-Exempt Lender, Funding Lender or Taxable Lender's sole and absolute discretion. At the expiration of such 90-day period or such longer period as provided in Section 4(a) and, subject to Tax-Exempt Lender, Funding Lender or Taxable Lender's right to cure set forth in Section 4(a), Subordinate Lender may commence any Enforcement Action.
  - (iv) Tax-Exempt Lender, Funding Lender or Taxable Lender may pursue all rights and remedies available to it under the Senior Loan Documents, at law, or in equity, regardless of any Enforcement Action Notice or Enforcement



Action by Subordinate Lender. No action or failure to act on the part of Tax-Exempt Lender, Funding Lender or Taxable Lender in the event of a Subordinate Mortgage Default or commencement of an Enforcement Action will constitute a waiver on the part of Tax-Exempt Lender, Funding Lender or Taxable Lender of any provision of the Senior Loan Documents or this Agreement.

- (c) Cross Default. Subordinate Lender acknowledges that a Subordinate Mortgage Default constitutes a Senior Mortgage Default. Accordingly, upon the occurrence of a Subordinate Mortgage Default, Subordinate Lender will be deemed to have actual knowledge of a Senior Mortgage Default. If Subordinate Lender notifies Tax-Exempt Lender, Funding Lender or Taxable Lender in writing that any Subordinate Loan Default of which Tax-Exempt Lender, Funding Lender and Taxable Lender has received Notice has been cured or waived, as determined by Subordinate Lender in its sole discretion, then provided that Tax-Exempt Lender, Funding Lender or Taxable Lender has not conducted a sale of the Mortgaged Property pursuant to its rights under the Senior Loan Documents, any Senior Loan Default under the Senior Loan Documents arising solely from such Subordinate Loan Default will be deemed cured, and the Senior Loan will be reinstated.

## 5. Default Under Senior Loan Documents.

- (a) Notice of Senior Loan Default and Cure Rights.
- (i) Tax-Exempt Lender, Funding Lender or Taxable Lender will deliver to Subordinate Lender a copy of any Notice sent by Tax-Exempt Lender, Funding Lender or Taxable Lender to Borrower of a Senior Mortgage Default within 5 Business Days of sending such Notice to Borrower. Failure of Tax-Exempt Lender, Funding Lender or Taxable Lender to send Notice to Subordinate Lender will not prevent the exercise of Tax-Exempt Lender, Funding Lender or Taxable Lender rights and remedies under the Senior Loan Documents.
- (ii) Subordinate Lender will have the right, but not the obligation, to cure any monetary Senior Mortgage Default within 30 days following the date of such Notice. During such 30-day period Tax-Exempt Lender, Funding Lender or Taxable Lender will be entitled to continue to pursue its remedies under the Senior Loan Documents.
- (iii) Subordinate Lender may, within 90 days after the date of the Notice, cure a non-monetary Senior Mortgage Default if during such 90-day period, Subordinate Lender keeps current all payments required under the Senior Loan Documents. If such a non-monetary Senior Mortgage Default creates an unacceptable level of risk relative to the Mortgaged Property, or Tax-Exempt Lender, Funding Lender or Taxable Lender's secured position relative to the Mortgaged Property, as determined by Tax-Exempt Lender, Funding Lender

or Taxable Lender in its sole discretion, then during such 90-day period Tax-Exempt Lender, Funding Lender or Taxable Lender may exercise all available rights and remedies to protect and preserve the Mortgaged Property and the Rents, revenues and other proceeds from the Mortgaged Property.

- (iv) All amounts paid by Subordinate Lender to Tax-Exempt Lender, Funding Lender and Taxable Lender to cure a Senior Mortgage Default will be deemed to have been advanced by Subordinate Lender pursuant to, and will be secured by the lien of, the Subordinate Mortgage. Notwithstanding anything in this Section 5(a) to the contrary, Subordinate Lender's right to cure any Senior Mortgage Default will terminate immediately upon the occurrence of any Bankruptcy Proceeding.

(b) Release of Mortgaged Property.

- (i) Subordinate Lender consents to and authorizes any future release by Tax-Exempt Lender, Funding Lender or Taxable Lender of all or any portion of the Mortgaged Property from the lien, operation, and effect of the Senior Loan Documents. Subordinate Lender waives to the fullest extent permitted by law, all equitable or other rights it may have in connection with the release of all or any portion of the Mortgaged Property, including any right to require Tax-Exempt Lender, Funding Lender or Taxable Lender to do any of the following:
  - (A) To conduct a separate sale of any portion of the Mortgaged Property.
  - (B) To exhaust its remedies against all or any portion of the Mortgaged Property or any combination of portions of the Mortgaged Property or any other collateral for the Senior Indebtedness.
  - (C) To proceed against Borrower, any other party that may be liable for any of the Senior Indebtedness (including any general partner of Borrower if Borrower is a partnership), all or any portion of the Mortgaged Property or combination of portions of the Mortgaged Property or any other collateral, before proceeding against all or such portions or combination of portions of the Mortgaged Property as Tax-Exempt Lender, Funding Lender or Taxable Lender determines.
- (ii) Subordinate Lender consents to and authorizes, at the option of Tax-Exempt Lender, Funding Lender or Taxable Lender, the sale, either separately or together, of all or any portion of the Mortgaged Property. Subordinate Lender acknowledges that without Notice to Subordinate Lender and without affecting any of the provisions of this Agreement, Tax-Exempt Lender, Funding Lender or Taxable Lender may do any of the following:

- (A) Extend the time for or waive any payment or performance under the Senior Loan Documents.
- (B) Modify or amend in any respect any provision of the Senior Loan Documents.
- (C) Modify, exchange, surrender, release, and otherwise deal with any additional collateral for the Senior Indebtedness.

**6. Conflicts.** If there is any conflict or inconsistency between the terms of the Subordinate Loan Documents and the terms of this Agreement, then the terms of this Agreement will control. Borrower acknowledges that the terms and provisions of this Agreement will not, and will not be deemed to do any of the following:

- (a) Extend Borrower's time to cure any Senior Loan Default or Subordinate Loan Default.
- (b) Give Borrower the right to receive notice of any Senior Loan Default or Subordinate Loan Default, other than that, if any, provided, respectively under the Senior Loan Documents of the Subordinate Loan Documents.
- (c) Create any other right or benefit for Borrower as against Tax-Exempt Lender, Funding Lender or Taxable Lender or Subordinate Lender.

**7. Rights and Obligations of Subordinate Lender Under the Subordinate Loan Documents and of Tax-Exempt Lender, Funding Lender or Taxable Lender under the Senior Loan Documents.**

- (a) Insurance.
  - (i) All requirements pertaining to insurance under the Subordinate Loan Documents (including requirements relating to amounts and types of coverages, deductibles and special endorsements) will be deemed satisfied if Borrower complies with the insurance requirements under the Senior Loan Documents and of Tax-Exempt Lender, Funding Lender and Taxable Lender.
  - (ii) All original policies of insurance required pursuant to the Senior Loan Documents will be held by Tax-Exempt Lender, Funding Lender or Taxable Lender.
  - (iii) Nothing in this Section 7(a) will preclude Subordinate Lender from requiring that it be named as a mortgagee and loss payee, as its interest may appear, under all policies of property damage insurance maintained by Borrower with respect to the Mortgaged Property, provided such action does not affect the priority of payment of Loss Proceeds, or that Subordinate

Lender be named as an additional insured under all policies of liability insurance maintained by Borrower with respect to the Mortgaged Property.

(b) Condemnation or Casualty.

In the event of a Condemnation or a Casualty, the following provisions will apply:

- (i) The rights of Subordinate Lender (under the Subordinate Loan Documents or otherwise) to participate in any proceeding or action relating to a Condemnation or a Casualty, or to participate or join in any settlement of, or to adjust, any claims resulting from a Condemnation or a Casualty, will be and remain subordinate in all respects to Tax-Exempt Lender, Funding Lender or Taxable Lender's rights under the Senior Loan Documents, and Subordinate Lender will be bound by any settlement or adjustment of a claim resulting from a Condemnation or a Casualty made by Tax-Exempt Lender, Funding Lender or Taxable Lender.
- (ii) All Loss Proceeds will be applied either to payment of the costs and expenses of Restoration or to payment on account of the Senior Indebtedness, as and in the manner determined by Tax-Exempt Lender, Funding Lender or Taxable Lender in their sole discretion; provided however, Tax-Exempt Lender, Funding Lender and Taxable Lender agree to consult with Subordinate Lender in determining the application of Casualty proceeds. In the event of any disagreement between Tax-Exempt Lender, Funding Lender and Taxable Lender and Subordinate Lender over the application of Casualty proceeds, the decision of Tax-Exempt Lender, Funding Lender or Taxable Lender, in their sole discretion, will prevail.
- (iii) If Tax-Exempt Lender, Funding Lender or Taxable Lender holds Loss Proceeds, or monitors the disbursement of Loss Proceeds, Subordinate Lender will not do so. Nothing contained in this Agreement will be deemed to require Tax-Exempt Lender, Funding Lender or Taxable Lender to act for or on behalf of Subordinate Lender in connection with any Restoration or to hold or monitor any Loss Proceeds in trust for or otherwise on behalf of Subordinate Lender, and all or any Loss Proceeds may be commingled with any funds of Tax-Exempt Lender, Funding Lender or Taxable Lender.
- (iv) If Tax-Exempt Lender, Funding Lender or Taxable Lender elects to apply Loss Proceeds to payment on account of the Senior Indebtedness, and if the application of such Loss Proceeds results in the payment in full of the entire Senior Indebtedness, any remaining Loss Proceeds held by Tax-Exempt Lender, Funding Lender or Taxable Lender will be paid to Subordinate Lender unless another party has asserted a claim to the remaining Loss Proceeds.

- (c) Modification of Subordinate Loan Documents. Subordinate Lender agrees that, until the principal of, interest on and all other amounts payable under the Senior Loan Documents have been paid in full, it will not, without the prior written consent of Tax-Exempt Lender, Funding Lender and Taxable Lender, increase the amount of the Subordinate Loan, increase the required payments due under the Subordinate Loan, decrease the term of the Subordinate Loan, increase the interest rate on the Subordinate Loan, or otherwise amend the Subordinate Loan terms in a manner that creates an adverse effect upon Tax-Exempt Lender, Funding Lender or Taxable Lender under the Senior Loan Documents. If Subordinate Lender either (i) amends the Subordinate Loan Documents in the manner set forth above or (ii) assigns the Subordinate Loan without Tax-Exempt Lender, Funding Lender or Taxable Lender's consent then such amendment or assignment will be void ab initio and of no effect whatsoever.
- (d) Modification of Senior Loan Documents. Tax-Exempt Lender, Funding Lender or Taxable Lender may amend, waive, postpone, extend, renew, replace, reduce or otherwise modify any provisions of the Senior Loan Documents without the necessity of obtaining the consent of or providing Notice to Subordinate Lender, and without affecting any of the provisions of this Agreement. Notwithstanding the foregoing, Tax-Exempt Lender, Funding Lender or Taxable Lender may not modify any provision of the Senior Loan Documents that increases the Senior Indebtedness, except for increases in the Senior Indebtedness that result from advances made by Tax-Exempt Lender, Funding Lender or Taxable Lender to protect the security or lien priority of Tax-Exempt Lender, Funding Lender or Taxable Lender under the Senior Loan Documents or to cure defaults under the Subordinate Loan Documents.
- (e) Commercial or Retail Leases. If requested, Subordinate Lender will enter into attornment and non-disturbance agreements with all tenants under commercial or retail Leases, if any, to whom Tax-Exempt Lender, Funding Lender or Taxable Lender has granted attornment and non-disturbance, on the same terms and conditions given by Tax-Exempt Lender, Funding Lender or Taxable Lender.
- (f) Consent Rights. Whenever the Subordinate Loan Documents give Subordinate Lender approval or consent rights with respect to any matter, and a right of approval or consent for the same or substantially the same matter is also granted to Tax-Exempt Lender, Funding Lender or Taxable Lender pursuant to the Senior Loan Documents or otherwise, Tax-Exempt Lender's Funding Lender's or Taxable Lender's approval or consent or failure to approve or consent will be binding on Subordinate Lender. None of the other provisions of Section 7 are intended to be in any way in limitation of the provisions of this Section 7(f).
- (g) Escrows. Except as provided in this Section 7(g), and regardless of any contrary provision in the Subordinate Loan Documents, Subordinate Lender will not collect any escrows for any cost or expense related to the Mortgaged Property or for any portion of the Subordinate Indebtedness. However, if Tax-Exempt Lender, Funding

Lender or Taxable Lender is not collecting escrow payments for one or more Impositions, Subordinate Lender may collect escrow payments for such Impositions; provided that all payments so collected by Subordinate Lender will be held in trust by Subordinate Lender to be applied only to the payment of such Impositions.

- (h) Certification. Within 10 days after request by Tax-Exempt Lender, Funding Lender or Taxable Lender, Subordinate Lender will furnish Tax-Exempt Lender, Funding Lender and Taxable Lender with a statement, duly acknowledged and certified setting forth the then-current amount and terms of the Subordinate Indebtedness, confirming that there exists no default under the Subordinate Loan Documents (or describing any default that does exist), and certifying to such other information with respect to the Subordinate Indebtedness as Tax-Exempt Lender, Funding Lender or Taxable Lender may request.
- 8. Refinancing.** Subordinate Lender agrees that its agreement to subordinate under this Agreement will extend to any new mortgage debt which is for the purpose of refinancing all or any part of the Senior Indebtedness (including reasonable and necessary costs associated with the closing and/or the refinancing, and any reasonable increase in proceeds for rehabilitation in the context of a preservation transaction). All terms and covenants of this Agreement will inure to the benefit of any holder of any such refinanced debt, and all references to the Senior Loan Documents and Tax-Exempt Lender, Funding Lender or Taxable Lender will mean, respectively, the refinance loan documents and the holder of such refinanced debt.
- 9. Governmental Powers.** Nothing in this Agreement is intended, nor will it be construed, to in any way limit the exercise by Subordinate Lender of its governmental powers (including police, regulatory and taxing powers) with respect to Borrower or the Mortgaged Property to the same extent as if it were not a party to this Agreement or the transactions contemplated by this Agreement.
- 10. Notices.**
- (a) Any Notice required or permitted to be given pursuant to this Agreement will be in writing and will be deemed to have been duly and sufficiently given if (i) personally delivered with proof of delivery (any Notice so delivered will be deemed to have been received at the time so delivered), or (ii) sent by a national overnight courier service (such as FedEx) designating earliest available delivery (any Notice so delivered will be deemed to have been received on the next Business Day following receipt by the courier), or (iii) sent by United States registered or certified mail, return receipt requested, postage prepaid, at a post office regularly maintained by the United States Postal Service (any Notice so sent will be deemed to have been received on the date of delivery as confirmed by the return receipt), addressed to the respective parties as follows:

Notices intended for Tax-Exempt will be addressed to:

U.S. Bank National Association  
60 Livingston Avenue, 3<sup>rd</sup> Floor  
EP-NM-WS3C  
St. Paul, Minnesota 55107-2292  
Attention: Dan Sheff  
Facsimile: (651) 466-7430  
Telephone: (651) 466-6302  
Email: dan.sheff@usbank.com

Notices intended for Subordinate Lender will be addressed to:

Roseville Economic Development Authority  
2660 Civic Center Drive  
Roseville, MN 55113  
Attention: Executive Director

Notices intended for Funding Lender prior to Conversion and Taxable Lender will be addressed to:

America First Multifamily Investors, L.P.  
14301 FNB Parkway, Suite 211  
Omaha, NE 68154  
Attention: Andy Grier  
Telephone No.: (402) 952-1235

with a copy to (which shall not constitute notice):

Kutak Rock LLP  
8501 N. Scottsdale Rd., Suite 300  
Scottsdale, AZ 85253  
Attention: Public Finance Department

Notices intended for Funding Lender after Conversion will be addressed to:

Greystone Servicing Corporation, Inc.  
1100 Abernathy Rd. NE  
Building 500, Suite 900  
Atlanta, GA 30328  
Attention: Senior Managing Director  
Email: jenglund@greystoneusa.com  
Telephone: (770) 293-9340

- (b) Any party, by Notice given pursuant to this Section 10, may change the person or persons and/or address or addresses, or designate an additional person or persons or an additional address or addresses, for its Notices, but Notice of a change of address will only be effective upon receipt. Neither party will refuse or reject delivery of any Notice given in accordance with this Section 10.

## 11. Miscellaneous Provisions.

- (a) Assignments/Successors. This Agreement will be binding upon and will inure to the benefit of the respective legal successors and permitted assigns of the parties to this Agreement. Except for Tax-Exempt Lender, Funding Lender and Taxable Lender, no other party will be entitled to any benefits under this Agreement, whether as a third-party beneficiary or otherwise. This Agreement may be assigned at any time by Tax-Exempt Lender, Funding Lender or Taxable Lender to any subsequent holder of the Tax-Exempt Note. This Agreement may be assigned at any time by Taxable Lender to any subsequent holder of the Taxable Note.
- (b) No Partnership or Joint Venture. Nothing in this Agreement or in any of the Senior Loan Documents or Subordinate Loan Documents will be deemed to constitute Tax-Exempt Lender, Funding Lender and Taxable Lender as a joint venturer or partner of Subordinate Lender.
- (c) Further Assurances. Upon Notice from Tax-Exempt Lender, Funding Lender or Taxable Lender, Subordinate Lender will execute and deliver such additional instruments and documents, and will take such actions, as are required by Tax-Exempt Lender, Funding Lender or Taxable Lender to further evidence or implement the provisions and intent of this Agreement.
- (d) Amendment. This Agreement may be amended, changed, modified, altered or terminated only by a written instrument signed by the parties to this Agreement or their successors or assigns.
- (e) Governing Law. This Agreement will be governed by the laws of the State in which the Land is located.
- (f) Severable Provisions. If any one or more of the provisions contained in this Agreement, or any application of any such provisions, is invalid, illegal, or unenforceable in any respect, the validity, legality, enforceability, and application of the remaining provisions contained in this Agreement will not in any way be affected or impaired.
- (g) Term. The term of this Agreement will commence on the date of this Agreement and will continue until the earliest to occur of the following events:
- (i) The payment of all the Senior Indebtedness; provided that this Agreement will be reinstated in the event any payment on account of the Senior



Indebtedness (whether by or on behalf of Borrower, as proceeds of security or enforcement of any right of set-off or otherwise) is for any reason repaid or returned to Borrower or its insolvent estate, or avoided, set aside or required to be paid to Borrower, a trustee, receiver or other similar party under any bankruptcy, insolvency, receivership or similar law. In such event, any or all of the Senior Indebtedness originally intended to be satisfied will be deemed to be reinstated and outstanding to the extent of any repayment, return, or other action, as if such payment on account of the Senior Indebtedness had not been made.

- (ii) The payment of all the Subordinate Indebtedness other than by reason of payments which Subordinate Lender is obligated to remit to Tax-Exempt Lender, Funding Lender or Taxable Lender pursuant to this Agreement.
  - (iii) The acquisition by Tax-Exempt Lender, Funding Lender or Taxable Lender or by a third-party purchaser of title to the Mortgaged Property pursuant to a foreclosure of, deed in lieu of foreclosure, or trustee's sale or other exercise of a power of sale or similar disposition under the Senior Mortgage.
  - (iv) With the prior written consent of Tax-Exempt Lender, Funding Lender or Taxable Lender, without limiting the provisions of Section 4(b)(iv), the acquisition by Subordinate Lender of title to the Mortgaged Property subject to the Senior Mortgage pursuant to a foreclosure, or a deed in lieu of foreclosure, of (or the exercise of a power of sale under) the Subordinate Mortgage.
- (h) Counterparts. This Agreement may be executed in two or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.
  - (i) Entire Agreement. This Agreement represents the entire understanding and agreement between the parties regarding the matters addressed in this Agreement, and will supersede and cancel any prior agreements regarding such matters.
  - (j) Authority. Each person executing this Agreement on behalf of a party to this Agreement represents and warrants that such person is duly and validly authorized to do so on behalf of such party with full right and authority to execute this Agreement and to bind such party with respect to all of its obligations under this Agreement.
  - (k) No Waiver. No failure or delay on the part of any party to this Agreement in exercising any right, power, or remedy under this Agreement will operate as a waiver of such right, power, or remedy, nor will any single or partial exercise of any such right, power or remedy preclude any other or further exercise of such right, power, or remedy or the exercise of any other right, power or remedy under this Agreement.

- (l) Remedies. Each party to this Agreement acknowledges that if any party fails to comply with its obligations under this Agreement, the other parties will have all rights available at law and in equity, including the right to obtain specific performance of the obligations of such defaulting party and injunctive relief.
  
- (m) Funding Lender's Rights to Control. Notwithstanding anything herein to the contrary, pursuant to the Senior Mortgage and Section 6.03 of the Funding Loan Agreement, all acts, consents, approvals and undertakings of Tax-Exempt Lender hereunder shall be solely at the written direction of the Funding Lender. The parties hereto acknowledge and agree that Funding Lender is a third party beneficiary of this Agreement, with full rights as such.

**[SIGNATURE AND ACKNOWLEDGMENT PAGES FOLLOW]**









**EXHIBIT A**  
**LEGAL DESCRIPTION**

[To be attached]

PREPARED BY AND WHEN  
RECORDED RETURN TO:

Ann J. McGill  
Kutak Rock LLP  
1650 Farnam Street  
Omaha, Nebraska 68102

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(Space above reserved for recorder's use.)

Freddie Mac Loan Number: [\_\_\_\_\_]   
Property Name: Twin Lakes Family Apartments

**SUBORDINATION AGREEMENT - REGULATORY AGREEMENT ONLY**

**GOVERNMENTAL ENTITY**

**(NO SUBORDINATE DEBT)**

**(Revised 1-29-2018)**

THIS SUBORDINATION AGREEMENT FOR REGULATORY AGREEMENT (“**Agreement**”) is effective as of the \_\_\_ day of \_\_\_\_\_, 2020 by **ROSEVILLE ECONOMIC DEVELOPMENT AUTHORITY**, a public body corporate and politic and a political subdivision under the laws of Minnesota (“**Governmental Entity**”), and **ROSEVILLE LEASED HOUSING ASSOCIATES I, LLLP**, a Minnesota limited liability limited partnership (“**Borrower**”), for the benefit of **U.S. BANK NATIONAL ASSOCIATION**, a national banking association (“**Lender**”) and **AMERICA FIRST MULTIFAMILY INVESTORS, L.P.**, a Delaware limited partnership (“**Taxable Lender**”).

**RECITALS**

- A. Borrower is the owner of certain land located in Ramsey County, Minnesota, described in Exhibit A (“**Land**”). The Land is or will be improved with a multifamily rental housing project (the “**Improvements**”).
  
- B. Pursuant to the terms of that certain Contract for Private Redevelopment dated [\_\_\_\_], 2020 (“**Development Agreement**”) between Governmental Entity and Borrower, Governmental Entity has agreed to issue to Borrower its Tax Increment Revenue Note (Oasis at Twin Lakes Project) in the maximum principal amount of \$[\_\_\_\_\_] (“**TIF Note**”). The TIF Note will be assigned to Lender on or about the date hereof for the benefit



of Funding Lender (as defined herein) on the terms and conditions set forth in a Tax-Exempt Collateral Assignment of Tax Increment Financing Note and Tax Increments dated on or about the date hereof (the “**Tax-Exempt Collateral Assignment**”) and the TIF Note will be assigned to Taxable Lender on the terms and conditions set forth in a Taxable Collateral Assignment of Tax Increment Financing Note and Tax Increments dated on or about the date hereof (the “**Taxable Collateral Assignment**”). In connection with the Development Agreement, Borrower and Governmental Entity will enter into that certain Assessment Agreement (the “**Assessment Agreement**”). The Development Agreement, Assessment Agreement, Tax-Exempt Collateral Assignment and Taxable Collateral Assignment will be recorded on title to the Property on or about the date hereof in the Ramsey County, Minnesota Official Records (“**Official Records**”). The Development Agreement, Assessment Agreement and all other documents at any time evidencing, securing, guaranteeing, or otherwise delivered in connection with Governmental Entity’s issuance of the TIF Note, as such documents may be amended, are collectively referred to herein as the “**Subordinate Documents.**”

C.

D. The City of Roseville, Minnesota (“**Governmental Lender**”) has made a loan to Borrower in the original principal amount of \$[\_\_\_\_\_] (“**Project Loan**”) upon the terms and conditions of a Project Loan Agreement dated as of [\_\_\_\_\_] 1, 2020 (“**Project Loan Agreement**”) among Governmental Lender, Lender (in its capacity as Fiscal Agent under the Funding Loan Agreement (defined below)) and Borrower in connection with the Mortgaged Property. The Project Loan is secured by a Tax-Exempt Mortgage, Security Agreement and Fixture Financing Statement dated as of [\_\_\_\_], 2020 (“**Tax-Exempt Mortgage**”) encumbering the Land, the Improvements and related personal and other property described and defined in the Tax-Exempt Mortgage as the “**Mortgaged Property**”. The Tax-Exempt Mortgage will be recorded on title to the Property in the Official Records on or about the date hereof. Prior to Conversion (as defined herein), the Project Loan will be evidenced by that certain Multifamily Note dated June \_\_, 2020 and after Conversion, the Project Loan will be evidenced by that certain Amended and Restated Project Note (collectively, the “**Project Note**”). The Project Note was assigned by the Governmental Lender to Lender, as Fiscal Agent, as security for the loan made by the Initial Funding Lender (as defined below) to the Governmental Lender pursuant to the Funding Loan Agreement (the “**Funding Loan**”). The Tax Exempt Mortgage was assigned by the Governmental Lender to Lender as security for the Funding Loan pursuant to an Assignment of Tax-Exempt Mortgage, Security Agreement and Fixture Financing Statement and Tax-Exempt Assignment of Leases and Rents dated as of the date hereof to be recorded in the Recording Office contemporaneously herewith. The Project Loan Agreement, the Project Note, the Tax-Exempt Mortgage and any other documents evidencing or related to the Project Loan and Funding Loan are referred to as the “**Tax-Exempt Financing Documents.**”

E. Subject to the terms and conditions of that certain Construction Phase Financing Agreement (the “**Construction Phase Financing Agreement**”) dated as of [\_\_\_\_], 2020 between Borrower, America First Multifamily Investors, L.P. (“**Initial Funding Lender**”), Federal Home Loan Mortgage Corporation and Greystone Servicing Company LLC, a limited liability company organized under the laws of the State of Delaware (“**Permanent**”

**Funding Lender**”), Initial Funding Lender shall subsequently assign and deliver the documents comprising the Funding Loan to the Permanent Funding Lender and, in connection therewith, the Project Note and the Tax-Exempt Mortgage will be amended and restated, and thereafter assigned to the Fiscal Agent (“**Conversion**”). Until Conversion, the Initial Funding Lender shall be the Funding Lender and thereafter the Funding Lender shall be the Permanent Funding Lender.

- F. Taxable Lender is making a taxable loan to Borrower pursuant to that certain Taxable Construction Loan Agreement, dated as of June 1, 2020, by and between Borrower and Taxable Loan Lender (as the same may be amended, supplemented or restated, the “**Taxable Construction Loan Agreement**”), Taxable Loan Lender has agreed to make a mortgage loan to Borrower in the maximum aggregate principal amount of \$\_\_\_ (the “**Taxable Loan**”) to provide financing and refinancing for the Project, which Taxable Loan is evidenced by Borrower’s Taxable Promissory Note (Oasis at Twin Lakes Apartments Project), Series 2020 (as the same may be amended, supplemented or restated, the “**Taxable Note**”) dated June [\_\_\_], 2020.
- G. The Taxable Loan is or will be secured by, among other things, a Taxable Mortgage, Security Agreement and Fixture Financing Statement, dated as of the date hereof (the “**Taxable Mortgage**”), encumbering the Land, the Improvements and the related personal and other property described and defined in the Taxable Mortgage as the “**Mortgaged Property.**” The Taxable Construction Loan Agreement, the Taxable Note, Taxable Mortgage and any other documents evidencing or related to the Taxable Loan are referred to as the “**Taxable Financing Documents.**”
- F. Borrower and Governmental Entity hereby agree to subordinate the Subordinate Documents on and subject to the terms, conditions and requirements set forth in this Agreement. The execution and delivery of this Agreement is a condition of the Funding Loan and Taxable Loan.

## AGREEMENT

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Recitals.** The foregoing Recitals are hereby incorporated into this Agreement as agreements among the parties.
2. **Subordination.** The Governmental Entity hereby covenants and agrees that the Subordinate Documents are and will at all times continue to be, subordinate, subject and inferior to the rights of Lender and Funding Lender under the Tax-Exempt Financing Documents and the Taxable Lender under the Taxable Financing Documents and that the liens, rights (including approval and consent rights), remedies, payment interests, priority interests, and security interests granted to Governmental Entity pursuant to or in connection with the Subordinate Documents are hereby expressly acknowledged to be in all respects and at all times, subject, subordinate and inferior in all respects to the liens, rights

(including approval and consent rights), remedies, payment, priority and security interests granted to Lender and Funding Lender pursuant to the Tax-Exempt Financing Documents and the Taxable Lender under the Taxable Financing Documents and the terms, covenants, conditions, operations and effects thereof. Notwithstanding the above, Governmental Entity may exercise the remedies of specific performance or injunctive relief and such remedies as provided under Section 7 hereof.

3. **Financing, Encumbrance and Transfer Approval.** Governmental Entity hereby approves the transfer of the Property to the Borrower and the financing evidenced by the Tax-Exempt Mortgage and Taxable Mortgage. Governmental Entity further agrees that any transfer of the Property in connection with or any subsequent transfer by Tax-Exempt Lender, Funding Lender, Taxable Lender, or their respective nominees following a foreclosure or deed in lieu thereof will not require Governmental Entity's consent. Notwithstanding any provision to the contrary contained in the Subordinate Documents, Governmental Entity hereby approves the assignment of the TIF Note to Lender, as evidenced by the Tax-Exempt Collateral Assignment and the assignment of the TIF Note to the Taxable Lender as evidenced by the Taxable Collateral Assignment.
4. **Reserved.**
5. **Lender Notice of Default.** In consideration of Governmental Entity's agreements contained in this Agreement, Lender, Funding Lender and Taxable Lender, agree that in the event of any default by Borrower under the Tax-Exempt Financing Documents or Taxable Financing Documents, as applicable, Governmental Entity will be entitled to receive a copy of any notice of default given by Lender, Funding Lender or Taxable Lender to Borrower under the Tax-Exempt Financing Documents or Taxable Financing Documents, as applicable. Neither the giving nor the failure to give a notice to Governmental Entity pursuant to this Section 5 will affect the validity of any notice given by Lender, Funding Lender or Taxable Lender to the Borrower.
6. **Governmental Entity Notice of Default.** Governmental Entity must give Lender, Funding Lender and Taxable Lender a concurrent copy of each material notice (including without limitation each notice of default) given by Governmental Entity under or with respect to the Subordinate Documents, and agrees that for a period of 90 days following delivery of such notice to Lender, Funding Lender and Taxable Lender, that Lender, Funding Lender and/or Taxable Lender, at the sole election of each, will have the right (but not the obligation) to cure any default by Borrower under the Subordinate Documents on its and/or Borrower's behalf. However, if such default is a non-monetary default and is not capable of being cured within such 90-day period and Lender, Funding Lender, or Taxable Lender has commenced and is diligently pursuing such cure to completion, Lender, Funding Lender or Taxable Lender will have 365 days to cure such default or to provide assurances reasonably satisfactory to the Governmental Entity that the event will be cured and will be cured as soon as reasonably possible. Governmental Entity hereby represents and warrants that, to the best of its knowledge, there is no current default under the Subordinate Documents.

7. **Governmental Entity's Rights.** Except as set forth in Sections 2 and 8 of this Agreement, nothing in this Agreement is intended to abridge or adversely affect any right or obligation of Borrower and/or Governmental Entity, respectively, under the Subordinate Documents; provided that, (A) the Subordinate Documents may not be modified, amended, changed or altered without the prior written consent of Lender, Funding Lender and Taxable Lender so long as the Project Loan and Taxable Loan is secured by the Property and (B) for so long as the Project Loan and Taxable Loan is secured by the Property, notwithstanding the terms of the Subordinate Documents to the contrary, neither Borrower nor Governmental Entity will, without Lender's, Funding Lender's and Taxable Lender's prior written consent, exercise or seek any right or remedy under the Subordinate Documents or available at law or in equity which will or could result in (i) a transfer of possession of the Property or the control, operations or management thereof, (ii) collection or possession of rents or revenues from or with respect to the Property by any party other than Borrower or Lender; (iii) appointment of a receiver for the Property; (iv) application of insurance or condemnation proceeds other than as approved by Funding Lender and Taxable Lender pursuant to the Financing Documents; (v) removal or replacement of the existing property manager of the Property; or (vi) a material adverse effect on Lender's or Funding Lender's security for the Project Loan or Taxable Lender's security for the Taxable Loan (including but not limited to terminating or suspending payments under the TIF Note). Notwithstanding anything else to the contrary set forth herein, but subject to any cure rights that Lender (at the direction of Funding Lender), Funding Lender and Taxable Lender may have under this Agreement:
- (a) If the Borrower fails to complete construction of the Improvements or to operate the improvements in accordance with Section 4.1 of the Development Agreement, to pay taxes on the Land and Improvements, or to comply with the income and rent restrictions in accordance with Section 4.5 of the Development Agreement, Governmental Entity shall continue to have the ability to exercise the remedies set forth in Sections 9.2 and 9.3 of the Development Agreement, including the ability to terminate or suspend payments under the TIF Note; and
  - (b) Nothing herein shall be construed as subordinating the requirements contained in the Development Agreement that the Project be used in accordance with the provisions of Section 10.3 of the Development Agreement, or as subordinating the Authority's rights under the Assessment Agreement (as defined in the Development Agreement).
8. **Foreclosure by Lender.** In the event of foreclosure, deed in lieu of foreclosure, or similar disposition of the Property by Lender, Funding Lender or Taxable Lender, no consent will be required from Governmental Entity and Lender, Funding Lender and Taxable will have no indemnification obligations to Governmental Entity for any period during which Lender does not own or is not in possession of the Property. Notwithstanding the foregoing, prior to the recording of a deed in lieu of foreclosure, Lender (at the direction of Funding Lender), Funding Lender or Taxable Lender may, at its option, notify Governmental Entity and Borrower in writing that it has elected to assume the obligations of the Borrower under the Subordinate Documents ("**Assumption Notice**"). Following receipt of the Assumption

Notice, Governmental Entity shall treat Lender, Funding Lender (as applicable) or Taxable Lender as if it were the Borrower under the Subordinate Documents and shall continue to perform its obligations under the Subordinate Documents for the benefit of Lender, Funding Lender (as applicable), or Taxable Lender, as long as the Lender (at the direction of Funding Lender), Funding Lender (as applicable), or Taxable Lender continues to perform the obligations of Borrower under the Subordinate Documents. Neither Lender (at the direction of Funding Lender), Funding Lender or Taxable Lender shall have any obligation with respect to the Subordinate Documents unless and until delivery of an Assumption Notice by Lender (at the direction of Funding Lender), Funding Lender or Taxable Lender to Governmental Entity. If Lender (at the direction of Funding Lender), Funding Lender or Taxable has provided Governmental Entity with the Assumption Notice, then the rights of Governmental Entity under the Subordinate Documents shall survive foreclosure of the Tax-Exempt Mortgage and Taxable Mortgage or acceptance of a deed in lieu of foreclosure.

9. **Refinancing.** Governmental Entity agrees that its agreement to subordinate hereunder will extend to any new mortgage debt which is for the purpose of refinancing all or any part of the indebtedness evidenced by the Tax-Exempt Financing Documents or Taxable Financing Documents (including reasonable and necessary costs associated with the closing and/or the refinancing, and any reasonable increase in proceeds for rehabilitation in the context of a preservation transaction). All terms and covenants of this Agreement will inure to the benefit of any holder of any such refinanced debt, and all references to the Tax-Exempt Financing Documents and Lender and Funding Lender and Taxable Financing Documents and Taxable Lender, as applicable, will mean, respectively, the refinance loan documents and the holder of such refinanced debt.

10. **Miscellaneous Provisions.**

- (a) This Agreement represents the entire understanding and agreement between the parties with regard to the matters addressed herein, and will supersede and cancel any prior agreements with regard to such matters.
- (b) If there is any conflict or inconsistency between the terms of the Subordinate Documents and the terms of this Agreement, then the terms of this Agreement will control.
- (c) This Agreement will be binding upon and will inure to the benefit of the respective legal successors and permitted assigns of the parties to this Agreement, which will include with regard to the Governmental Entity any permitted successor or assign of the Governmental Entity under or pursuant to the terms of the Subordinate Documents and, with regard to Lender and Funding Lender, any subsequent holder of the Governmental Note and, with regard to Taxable Lender, any subsequent holder of the Taxable Note. No other party will be entitled to any benefits hereunder, whether as a third-party beneficiary or otherwise.

- (d) If any one or more of the provisions contained in this Agreement, or any application of any such provisions, is invalid, illegal, or unenforceable in any respect, the validity, legality, enforceability, and application of the remaining provisions contained in this Agreement will not in any way be affected or impaired.
- (e) Each notice, request, demand, consent, approval or other communication (collectively, “Notices,” and singly, a “Notice”) which is required or permitted to be given pursuant to this Agreement will be in writing and will be deemed to have been duly and sufficiently given if (i) personally delivered with proof of delivery (any Notice so delivered will be deemed to have been received at the time so delivered), or (ii) sent by a national overnight courier service (such as FedEx) designating earliest available delivery (any Notice so delivered will be deemed to have been received on the next Business Day following receipt by the courier), or (iii) sent by United States registered or certified mail, return receipt requested, postage prepaid, at a post office regularly maintained by the United States Postal Service (any Notice so sent will be deemed to have been received on the date of delivery as confirmed by the return receipt), addressed to the respective parties as follows:

If to Governmental Entity:

Roseville Economic Development Authority  
Attn: Executive Director  
2660 Civic Center Drive  
Roseville, Minnesota 55113

If to Lender:

U.S. Bank National Association  
60 Livingston Avenue, 3<sup>rd</sup> Floor  
EP-NM-WS3C  
St. Paul, Minnesota 55107-2292  
Attention: Dan Sheff  
Facsimile: (651) 466-7430  
Telephone: (651) 466-6302  
Email: dan.sheff@usbank.com

Notices intended for Funding Lender prior to Conversion and to Taxable Lender will be addressed to:

America First Multifamily Investors, L.P.  
14301 FNB Parkway, Suite 211  
Omaha, NE 68154  
Attention: Andy Grier  
Telephone No.: (402) 952-1235

with a copy to (which shall not constitute notice):

Kutak Rock LLP

8601 N. Scottsdale Rd., Suite 300  
Scottsdale, AZ 85253  
Attention: Public Finance Department

Notices intended for Funding Lender after Conversion will be addressed to:

Greystone Servicing Corporation, Inc.  
1100 Abernathy Rd. NE  
Building 500, Suite 900  
Atlanta, GA 30328

If to Borrower:

Roseville Leased Housing Associates I, LLLP  
2905 Northwest Blvd., Suite 150  
Plymouth, MN 55441  
Attention: [ \_\_\_\_\_ ]

with a copy to:

Winthrop & Weinstine  
225 South Sixth Street, Suite 3500  
Minneapolis, Minnesota 55402  
Attention: Scott Jahnke

Any party, by Notice given pursuant to this Section, may change the person or persons and/or address or addresses, or designate an additional person or persons or an additional address or addresses, for its Notices, but Notice of a change of address will only be effective upon receipt. Neither party will refuse or reject delivery of any Notice given in accordance with this Section.

- (f) Each of the parties will, whenever and as often as they are requested to do so by the other, execute, acknowledge and deliver, or cause to be executed, acknowledged or delivered, any and all such further instruments and documents as may be reasonably necessary to carry out the intent and purpose of this Agreement, and to do any and all further acts reasonably necessary to carry out the intent and purpose of this Agreement.
- (g) This Agreement will be governed by the laws of the State in which the Property is located.
- (h) Each person executing this Agreement on behalf of a party hereto represents and warrants that such person is duly and validly authorized to do so on behalf of such party with full right and authority to execute this Agreement and to bind such party with respect to all of its obligations under this Agreement.

- (i) No failure or delay on the part of any party to this Agreement in exercising any right, power, or remedy under this Agreement will operate as a waiver of such right, power, or remedy, nor will any single or partial exercise of any such right, power or remedy preclude any other or further exercise of such right, power, or remedy or the exercise of any other right, power or remedy under this Agreement.
- (j) Each party to this Agreement acknowledges that if any party fails to comply with its obligations under this Agreement, the other parties will have all rights available at law and in equity, including the right to obtain specific performance of the obligations of such defaulting party and injunctive relief.
- (k) This Agreement may be assigned at any time by Lender to any subsequent holder of the Governmental Note and may be assigned at any time by Taxable Lender to any subsequent holder of the Taxable Note.
- (l) This Agreement may be amended, changed, modified, altered or terminated only by a written instrument signed by the parties to this Agreement or their successors or assigns.
- (m) This Agreement may be executed in two or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.
- (n) Nothing in this Agreement is intended, nor will it be construed, to in any way limit the exercise by Governmental Entity of its governmental powers (including police, regulatory and taxing powers) with respect to Borrower or the Property to the same extent as if it were not a party to this Agreement or the transactions contemplated by this Agreement.

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN THE SUBORDINATE DOCUMENTS BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF THE MORTGAGE.

**[SIGNATURE AND ACKNOWLEDGMENT PAGES FOLLOW]**



IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day and year above written.

**GOVERNMENTAL ENTITY**

**SUBORDINATE LENDER:**

**ROSEVILLE ECONOMIC DEVELOPMENT AUTHORITY**, a public body corporate and politic under the laws of Minnesota

By: \_\_\_\_\_  
Name: Dan Roe  
Title: President

By: \_\_\_\_\_  
Name: Patrick Trudgeon  
Title: Executive Director

STATE OF MINNESOTA    )  
  ) ss  
COUNTY OF RAMSEY    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020, by Dan Roe and Patrick Trudgeon, the President and Executive Director, respectively, of Roseville Economic Development Authority, a public body corporate and politic and political subdivision of the State of Minnesota, on behalf of the Authority.

\_\_\_\_\_

**BORROWER**

**ROSEVILLE LEASED HOUSING  
ASSOCIATES I, LLLP**, a Minnesota limited  
liability limited partnership

By: Roseville Leased Housing Associates I, LLC, a  
Minnesota limited liability company, its general  
partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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

The foregoing instrument was acknowledged before me this \_\_\_\_ day of  
\_\_\_\_\_, 2020, by \_\_\_\_\_, the \_\_\_\_\_ of Roseville Leased Housing  
Associates I, LLC, a Minnesota limited liability company and the general partner of Roseville  
Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership, on behalf  
of the limited liability company and the limited liability limited partnership.

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

**TAX-EXEMPT LENDER**

**U.S. BANK NATIONAL ASSOCIATION**, a  
national banking association

By: \_\_\_\_\_  
Name:  
Title:

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

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020, by \_\_\_\_\_, the \_\_\_\_\_ of U.S. Bank National Association, a national banking association, on behalf of the national banking association.

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

TAXABLE LENDER

AMERICA FIRST MULTIFAMILY INVESTORS, L.P., a Delaware limited partnership

By: \_\_\_\_\_
Name:
Title:

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

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020, by \_\_\_\_\_, the \_\_\_\_\_ of America First Multifamily Investors, L.P., on behalf of the limited partnership.

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

**EXHIBIT A**

LEGAL DESCRIPTION

[To be attached]

**After recording return to:**  
America First Multifamily Investors, L.P.  
14301 FNB Parkway, Suite #211  
Omaha, NE 68154  
Attn: Andy Grier

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(Space above reserved for recorder's use.)

**COLLATERAL ASSIGNMENT OF CONTRACT FOR PRIVATE REDEVELOPMENT  
(TWIN LAKES FAMILY APARTMENTS)**

**TAXABLE LOAN**

**THIS COLLATERAL ASSIGNMENT OF CONTRACT FOR PRIVATE REDEVELOPMENT** (as the same may be amended, supplemented or restated, this "Assignment") is made as of June 1, 2020 by **ROSEVILLE LEASED HOUSING ASSOCIATES I, LLLP**, a Minnesota limited liability limited partnership ("Assignor"), for the benefit of **AMERICA FIRST MULTIFAMILY INVESTORS, L.P.**, a Delaware limited partnership ("Assignee").

**RECITALS**

**A.** Assignor has applied for the financial assistance of Assignee in the financing and refinancing for the acquisition, construction and equipping of a 228-unit multifamily rental housing development located at 1717 and 1743 County Road C West, Roseville, Ramsey County, Minnesota, to be known as Twin Lakes Family Apartments (as further defined in the Taxable Construction Loan Agreement, the "Project"). The Project is located on the land legally described on Exhibit "A."

**B.** Pursuant to that certain Taxable Construction Loan Agreement, dated as of June 1, 2020, by and between Assignor and Assignee (as the same may be amended, supplemented or restated, the "Taxable Construction Loan Agreement"), Assignee has agreed to make a mortgage loan to Assignor in the maximum aggregate principal amount of \$ \_\_\_\_\_ (the "Taxable Loan") to provide financing and refinancing for the Project, which Taxable Loan is evidenced by Borrower's Taxable Promissory Note (Twin Lakes Family Apartments Project), Series 2020 (as

the same may be amended, supplemented or restated, the “Taxable Note”) dated the Closing Date, delivered by Assignor to Assignee.

**C.** To secure Assignor’s obligations under the Taxable Note and the Taxable Construction Loan Agreement, Assignor has executed and delivered to Assignee (i) a Taxable Mortgage, Security Agreement and Fixture Financing Statement dated as of the date hereof (as the same may be amended, supplemented or restated, the “Mortgage”), and (ii) a Taxable Assignment of Leases and Rents dated as of the date hereof (as the same may be amended, supplemented or restated, the “Assignment of Leases”), each with respect to the Project (the Mortgage, the Assignment of Leases, and all other agreements, documents and/or instruments evidencing, securing or relating to the Taxable Loan being collectively the “Financing Documents”).

**D.** Assignor has commitments for additional financing for the Project from other sources of funding including without limitation, that certain Project Loan Agreement dated of even date herewith (as the same may be amended, supplemented or restated, the “Project Loan Agreement”) among the City of Roseville, Minnesota (“Governmental Lender”), U.S. Bank National Association, as fiscal agent (“Fiscal Agent”), and Assignor, whereby Governmental Lender has agreed to make a mortgage loan to Assignor in the maximum aggregate principal amount of \$ \_\_\_\_\_ (the “Project Loan”), and which Project Loan is being made by Governmental Lender to Assignor with the proceeds received from the separate loan in the maximum aggregate principal amount of \$ \_\_\_\_\_ (“Funding Loan”) being made to Governmental Lender pursuant to that certain Funding Loan Agreement dated as of June 1, 2020 (as the same may be amended, supplemented or restated, the “Funding Loan Agreement”), by and among Governmental Lender, Fiscal Agent and America First Multifamily Investors, L.P., a Delaware limited partnership, in its capacity as initial funding lender, (“Initial Funding Lender”).

**E.** Assignor has entered into that certain Contract for Private Redevelopment with the Roseville Economic Development Authority, a public body corporate and politic and political subdivision under the laws of Minnesota dated \_\_\_\_\_, 2020, with respect to the Project, together with any amendment or supplement thereto approved by Assignee in writing, a which is recorded in the Official Records of Ramsey County, Minnesota under recording no. \_\_\_\_\_ (the “Contract for Private Redevelopment”).

**F.** Assignee requires as a condition to making the Taxable Loan under the Taxable Construction Loan Agreement, that Assignor enter into this Assignment and assign to Assignee all of Assignor’s rights, title and interests in, to and under the Contract for Private Redevelopment for the purpose of providing additional security for Assignor of all of its obligations under the Financing Documents.

NOW THEREFORE, for and in consideration of the making of the Taxable Loan, the mutual promises and covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Definitions. Terms used herein and not otherwise defined shall have the respective meanings given to such terms in the Taxable Construction Loan Agreement.

2. Assignment. Assignor hereby assigns to Assignee all of Assignor's right, title and interest in and to the Contract for Private Redevelopment. Assignee shall, from and after the occurrence of a Default or an Event of Default under the Taxable Construction Loan Agreement or under any other Financing Document, have the right and authority to exercise any right or remedy, including, without limitation, any consent, approval and termination rights, of Assignor under the Contract for Private Redevelopment without the consent of Assignor. Notwithstanding the foregoing, Assignor shall cooperate, work and consult with Assignee in good faith with respect to matters under the Contract for Private Redevelopment.

3. Estoppel. Assignor represents and warrants that to the extent they are a party to the respective agreement all of the following are true as of the date of this Assignment:

(a) The Contract for Private Redevelopment is in full force and effect and has not been modified, amended or assigned other than pursuant to this Assignment.

(b) Assignor is not in default under any of the terms, covenants or provisions of the Contract for Private Redevelopment and knows of no event which, but for the passage of time or the giving of notice or both, would constitute an event of default under the Contract for Private Redevelopment.

(c) Assignor has not commenced any action or given or received any notice for the purpose of terminating the Contract for Private Redevelopment.

(d) All other sums due and payable to the Assignor under the Contract for Private Redevelopment have been paid in full.

4. Acknowledgment of Assignor. Assignor hereby acknowledges the rights of Assignee under this Assignment and agrees to perform its obligations under the Contract for Private Redevelopment to and for the benefit of Assignee. Without limiting any other term of this Assignment, if requested by Assignee, Assignor shall deliver to Assignee all reports, drawings, plans, specifications, test results, financial information, permits, draw requests, notices and other items delivered to Assignor simultaneously with their delivery to Assignor. Further, Assignor agrees that Assignee shall have audit rights (if any) provided in the Contract for Private Redevelopment.

5. No Amendment. Assignor shall not modify, amend or supplement the Contract for Private Redevelopment without the Assignee's consent. No amendment, modification or supplement to this Assignment shall be binding unless in writing signed by all parties hereto.

6. Further Assurances. Each party hereto (without cost to the requesting party), at any time and from time to time before or after the date of this Assignment, upon request by another party, will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, all such further acts, deeds, assignments, transfers, conveyances, powers of attorney and assurances as may reasonably be required for the effectuation of the transactions contemplated under this Agreement or for aiding and assisting in the allocation to and enjoyment by Assignor and Assignee of the benefits contemplated under this Assignment.



7. No Assignment. Assignor shall not have the right to assign any right or obligation under this Assignment to any other party.

8. Waivers and Extensions. Assignee shall have the right at any time to waive compliance with any of the conditions, covenants or agreements contained in this Assignment and to waive performance of all or any portion of any of the obligations of any other party hereto. No such waiver shall be effective unless it is intentionally and specifically waived in a writing signed by Assignee. Any specific waiver by Assignee pursuant to this Section in any one instance shall not be deemed a waiver in any other instance nor of any other matters referenced in this Section.

9. Survival. Notwithstanding any other provision in this Assignment, all covenants and agreements made by the parties each to the other in or pursuant to this Assignment shall survive any investigation that may have been made by any party and any termination of the Contract for Private Redevelopment.

10. Governing Law; Jurisdiction. This Assignment will be governed by and construed under the laws of the State of Minnesota (without regard to the choice of laws principles thereof), regardless of where it may have been executed or delivered.

11. Notices. Any notice, request, complaint, demand, communication or other paper required or permitted to be delivered to the parties hereto shall be sufficiently given and shall be deemed given (unless another form of notice shall be specifically set forth herein) on the Business Day following the date on which such notice or other communication shall have been delivered to a national overnight delivery service (receipt of which to be evidenced by a signed receipt from such overnight delivery service) addressed to the appropriate party at the addresses set forth below:

Assignor: Roseville Leased Housing Associates I, LLLP  
c/o Dominion Development & Acquisition, LLC  
2905 Northwest Boulevard, Suite 150  
Plymouth, MN 55441-7400  
Attention: Mark Moorhouse and Ryan Lunderby

with a copy to: Winthrop & Weinstine, P.A.  
225 South Sixth Street, Suite 3500  
Minneapolis, MN 55402-4629  
Attention: John M. Stern and Scott Jahnke  
(which copy shall not constitute notice to Assignor)

Assignee: America First Multifamily Investors L.P.  
14301 FNB Parkway, Suite 211  
Omaha, NE 68154  
Attention: Andy Grier

with a copy to: Kutak Rock LLP  
8601 North Scottsdale Road, Suite 300

Scottsdale, Arizona 85253  
Attention: Public Finance Department  
(which copy shall not constitute notice to  
Assignee)

Any party may designate any further or different address to which subsequent notices or other communication shall be sent by giving at least ten (10) Business Days' notice of such change, given as provided in this paragraph. Rejection or other refusal to accept or the inability to deliver because of changed address of which notice was not properly given pursuant to this Section shall be deemed to be receipt of the notice sent.

12. No Third Party Beneficiary. The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto.

13. Counterparts. This Assignment may be executed simultaneously in two or more counterparts, each of which will be deemed an original, and all of which together will constitute one and the same instrument.

14. Headings. The headings in the Articles and Sections of this Assignment are inserted for convenience of reference only and will not constitute a part hereof.

15. Entire Agreement. This Assignment, including the Exhibits hereto, and any documents executed by the parties simultaneously herewith or pursuant hereto, constitute the entire understanding and agreement of the parties hereto with respect to the subject matter hereof and supersedes all other prior agreements and understandings, written or oral, between the parties with respect to such subject matter.

16. Attorneys' Fees. If any action arising out of this Assignment is brought by any party hereto (other than the Assignee) against another, then in that event the unsuccessful party to such action shall pay to the prevailing party all costs and expenses, including reasonable attorneys' fees, incurred by such prevailing party, and if the prevailing party shall recover judgment in such action, such costs, expenses and attorneys' fees and expenses shall be included in and as part of such judgment.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Assignment as of the day and year first above written.

**ASSIGNOR:**

ROSEVILLE LEASED HOUSING ASSOCIATES I, LLLP,  
a Minnesota limited liability limited partnership

By: Roseville Leased Housing Associates I, LLC,  
a Delaware limited liability company  
Its: General Partner

By: \_\_\_\_\_  
Name: Ryan J. Lunderby  
Its: Vice President

STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020, by Ryan J. Lunderby, the Vice President of Roseville Leased Housing Associates I, LLC, a Delaware limited liability company, the General Partner of Roseville Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership, on behalf of such limited liability limited partnership.

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

**EXHIBIT A**  
**LEGAL DESCRIPTION**

*To be inserted.*

**CONSENT AND AGREEMENT OF AUTHORITY**

FOR VALUE RECEIVED, the undersigned on behalf of the Roseville Economic Development Authority (the "Authority"), which has, pursuant to the Contract for Private Redevelopment described in the above Collateral Assignment of Contract for Private Redevelopment (the "Assignment"), performed or participated in the funding of the construction of the Improvements in connection with the acquisition and construction of the Project referred to in the Assignment (such undersigned being hereinafter referred to as the "Undersigned"), hereby acknowledges and consents to the Assignment. The Undersigned does hereby warrant and represent, as of the date set forth in the Assignment, that no default exists under the terms of any agreement between Borrower and the Undersigned relating to the real property described in Exhibit A of the Assignment (the "Property"). All capitalized terms in this Consent and Agreement of Authority not otherwise defined herein shall have the meanings set forth in the Assignment.

The Undersigned does hereby agree that (a) in the event of any Default or Event of Default by Borrower under the terms of the Financing Documents, the Undersigned shall, upon receipt of written notice and demand of Lender, continue performance under the Contract for Private Redevelopment (provided that no event of default has occurred pursuant to the Contract for Private Redevelopment, subject to clause (b) hereof), and that (b) in the event of any default by Borrower under the terms of any agreement between any Borrower and the Undersigned relating to the Property, then the Undersigned shall deliver to Lender at the address for Lender as provided in the Assignment, written notice of such default and the action required to cure the same, and Lender shall have a reasonable time (but in no event less than thirty (30) Business Days (as defined in the Construction Loan Agreement) after receipt of such notice) within which Lender shall have the right, but not the obligation, to cure such default, and the delivery of such notice of default and the failure of Lender to cure the same within the time allowed, as aforesaid, shall be conditions precedent to the exercise of any right or remedy of the Undersigned arising by reason of such default, and that (c) the Undersigned shall not enter into any modification or amendment of any agreement with Borrower regarding the Property and the Project without providing not less than ten (10) days' written notice thereof to Lender, or such shorter time period as necessary to avoid a default under any such agreement.

*[ Remainder of Page Left Blank Intentionally; Signatures on Following Page ]*

ACKNOWLEDGED AND AGREED by the Authority:

**ROSEVILLE ECONOMIC DEVELOPMENT  
AUTHORITY,**

a public body corporate and politic and political  
subdivision of the State of Minnesota

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

Name: Dan Roe

Title: President

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

Name: Patrick Trudgeon

Title: Executive Director

STATE OF MINNESOTA    )  
  ) ss  
COUNTY OF RAMSEY     )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020, by Dan Roe and Patrick Trudgeon, the President and Executive Director, respectively, of Roseville Economic Development Authority, a public body corporate and politic and political subdivision of the State of Minnesota, on behalf of the Authority.

\_\_\_\_\_

**After recording return to:**  
America First Multifamily Investors, L.P.  
14301 FNB Parkway, Suite #211  
Omaha, NE 68154  
Attn: Andy Grier

---

(Space above reserved for recorder's use.)

**COLLATERAL ASSIGNMENT OF CONTRACT FOR PRIVATE REDEVELOPMENT  
(TWIN LAKES FAMILY APARTMENTS)**

**TAX-EXEMPT LOAN**

**THIS COLLATERAL ASSIGNMENT OF CONTRACT FOR PRIVATE REDEVELOPMENT** (as the same may be amended, supplemented or restated, this "Assignment") is made as of June 1, 2020 by **ROSEVILLE LEASED HOUSING ASSOCIATES I, LLLP**, a Minnesota limited liability limited partnership ("Assignor"), for the benefit of **U.S. BANK, NATIONAL ASSOCIATION**, as Fiscal Agent ("Assignee").

**RECITALS**

**A.** Pursuant to Minnesota Statutes, Chapter 462C, as amended (the "Act"), and that certain Project Loan Agreement dated as of June 1, 2020 (the "Project Loan Agreement"), by and among the City of Roseville, Minnesota, a statutory city, municipal corporation, and political subdivision duly organized and existing under the Constitution and laws of the State of Minnesota (the "Governmental Lender"), U.S. Bank National Association, a national banking association, having a corporate trust office in St. Paul, Minnesota (the "Fiscal Agent"), and Assignor, Governmental Lender has agreed to make a mortgage loan to Assignor in the maximum aggregate principal amount of \$\_\_\_\_\_ (the "Project Loan") to provide and refinancing for the acquisition, construction and equipping of a 228-unit multifamily rental housing development located at 1717 and 1743 County Road C West, Roseville, Ramsey County, Minnesota, and to be known as Twin Lakes Family Apartments (as further defined in the Construction Loan Agreement, the "Project") and related costs. The Project is located on the land legally described on Exhibit "A."

**B.** Governmental Lender is making the Project Loan to Assignor with the proceeds received from the separate loan in the maximum aggregate principal amount of \$ \_\_\_\_\_ (the “Funding Loan” and together with the Project Loan and the loan deemed made by Assignee under the Construction Loan Agreement, the “Loans”) being made to Governmental Lender pursuant to that certain Funding Loan Agreement dated as of June 1, 2020 (as the same may be amended, supplemented or restated, the “Funding Loan Agreement”), by and among Assignee, as initial funding lender, Governmental Lender and Fiscal Agent, which Funding Loan is evidenced by Governmental Lender’s Multifamily Note with designation as Multifamily Housing Revenue Note (Twin Lakes Family Apartments Project), Series 2020 (as the same may be amended, supplemented or restated, the “Governmental Note”) dated the Closing Date, delivered by Governmental Lender to Assignee.

**C.** Assignor’s repayment obligations in respect of the Project Loan are evidenced by that certain Multifamily Note dated the Closing Date, delivered by Assignor to Governmental Lender (as the same may be amended, supplemented or restated, the “Project Note” and together with the Governmental Note, the “Notes”), which the Governmental Lender has endorsed to Fiscal Agent for the benefit of Assignee as security for the Funding Loan.

**D.** To secure Assignor’s obligations under the Project Note and pursuant to that certain Tax-Exempt Construction Loan Agreement, dated as of June 1, 2020 (as the same may be amended, supplemented or restated, the “Construction Loan Agreement”), by and between Assignor and Assignee, Assignor has executed and delivered (i) a Tax-Exempt Mortgage, Security Agreement and Fixture Financing Statement dated as of the date hereof (as the same may be amended, supplemented or restated, the “Mortgage”) and (ii) a Tax-Exempt Assignment of Leases and Rents dated as of the date hereof (as the same may be amended, supplemented or restated, the “Assignment of Leases”), each with respect to the Project.

**E.** Pursuant to the Funding Loan Agreement, Governmental Lender has assigned to Fiscal Agent all of Governmental Lender’s right, title and interest in the Project Loan Agreement (except for certain unassigned rights), the Project Loan, the Project Note, the Mortgage, the Assignment of Leases and the Premises, as security for the payment of the principal of, premium, if any, and interest on the Governmental Note and the payment of any other amounts due thereunder and under the Funding Loan Agreement, the Project Loan Agreement, the Construction Loan Agreement, the Mortgage, the Assignment of Leases and all other agreements, documents and/or instruments evidencing, securing or relating to the Loans or any of them (the “Financing Documents”).

**F.** Pursuant to the Financing Documents, Assignor has covenanted, among other things, to make loan payments sufficient to pay when due the interest and principal payments on the Project Note, plus late fees, prepayment charges and other amounts due thereon, in all instances at the times and in the amounts necessary to enable Fiscal Agent, on behalf of Governmental Lender and the holders from time to time of the Governmental Note, to pay all amounts payable with respect to the Funding Loan, when due, whether at maturity or upon prepayment (with premium, if applicable), acceleration or otherwise.

**G.** Subject to the terms and conditions set forth in the Construction Loan Agreement, the Funding Loan Agreement, and the other Financing Documents, Assignee has agreed to



originate and fund the initial advance of the Funding Loan on the Closing Date, and additional advances thereof on a draw-down basis thereafter, to Governmental Lender by depositing all such advances with Fiscal Agent in accordance with the Funding Loan Agreement, which proceeds of the Funding Loan will be used by Governmental Lender to fund the Project Loan to Assignor in corresponding installments pursuant to the Project Loan Agreement and will be disbursed by Fiscal Agent to the Disbursing Agent for disbursement to pay costs of the Project.

**H.** Assignor has entered into that certain Contract for Private Redevelopment with the Roseville Economic Development Authority, a public body corporate and politic and political subdivision under the laws of Minnesota dated \_\_\_\_\_, 2020, with respect to the Project, together with any amendment or supplement thereto approved by Assignee in writing, which is recorded in the Official Records of Ramsey County, Minnesota under recording no. \_\_\_\_\_ (the “Contract for Private Redevelopment”).

**I.** Assignee requires as a condition to the making of the loan under the Construction Loan Agreement for purposes of capitalizing and making the Funding Loan in accordance with the Funding Loan Agreement in exchange for the Governmental Note, that Assignor enter into this Assignment and assign to Assignee all of Assignor’s rights, title and interests in, to and under the Contract for Private Redevelopment for the purpose of providing additional security for Assignor of all of its obligations under the Financing Documents.

NOW THEREFORE, for and in consideration of the making of the Loans, the mutual promises and covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Definitions. Terms used herein and not otherwise defined shall have the respective meanings given to such terms in the Construction Loan Agreement and the Funding Loan Agreement, as applicable.

2. Assignment. Assignor hereby assigns to Assignee all of Assignor’s right, title and interest in and to the Contract for Private Redevelopment. Assignee shall, from and after the occurrence of a Default or an Event of Default under the Construction Loan Agreement or under any other Financing Document, have the right and authority to exercise any right or remedy, including, without limitation, any consent, approval and termination rights, of Assignor under the Contract for Private Redevelopment without the consent of Assignor. Notwithstanding the foregoing, Assignor shall cooperate, work and consult with Assignee in good faith with respect to matters under the Contract for Private Redevelopment.

3. Estoppel. Assignor represents and warrants that to the extent they are a party to the respective agreement all of the following are true as of the date of this Assignment:

(a) The Contract for Private Redevelopment is in full force and effect and has not been modified, amended or assigned other than pursuant to this Assignment.

(b) Assignor is not in default under any of the terms, covenants or provisions of the Contract for Private Redevelopment and knows of no event which, but for the

passage of time or the giving of notice or both, would constitute an event of default under the Contract for Private Redevelopment.

(c) Assignor has not commenced any action or given or received any notice for the purpose of terminating the Contract for Private Redevelopment.

(d) All other sums due and payable to the Assignor under the Contract for Private Redevelopment have been paid in full.

4. Acknowledgment of Assignor. Assignor hereby acknowledges the rights of Assignee under this Assignment and agrees to perform its obligations under the Contract for Private Redevelopment to and for the benefit of Assignee. Without limiting any other term of this Assignment, if requested by Assignee, Assignor shall deliver to Assignee all reports, drawings, plans, specifications, test results, financial information, permits, draw requests, notices and other items delivered to Assignor simultaneously with their delivery to Assignor. Further, Assignor agrees that Assignee shall have audit rights (if any) provided in the Contract for Private Redevelopment.

5. No Amendment. Assignor shall not modify, amend or supplement the Contract for Private Redevelopment without the Assignee's consent. No amendment, modification or supplement to this Assignment shall be binding unless in writing signed by all parties hereto.

6. Further Assurances. Each party hereto (without cost to the requesting party), at any time and from time to time before or after the date of this Assignment, upon request by another party, will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, all such further acts, deeds, assignments, transfers, conveyances, powers of attorney and assurances as may reasonably be required for the effectuation of the transactions contemplated under this Agreement or for aiding and assisting in the allocation to and enjoyment by Assignor and Assignee of the benefits contemplated under this Assignment.

7. No Assignment. Assignor shall not have the right to assign any right or obligation under this Assignment to any other party.

8. Waivers and Extensions. Assignee shall have the right at any time to waive compliance with any of the conditions, covenants or agreements contained in this Assignment and to waive performance of all or any portion of any of the obligations of any other party hereto. No such waiver shall be effective unless it is intentionally and specifically waived in a writing signed by Assignee. Any specific waiver by Assignee pursuant to this Section in any one instance shall not be deemed a waiver in any other instance nor of any other matters referenced in this Section.

9. Survival. Notwithstanding any other provision in this Assignment, all covenants and agreements made by the parties each to the other in or pursuant to this Assignment shall survive any investigation that may have been made by any party and any termination of the Contract for Private Redevelopment.

10. Governing Law; Jurisdiction. This Assignment will be governed by and construed under the laws of the State of Minnesota (without regard to the choice of laws principles thereof), regardless of where it may have been executed or delivered.

11. Notices. Any notice, request, complaint, demand, communication or other paper required or permitted to be delivered to the parties hereto shall be sufficiently given and shall be deemed given (unless another form of notice shall be specifically set forth herein) on the Business Day following the date on which such notice or other communication shall have been delivered to a national overnight delivery service (receipt of which to be evidenced by a signed receipt from such overnight delivery service) addressed to the appropriate party at the addresses set forth below:

Assignor: Roseville Leased Housing Associates I, LLLP  
c/o Dominion Development & Acquisition, LLC  
2905 Northwest Boulevard, Suite 150  
Plymouth, MN 55441-7400  
Attention: Mark Moorhouse and Ryan Lunderby

with a copy to: Winthrop & Weinstine, P.A.  
225 South Sixth Street, Suite 3500  
Minneapolis, MN 55402-4629  
Attention: John M. Stern and Scott Jahnke  
(which copy shall not constitute notice to Assignor)

Assignee: U.S. Bank National Association  
Corporate Trust Services  
60 Livingston Avenue, 3rd Floor  
EP-MN-WS3C  
St. Paul, MN 55107-2292  
Attention: Dan Sheff

Each notice to Funding Lender shall be addressed as follows prior to Conversion:

America First Multifamily Investors, L.P.  
14301 FNB Parkway, Suite #211  
Omaha, NE 68154  
Attn: Andy Grier

with a copy (which copy shall not constitute notice to Funding Lender) to:

Kutak Rock LLP  
8601 N Scottsdale Road, Suite 300  
Scottsdale, AZ 85253  
Attention: Public Finance Department

following Conversion, if conversion occurs:

Greystone Servicing Corporation, Inc.  
1100 Abernathy Rd. NE  
Building 500, Suite 900  
Atlanta, GA 30328

with a copy to following the Freddie Mac Purchase Date, if Freddie Mac purchases the Funding Loan:

Federal Home Loan Mortgage Corporation  
8100 Jones Branch Drive, MS B4P  
McLean, Virginia 22102  
Attention: Multifamily Operations - Loan  
Accounting  
Email: mfla@freddiemac.com  
Telephone: (703) 714-4177

with a copy to:

Federal Home Loan Mortgage Corporation  
8200 Jones Branch Drive, MS 210  
McLean, Virginia 22102  
Attention: Managing Associate General  
Counsel –  
Multifamily Legal Division  
Email: joshua\_schonfeld@freddiemac.com  
Telephone: (703) 903-2000

Any party may designate any further or different address to which subsequent notices or other communication shall be sent by giving at least ten (10) Business Days' notice of such change, given as provided in this paragraph. Rejection or other refusal to accept or the inability to deliver because of changed address of which notice was not properly given pursuant to this Section shall be deemed to be receipt of the notice sent.

12. No Third Party Beneficiary. The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto.

13. Counterparts. This Assignment may be executed simultaneously in two or more counterparts, each of which will be deemed an original, and all of which together will constitute one and the same instrument.

14. Headings. The headings in the Articles and Sections of this Assignment are inserted for convenience of reference only and will not constitute a part hereof.

15. Entire Agreement. This Assignment, including the Exhibits hereto, and any documents executed by the parties simultaneously herewith or pursuant hereto, constitute the entire understanding and agreement of the parties hereto with respect to the subject matter hereof and

supersedes all other prior agreements and understandings, written or oral, between the parties with respect to such subject matter.

16. Attorneys' Fees. If any action arising out of this Assignment is brought by any party hereto (other than the Assignee) against another, then in that event the unsuccessful party to such action shall pay to the prevailing party all costs and expenses, including reasonable attorneys' fees, incurred by such prevailing party, and if the prevailing party shall recover judgment in such action, such costs, expenses and attorneys' fees and expenses shall be included in and as part of such judgment.

[Remainder of page intentionally left blank.]



**EXHIBIT A**  
**LEGAL DESCRIPTION**

*(To be inserted.)*

**CONSENT AND AGREEMENT OF AUTHORITY**

FOR VALUE RECEIVED, the undersigned on behalf of the Roseville Economic Development Authority (the "Authority"), which has, pursuant to the Contract for Private Redevelopment described in the above Collateral Assignment of Contract for Private Redevelopment (the "Assignment"), performed or participated in the funding of the construction of the Improvements in connection with the acquisition and construction of the Project referred to in the Assignment (such undersigned being hereinafter referred to as the "Undersigned"), hereby acknowledges and consents to the Assignment. The Undersigned does hereby warrant and represent, as of the date set forth in the Assignment, that no default exists under the terms of any agreement between Borrower and the Undersigned relating to the real property described in Exhibit A of the Assignment (the "Property"). All capitalized terms in this Consent and Agreement of Authority not otherwise defined herein shall have the meanings set forth in the Assignment.

The Undersigned does hereby agree that (a) in the event of any Default or Event of Default by Borrower under the terms of the Financing Documents, the Undersigned shall, upon receipt of written notice and demand of Lender, continue performance under the Contract for Private Redevelopment (provided that no event of default has occurred pursuant to the Contract for Private Redevelopment, subject to clause (b) hereof), and that (b) in the event of any default by Borrower under the terms of any agreement between any Borrower and the Undersigned relating to the Property, then the Undersigned shall deliver to Lender at the address for Lender as provided in the Assignment, written notice of such default and the action required to cure the same, and Lender shall have a reasonable time (but in no event less than thirty (30) Business Days (as defined in the Construction Loan Agreement) after receipt of such notice) within which Lender shall have the right, but not the obligation, to cure such default, and the delivery of such notice of default and the failure of Lender to cure the same within the time allowed, as aforesaid, shall be conditions precedent to the exercise of any right or remedy of the Undersigned arising by reason of such default, and that (c) the Undersigned shall not enter into any modification or amendment of any agreement with Borrower regarding the Property and the Project without providing not less than ten (10) days' written notice thereof to Lender, or such shorter time period as necessary to avoid a default under any such agreement.

*[ Remainder of Page Left Blank Intentionally; Signatures on Following Page ]*





| ~~Sixth~~Seventh draft, June ~~17~~19, 2020

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**CONTRACT  
FOR  
PRIVATE REDEVELOPMENT**

**By and Between**

**ROSEVILLE ECONOMIC DEVELOPMENT AUTHORITY**

**and**

**ROSEVILLE LEASED HOUSING ASSOCIATES I, LLLP**

**Dated as of June \_\_, 2020**

---

This document was drafted by:

KENNEDY & GRAVEN, Chartered (MNI)  
470 U.S. Bank Plaza  
Minneapolis, Minnesota 55402  
(612) 337-9300  
<http://www.kennedy-graven.com>

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## CONTRACT FOR PRIVATE REDEVELOPMENT

THIS AGREEMENT, made as of the \_\_\_ day of June, 2020, by and between the Roseville Economic Development Authority, a public body corporate and politic and a political subdivision under the laws of Minnesota (the “Authority”), and Roseville Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the “Redeveloper”).

WITNESSETH:

WHEREAS, the City of Roseville (the “City”) has undertaken a program to promote the development and redevelopment of land which is underutilized within the City, and in this connection created its Development District No. 1 (hereinafter referred to as the “Project”), the geographic boundaries of which are coterminous with those of the City, pursuant to Minnesota Statutes, Sections 469.124 to 469.134; and

WHEREAS, the City has created the Authority and authorized the Authority to transact business and exercise its powers by an enabling resolution of the City Council, pursuant to Minnesota Statutes, Sections 469.090 to 469.1081 (the “Act”); and

WHEREAS, the City has transferred the control and administration of the Project and all current and future tax increment financing districts within the Project to the Authority, and the Authority has accepted such transfer; and

WHEREAS, pursuant to the Act and to Minnesota Statutes, Sections 469.001 to 469.047 (the “HRA Act”), the Authority is authorized to undertake certain activities to prepare real property for development and redevelopment by private enterprise; and

WHEREAS, the Redeveloper is under contract to acquire certain property (the “Redevelopment Property”) within the Project to redevelop as a multifamily housing facility (the “Minimum Improvements”), as further described herein; and

WHEREAS, the Authority has established Tax Increment Financing District No. 22: Twin Lakes II (the “TIF District”), a redevelopment district, pursuant to Minnesota Statutes, Sections 469.174 to 469.1794, as amended (the “TIF Act”), consisting, in part, of the Redevelopment Property located within the Project; and

WHEREAS, the Authority believes that the redevelopment of the Redevelopment Property pursuant to and in general fulfillment of this Agreement is in the vital and best interests of the City, will promote the health, safety, morals, and welfare of its residents, and will be in accord with the public purposes and provisions of the applicable State and local laws and requirements under which the Project has been undertaken and is being assisted.

NOW, THEREFORE, in consideration of the premises and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

## ARTICLE I

### Definitions

Section 1.1. Definitions. In this Agreement, unless a different meaning clearly appears from the context:

“Act” means Minnesota Statutes Sections 469.090 to 469.1081, as amended.

“Affiliate” means with respect to Redeveloper (a) any corporation, partnership, limited liability company or other business entity or person controlling, controlled by or under common control with the Redeveloper, or for which the controlling interest is commonly owned, and (b) any successor to such party by merger, acquisition, reorganization or similar transaction involving all or substantially all of the assets of such party (or such Affiliate). For the purpose hereof the words “controlling”, “controlled by” and “under common control with” shall mean, with respect to any corporation, partnership, limited liability company or other business entity, the ownership of fifty percent or more of the voting interests in such entity or possession, directly or indirectly, of the power to direct or cause the direction of management policies of such entity, whether through ownership of voting securities or by contract or otherwise.

“Agreement” means this Agreement, as the same may be from time to time modified, amended, or supplemented.

“Assessment Agreement” has the meaning provided in Section 6.3 hereof and shall be substantially in the form attached hereto as Schedule F.

“Authority” means the Roseville Economic Development Authority.

“Authority Representative” means the Executive Director of the Authority, or any person designated by the Executive Director to act as the Authority Representative for the purposes of this Agreement.

“Authorizing Resolution” means the resolution of the Authority authorizing issuance of the TIF Note, in substantially the form attached to this Agreement as Schedule B.

“Available Tax Increment” has the meaning provided in the Authorizing Resolution.

“Business Day” means any day except a Saturday, Sunday, legal holiday, a day on which the City is closed for business, or a day on which banking institutions in the City are authorized by law or executive order to close.

“Business Subsidy Act” means Minnesota Statutes, Sections 116J.993 to 116J.995, as amended.

“City” means the City of Roseville, Minnesota.

“Certificate of Completion” means the certification provided to the Redeveloper pursuant to Section 4.4 of this Agreement.

“Construction Plans” means the plans, specifications, drawings and related documents on the construction work to be performed by the Redeveloper on the Redevelopment Property which (a) shall be as detailed as the plans, specifications, drawings and related documents which are submitted to the appropriate building officials of the City, and (b) shall include at least the following: (1) site plan; (2) floor plan; (3) cross sections of each (length and width); (4) elevations (all sides); (5) landscape plan; and (6) such other plans or supplements to the foregoing plans as the Authority may reasonably request to allow it to ascertain the nature and quality of the proposed construction work.

“Consultant” means the Authority’s municipal advisor. As of the date of this Agreement, the Consultant is Ehlers and Associates, Inc.

“County” means the County of Ramsey, Minnesota.

“Development Program” means the Development Program for the Project, as amended.

“Environmental Costs” has the meaning provided in Section 3.4 hereof

“Event of Default” means an action by the Redeveloper listed in Article IX of this Agreement.

“Holder” means the owner of a Mortgage.

“HRA Act” means Minnesota Statutes, Sections 469.001 to 469.047, as amended.

“MOU” means the Memorandum of Understanding between the City and the Redeveloper, to be executed in connection with multifamily management and public safety services for the Minimum Improvements, which MOU is incorporated herein by reference.

“Minimum Improvements” means the construction of a multifamily rental housing facility on the Redevelopment Property consisting of two four-story buildings with a total of 228 apartments units, along with a stand-alone clubhouse building and associated structured parking to be integrated into such buildings.

“Mortgage” means any mortgage made by the Redeveloper that is secured, in whole or in part, with the Redevelopment Property and that is approved or deemed approved pursuant to the provisions of Article VII of this Agreement.

“MPCA” means the Minnesota Pollution Control Agency.

“Project” means the Authority’s Development District No. 1.



“Public Redevelopment Costs” has the meaning provided in Section 3.3(a) hereof.

“RAP” has the meaning provided in Section 3.2 hereof.

“Redeveloper” means Roseville Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership, or its permitted successors and assigns.

“Redevelopment Property” means the real property described in Schedule A of this Agreement.

“State” means the state of Minnesota.

“Tax Increment” means that portion of the real property taxes that is paid with respect to the Redevelopment Property and that is remitted to the Authority as tax increment pursuant to the Tax Increment Act.

“Tax Increment Act” or “TIF Act” means the Tax Increment Financing Act, Minnesota Statutes Sections 469.174 to 469.1794, as amended.

“Termination Date” means the earlier of (a) the date the final payment of principal and interest on the TIF Note has been paid in full or defeased or the TIF Note has been earlier terminated in accordance with its terms, or (b) the date the TIF District has been decertified.

“TIF District” means Tax Increment Financing District No. 22: Twin Lakes II, a redevelopment district, created by the City and Authority on August 12, 2019.

“TIF Note” means the Tax Increment Revenue Note (Oasis at Twin Lakes Project), as shown in Exhibit A of the Authorizing Resolution set forth in Schedule B attached hereto.

“Tax Increment Plan” or “TIF Plan” means the Tax Increment Financing Plan for the TIF District approved by the City Council on August 12, 2019, and as it may be amended.

“Transfer” has the meaning set forth in Section 8.2(a) hereof.

“Unavoidable Delays” means delays beyond the reasonable control of the party seeking to be excused as a result thereof which are the direct result of strikes, other labor troubles, prolonged adverse weather, public health emergencies (including without limitation the COVID-19 pandemic), acts of God, fire or other casualty to the Minimum Improvements, litigation commenced by third parties which, by injunction or other similar judicial action, directly results in delays, or acts of any federal, state or local governmental unit (other than the Authority or City in exercising their rights under this Agreement), including without limitation condemnation or threat of condemnation of any portion of the Redevelopment Property, which directly result in delays. Unavoidable Delays shall not include delays experienced by the Redeveloper in obtaining permits or governmental approvals necessary to enable construction of the Minimum Improvements by the dates such construction is required under Section 4.3 of this Agreement, unless (a) Redeveloper has timely filed any application and materials required by the

Authority or City for such permit or approvals, and (b) the delay is beyond the reasonable control of the Redeveloper.

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## ARTICLE II

### **Representations and Warranties**

#### Section 2.1. Representations and Covenants by the Authority.

(a) The Authority is an economic development authority duly organized and existing under the laws of the State. Under the provisions of the Act and the HRA Act, the Authority has the power to enter into this Agreement and carry out its obligations hereunder.

(b) The Authority will use its best efforts to facilitate redevelopment of the Minimum Improvements, including but not limited to cooperating with the Redeveloper in obtaining necessary administrative and land use approvals and financing pursuant to Section 7.1 hereof.

(c) The activities of the Authority (including without limitation those undertaken pursuant to the TIF Act) are undertaken for the purpose of fostering the development and redevelopment of certain real property that is occupied by a substandard and obsolete building, which will increase diverse housing opportunities, revitalize this portion of the Project, and increase the tax base.

(d) The Minimum Improvements are allowed uses under the zoning ordinances of the City and are consistent with the Development Program.

(e) Subject to all the terms and conditions of this Agreement, the Authority will issue the TIF Note to the Redeveloper.

(f) The Authority will take no action, nor omit to take any action, regarding the TIF District that materially impairs the collection or payment of Available Tax Increment.

(g) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with or results in a breach of, the terms, conditions or provisions of charter or statutory limitation or any indebtedness, agreement or instrument of whatever nature to which the Authority is now a party or by which it is bound, or constitutes a default under any of the foregoing.

Section 2.2. Representations and Warranties by the Redeveloper. The Redeveloper represents and warrants that:

(a) The Redeveloper is a limited liability limited partnership, duly organized and in good standing under the laws of the State of Minnesota, is not in violation of any provisions of its organizational documents, is duly qualified and authorized to transact business within the State, has power to enter into this Agreement and has duly authorized the execution, delivery, and performance of this Agreement by proper action of its partners.

(b) The Redeveloper will construct the Minimum Improvements in accordance with the terms of this Agreement, the Development Program, and all applicable local, state and federal laws and regulations (including, but not limited to, environmental, zoning, building code, labor, and public health laws and regulations).

(c) The Redeveloper will use reasonable efforts to secure all permits, licenses, and approvals necessary for construction of the Minimum Improvements.

(d) The Redeveloper has received no written notice or other written communication from any local, state or federal official that the activities of the Redeveloper or the Authority on the Redevelopment Property may be or will be in violation of any environmental law or regulation (other than those notices or communications which have been disclosed to the Authority). Assuming that the Minimum Improvements are constructed in accordance with the Construction Plans and implementation of the RAP, the Redeveloper is aware of no facts the existence of which would cause it to be in violation of or give any person a valid claim under any local, state, or federal environmental law, regulation or review procedure.

(e) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with or results in a breach of, the terms, conditions or provisions of any corporate restriction or any evidences of indebtedness, agreement or instrument of whatever nature to which the Redeveloper is now a party or by which it is bound, or constitutes a default under any of the foregoing.

(f) The proposed construction of the Minimum Improvements by the Redeveloper hereunder would not occur but for the tax increment financing assistance being provided by the Authority hereunder.

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## ARTICLE III

### **Property Acquisition; Acquisition Costs**

Section 3.1. Status of Redevelopment Property. The Redevelopment Property consists of the parcel legally described in Schedule A hereof. As of the date of this Agreement, the Redeveloper is under contract to acquire the Redevelopment Property. The Redeveloper acknowledges that the Authority has no obligation to acquire any of the Redevelopment Property.

#### Section 3.2. Environmental Undertakings.

(a) The Redeveloper has submitted a response action plan (the "RAP") to the MPCA, providing for remediation of hazardous wastes and contaminants on the Redevelopment Property and certain property adjacent thereto, which was previously approved by the MPCA. Upon commencement of construction of the Minimum Improvements, Redeveloper shall promptly undertake remediation and any other actions required under the RAP (as it may be amended from time to time), subject to the reimbursement as further described in this Agreement.

(b) The Redeveloper acknowledges that the Authority makes no representations or warranties as to soil and environmental condition on the Redevelopment Property or the fitness of the Redevelopment Property for construction of the Minimum Improvements or any other purpose for which the Redeveloper may make use of such property, and that the assistance provided to the Redeveloper under this Agreement neither implies any responsibility by the Authority for any contamination of the Redevelopment Property or poor soil conditions nor imposes any obligation on the Authority to participate in any cleanup of the Redevelopment Property and/or correction of any soil problems (other than associated with the financing described herein).

(c) Without limiting its obligations under Section 8.3 of this Agreement the Redeveloper further agrees that it will indemnify, defend, and hold harmless the Authority, the City, and their governing body members, officers, and employees, from any claims or actions arising out of the presence, if any, of hazardous wastes or pollutants existing on or in the Redevelopment Property unless and to the extent that such hazardous wastes or pollutants are present as a result of the actions or omissions of the indemnitees. Nothing in this Section will be construed to limit or affect any limitations on liability of the City or the Authority under State or federal law, including without limitation Minnesota Statutes, Sections 466.04 and 604.02.

#### Section 3.3. Issuance of TIF Note.

(a) *Public Redevelopment Costs.* In order to make construction of the Minimum Improvements financially feasible, the Authority will reimburse the Redeveloper for a portion of the costs of soil remediation (to the extent not reimbursed as an Environmental Cost pursuant to Section 3.4 hereof), land acquisition, and structured parking incurred by the Redeveloper on the Redevelopment Property (the "Public Redevelopment Costs"), through issuance of the TIF Note in accordance with this Section.

(b) *Terms.* The Authority shall issue and the Redeveloper shall purchase the TIF Note in the maximum principal amount of \$3,629,000. The TIF Note will be issued as reimbursement of Public Redevelopment Costs, and will be secured solely by Available Tax Increment. The terms of the TIF Note, including maturity and payment dates, will be substantially those set forth in the form of the TIF Note shown in Exhibit A of the Authorizing Resolution set forth in Schedule B attached hereto, and the TIF Note will be subject to all terms of the Authorizing Resolution, which is incorporated herein by reference. The Authority shall deliver the TIF Note to the Redeveloper upon execution in full of this Agreement. The TIF Note shall not be deemed issued, and interest shall not accrue, until satisfaction of the following:

(i) the Redeveloper has delivered to the Authority a signed statement including written evidence satisfactory to the Authority that Redeveloper has incurred Public Redevelopment Costs (as defined herein) in an amount at least equal to the principal amount of the TIF Note, which evidence must include copies of the paid invoices or other comparable evidence for costs of allowable Public Redevelopment Costs;

(ii) the Redeveloper has delivered to the Authority a signed statement that no uncured Event of Default by the Redeveloper has occurred and is continuing pursuant to Section 9.1 hereof;

(iii) the Redeveloper has submitted and obtained Authority approval of financing in accordance with Section 7.1; and

(iv) the Redeveloper has executed and delivered to the Authority an investment letter in a form reasonably satisfactory to the Authority.

No payment of Available Tax Increment shall be made under the TIF Note until the Redeveloper has complied with the lookback provisions set forth in Section 3.5 hereof, unless the Authority is in default of its obligations under Section 3.5(b)(3).

(c) *Termination of right to TIF Note.* All conditions for delivery of the TIF Note must be met by no later than the date which is five (5) years after the date of certification of the TIF District by the County and complies with the so-called five-year rule under Section 469.1763, subdivision 3(c) of the TIF Act. If the conditions for delivery of the TIF Note are not satisfied by the date described in this paragraph, the Authority has no further obligations under this Section.

(d) *Assignment of TIF Note.* The Authority acknowledges that the Redeveloper may assign the TIF Note to a third party. The Authority consents to such an assignment, conditioned upon receipt of an investment letter from such third party in a form reasonably acceptable to the Authority.

(e) *Qualifications.* The Redeveloper understands and acknowledges that all Public Redevelopment Costs must first be paid by or on behalf of the Redeveloper and will be reimbursed from Available Tax Increment pursuant to the terms of the TIF Note. The Authority

makes no representations or warranties regarding the amount of Tax Increment, or that revenues pledged to the TIF Note will be sufficient to pay the principal of the TIF Note. Any estimates of Tax Increment prepared by the Authority or its financial advisors in connection with the TIF District or this Agreement are for the benefit of the Authority, and are not intended as representations on which the Redeveloper may rely. In the event of legislative changes reducing the tax rate classification of certain qualified low-income rental housing under Minnesota Statutes, Section 273.13, subd. 25(e), the Redeveloper expressly agrees and acknowledges that the Authority may adjust the principal amount of the TIF Note to reflect such reduction. The parties agree that they will work in good faith to determine the appropriate amount of such reduction, it being the intent that the aggregate effect of such changes (i.e., the projected expense savings to the Redeveloper attributable to the reduction to the annual tax liability with regard to the Project and the projected income reduction to the Redeveloper attributable to the reduction in the amount of payments under the TIF Note) will be revenue-neutral to the Redeveloper. If the principal amount of the TIF Note is reduced pursuant to this Section 3.3(e), and there is subsequently a legislative change which increases the tax rate classification (i.e., the legislation giving rise to the reduction is repealed), the Authority shall adjust the principal amount of the TIF Note to reflect such increased tax burden in the same manner as the reduction aforesaid; provided, however, that any such increase shall be limited to the aggregate amount by which the principal balance of the TIF Note was previously reduced pursuant to this Section 3.3(e). Public Redevelopment Costs exceeding the principal amount of the TIF Note are the sole responsibility of Redeveloper, subject to Section 3.4 of this Agreement.

#### Section 3.4. Environmental Costs.

(a) Upon the Redeveloper's request the Authority has applied for and received two environmental remediation grants (the "Third-Party Grants") to finance a portion of the extraordinary costs of environmental remediation required to redevelop the Redevelopment Property and certain real property adjacent thereto pursuant to the RAP in effect for the Redevelopment Property and such real property adjacent thereto (the "Environmental Costs"). The Third-Party Grants consist of a grant from the Minnesota Department of Employment and Economic Development in the amount of \$179,514 (the "DEED Grant") and a grant from the Metropolitan Council in the amount of \$722,500 (the "TBRA Grant"), for a total aggregate award of \$902,014. The Authority will pay or reimburse the Redeveloper for Environmental Costs from and to the extent of the grant proceeds received in accordance with the terms of the DEED Grant agreement, the TBRA Grant agreement, and the terms of this Section. Any reimbursement pursuant to the TBRA Grant by the Authority under this Section will be in the form of a deferred loan to the Redeveloper, as provided in the forms of TBRA loan agreement, mortgage and promissory note attached hereto as Schedule G. **Notwithstanding anything to the contrary herein, if Environmental Costs exceed the amount to be reimbursed under this Section under the Third-Party Grants, such excess shall be the sole responsibility of the Redeveloper (except to the extent reimbursable under the TIF Note).**

(b) All disbursements will be made subject to the conditions precedent that on the date of such disbursement:

(1) The Authority has received a written statement from the Redeveloper's authorized representative certifying with respect to each payment: (a) that none of the items

for which the payment is proposed to be made has formed the basis for any payment previously made under this Section (or before the date of this Agreement); (b) that each item for which the payment is proposed is an Environmental Cost; and (c) that the Redeveloper reasonably anticipates completion of the Environmental Costs and the Minimum Improvements in accordance with the terms of this Agreement.

(2) No Event of Default under this Agreement or event which would constitute such an Event of Default but for the requirement that notice be given or that a period of grace or time elapse, shall have occurred and be continuing.

(3) No license or permit necessary for undertaking the Environmental Costs or constructing the Minimum Improvements shall have been revoked or the issuance thereof subjected to challenge before any court or other governmental authority having or asserting jurisdiction thereover.

(4) The Redeveloper has submitted, and the Authority has approved, Construction Plans for the Minimum Improvements in accordance with Article IV hereof.

(c) Whenever the Redeveloper desires a disbursement to be made hereunder, which shall be no more often than biweekly, the Redeveloper shall submit to the Authority a draw request in the form attached as Schedule C duly executed on behalf of the Redeveloper accompanied by paid invoices or other comparable evidence that the cost has been incurred and paid or is payable by Redeveloper. Each draw request shall constitute a representation and warranty by the Redeveloper that all representations and warranties set forth in this Agreement are true and correct as of the date of such draw request.

(d) If the Redeveloper has performed all of its agreements and complied with all requirements theretofore to be performed or complied with hereunder, including satisfaction of all applicable conditions precedent contained in Section 3.4(b) hereof, the Authority shall make a disbursement to Commercial Partners Title, LLC (the "Disbursement Agent"), which shall be disbursed in accordance with a disbursement agreement between the Disbursement Agent, the Redeveloper, and certain other financing parties for the Minimum Improvements in the amount of the requested disbursement or such lesser amount as shall be approved, within twenty (20) Business Days after the date of the Authority's receipt of the draw request, or, if later, upon receipt of Third-Party Grant proceeds from the respective agency, as the case may be. Each disbursement shall be paid from the grant designated by the Authority at its discretion, subject to the Authority's determination that the relevant Environmental Cost is payable from the designated source under the respective grant agreement.

(e) The making of the final disbursement by the Authority under this Section shall be subject to the condition precedent that the Redeveloper shall be in compliance with all conditions set forth in this Section and further, that the Authority shall have received a lien waiver from each contractor for all work done and for all materials furnished by it for the Environmental Costs.

(f) The Authority may, in its sole discretion, without notice to or consent from any other party, waive any or all conditions for disbursement set forth in this Article. However, the making of any disbursement prior to fulfillment of any condition therefor shall not be construed as a



waiver of such condition, and the Authority shall have the right to require fulfillment of any and all such conditions prior to authorizing any subsequent disbursement.

(g) Notwithstanding anything to the contrary contained herein, the parties agree, to the extent permitted by the documents evidencing the Third-Party Grants, that: (i) the Authority shall fully disburse the TBRA Grant funds prior to disbursing the DEED Grant funds (or shall first disburse TBRA Grant funds to the greatest extent feasible prior to disbursing DEED Grant funds), and (ii) at Redeveloper's request, return all or a portion of the DEED Grant funds and/or seek to terminate the DEED Grant to the extent that Redeveloper reasonably determines that there are insufficient permitted uses for such funds or that receipt of the DEED Grant funds will materially and adversely affect the construction and/or operation of the Minimum Improvements.

### Section 3.5. TIF Lookback.

(a) *Generally.* The financial assistance to the Redeveloper under this Agreement is based on certain assumptions regarding likely costs and expenses associated with constructing the Minimum Improvements. The Authority and the Redeveloper agree that those assumptions will be reviewed at the times described in this Section, and that the amount of Tax Increment assistance provided under Section 3.3 will be adjusted accordingly.

(b) *Lookback Calculations.* Within six (6) months after completion of construction of the Minimum Improvements, as evidenced by the delivery by the Authority of a Certificate of Completion pursuant to Section 4.4 hereof, the Redeveloper shall deliver an accounting of total overall development costs, including Public Redevelopment Costs, actually incurred in the construction of the Minimum Improvements.

(1) If the amount of the Public Redevelopment Costs actually incurred by the Redeveloper is less than the amount of Public Redevelopment Costs subject to reimbursement pursuant to Section 3.3 hereof, the financial assistance for the Public Redevelopment Costs will be reduced on a dollar for dollar basis in the amount of such deficiency and the principal amount of the TIF Note will be adjusted accordingly, and the Redeveloper shall deliver or cause to be delivered the TIF Note to the Authority in exchange for a new TIF Note in the adjusted principal amount upon the Authority's written request.

(2) If the amount of the total overall development costs actually incurred by the Redeveloper is less than the amount of estimated total development costs projected in Schedule D attached hereto, the financial assistance for the Public Redevelopment Costs will be reduced by fifty percent (50%) of such deficiency and the principal amount of the TIF Note will be adjusted accordingly, and the Redeveloper shall deliver the TIF Note to the Authority in exchange for a new TIF Note in the adjusted principal amount upon the Authority's written request.

(3) The Authority shall, within ninety (90) days of its receipt of the accounting of total overall development costs provided to the Authority by the Redeveloper pursuant to this Section 3.5(b), provide to Redeveloper a written response which states one of the following: (i) that the Authority has performed the calculations under Sections 3.5(b)(1)

and 3.5(b)(2) hereof and determined that the principal amount of the TIF Note is not required to be reduced, (ii) that the Authority has performed the calculations under Sections 3.5(b)(1) and 3.5(b)(2) hereof and determined that the principal amount of TIF Note is required to be reduced, and the amount by which the TIF Note principal balance is required to be reduced, or (iii) that the Authority is unable to perform the calculations under Sections 3.5(b)(1) and 3.5(b)(2) hereof and includes a list of additional information required of Redeveloper in order for the Authority to perform such calculations. If the Authority delivers a written notice pursuant to clause (i) of this Section 3.5(b)(3), such written notice shall constitute conclusive evidence that Redeveloper has satisfied all lookback obligations under this Agreement. If the Authority delivers a written notice pursuant to clause (ii) of this Section 3.5(b)(3), and the TIF Note is exchanged for a new TIF Note in accordance with Section 3.5(b)(2), such exchange shall constitute conclusive evidence that Redeveloper has satisfied all lookback obligations under this Agreement. If the Authority's written notice indicates that the Authority requires additional information pursuant to clause (iii) in the preceding sentence, Redeveloper shall submit such information within thirty (30) days of receiving the Authority's written notice (or such longer period as may be required if such information is not reasonably obtainable by Redeveloper within such time period), and the process outlined in the first sentence of this Section 3.5(b)(3) shall commence upon the Authority's receipt of such additional information.

Section 3.6. Business Subsidy. The parties agree and understand that the financial assistance described in this Agreement does not constitute a business subsidy within the meaning of the Business Subsidy Act, because the assistance is for housing, an enumerated exception under Section 116J.993, subdivision 3(7) of the Business Subsidy Act. The Redeveloper releases and waives any claim against the Authority and its governing body members, officers, agents, servants and employees thereof arising from application of the Business Subsidy Act to this Agreement, including without limitation any claim that the Authority failed to comply with the Business Subsidy Act with respect to this Agreement.

Section 3.7. Payment of Authority Costs. The Redeveloper agrees that it will pay, within thirty (30) days after written notice from the Authority, the reasonable costs of consultants and attorneys retained by the Authority in connection with the creation of the TIF District and the negotiation in preparation of this Agreement and other incidental agreements and documents related to the development contemplated hereunder (the "Authority Costs"). The Authority will provide written reports describing the costs accrued under this Section upon request from the Redeveloper, but not more often than intervals of forty-five (45) days. Notwithstanding the foregoing, any Authority Costs incurred by the Authority after the receipt by the Authority of the first payment of Tax Increment by the County will be paid by the Authority, and the Redeveloper will have no obligation to pay any Authority Costs incurred after such date. The sum of \$17,500, which was deposited by the Redeveloper upon filing its application for tax increment financing with the Authority, will be credited to the Redeveloper's obligation under this Section. Upon termination of this Agreement in accordance with its terms, the Redeveloper remains obligated under this Section for costs incurred through the effective date of termination. Authority Costs do not include any payments for City and Authority staff costs and expenses.

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## ARTICLE IV

### **Construction of Minimum Improvements**

Section 4.1. Construction of Improvements. The Redeveloper agrees that it will construct or cause construction of the Minimum Improvements on the Redevelopment Property materially in accordance with the approved Construction Plans and that it will, during any period while the Redeveloper retains ownership of any portion of the Minimum Improvements, operate and maintain, preserve and keep the Minimum Improvements or cause the Minimum Improvements to be maintained, preserved and kept with the appurtenances and every part and parcel thereof, in good repair and condition.

#### Section 4.2. Construction Plans.

(a) Before commencing construction of the Minimum Improvements, the Redeveloper shall submit to the Authority the Construction Plans. The Construction Plans shall provide for the construction of the Minimum Improvements and shall be in conformity with this Agreement, the Development Program and all applicable State and local laws and regulations. The Authority will approve the Construction Plans in writing (which approval shall conclusively be deemed given upon issuance by the City of a building permit for the Minimum Improvements) if (i) the Construction Plans conform to all terms and conditions of this Agreement; (ii) the Construction Plans conform to the goals and objectives of the Development Program; (iii) the Construction Plans conform to all applicable federal, State and local laws, ordinances, rules and regulations; (iv) Construction Plans are adequate to provide for construction of the Minimum Improvements; (v) the Redeveloper certifies that the Redeveloper reasonably anticipates that the Construction Plans do not provide for expenditures in excess of the funds available to the Redeveloper for construction of the Minimum Improvements; and (vi) no Event of Default has occurred and remains outstanding. No approval by the Authority shall relieve the Redeveloper of the obligation to comply with the terms of this Agreement, applicable federal, State, and local laws, ordinances, rules and regulations, or to construct the Minimum Improvements in accordance therewith. No approval by the Authority shall constitute a waiver of an Event of Default. If approval of the Construction Plans is requested by the Redeveloper in writing at the time of submission, such Construction Plans shall be deemed approved unless rejected in writing by the Authority, in whole or in part. Such rejections shall set forth in detail the reasons therefor based upon the criteria set forth in (i) through (vi) above, and shall be made within twenty (20) days after the date of receipt of final plans from the Redeveloper. If the Authority fails to reject any Construction Plans submitted to the Authority within said twenty- (20) day period, the Authority shall be deemed to have approved such plans. If the Authority rejects any Construction Plans in whole or in part, the Redeveloper shall submit new or corrected Construction Plans within twenty (20) days after written notification to the Redeveloper of the rejection. The provisions of this Section relating to approval, rejection and resubmission of corrected Construction Plans shall continue to apply until the Construction Plans have been approved by the Authority. The Authority's approval shall not be unreasonably withheld. Said approval shall constitute a conclusive determination that the approved Construction Plans and the Minimum

Improvements if constructed pursuant thereto comply to the Authority's satisfaction with the provisions of this Agreement relating thereto.

The Redeveloper hereby waives any and all claims and causes of action whatsoever resulting from the review of the Construction Plans by the Authority and/or any changes in the Construction Plans requested by the Authority. Neither the Authority nor any employee or official of the Authority shall be responsible in any manner whatsoever for any defect in the Construction Plans or in any work done pursuant to the Construction Plans, including changes requested by the Authority.

(b) If the Redeveloper desires to make any material change in the Construction Plans or any component thereof after their approval by the Authority, the Redeveloper shall submit the proposed change to the Authority for its approval. For the purpose of this Section 4.2, the term "material" means changes that increase or decrease construction costs by 10% or more of the total construction costs. If the Construction Plans, as modified by the proposed material change, conform to the requirements of this Section with respect to such previously approved Construction Plans, the Authority shall approve the proposed material change and notify the Redeveloper in writing of its approval. Such material change in the Construction Plans shall, in any event, be deemed approved by the Authority unless rejected, in whole or in part, by written notice by the Authority to the Redeveloper, setting forth in detail the reasons therefor. Such rejection shall be made within ten (10) days after receipt of the notice of such material change. The Authority's approval of any such material change in the Construction Plans will not be unreasonably withheld. No Authority approval is required for any change to the Construction Plans that is not material as defined herein.

Section 4.3. Commencement and Completion of Construction. Subject to Unavoidable Delays, the Redeveloper shall commence construction of the Minimum Improvements by December 31, 2020. Subject to Unavoidable Delays, the Redeveloper shall substantially complete the construction of the Minimum Improvements by December 31, 2022. All work with respect to the Minimum Improvements to be constructed or provided by the Redeveloper on the Redevelopment Property shall be in conformity with the Construction Plans as submitted by the Redeveloper and approved by the Authority. For purposes of this Agreement, construction shall be deemed to commence upon the commencement of environmental remediation activities necessary to carry out the construction of the Minimum Improvements.

The Redeveloper agrees for itself, its successors, and assigns, and every successor in interest to the Redevelopment Property, or any part thereof, that the Redeveloper, and such successors and assigns, shall promptly begin and diligently prosecute to completion the development of the Redevelopment Property through the construction of the Minimum Improvements thereon, and that such construction shall in any event be commenced and completed within the period specified in this Section. After the date of this Agreement and until the Minimum Improvements have been fully constructed, the Redeveloper shall make reports, in such detail and at such times as may reasonably be requested by the Authority, but no more than monthly, as to the actual progress of the Redeveloper with respect to such construction.

Section 4.4. Certificate of Completion.

(a) Within fifteen (15) days after substantial completion of the Minimum Improvements in accordance with those provisions of this Agreement relating solely to the obligations of the Redeveloper to construct the Minimum Improvements (including the dates for beginning and completion thereof), the Authority Representative shall deliver to the Redeveloper a Certificate of Completion in substantially the form shown as Schedule E, in recordable form and executed by the Authority. Such certification by the Authority shall be a conclusive determination of satisfaction and termination of the agreements and covenants in the Agreement with respect to the obligations of the Redeveloper, and its successors and assigns, to construct the Minimum Improvements and the date for the completion thereof. Such certification and such determination shall not constitute evidence of compliance with or satisfaction of any obligation of the Redeveloper to any Holder of a Mortgage, or any insurer of a Mortgage, securing money loaned to finance the Minimum Improvements, or any part thereof.

(b) If the Authority Representative shall refuse or fail to provide any certification in accordance with the provisions of this Section, the Authority Representative shall, within thirty (30) days after written request by the Redeveloper, provide the Redeveloper with a written statement, indicating in adequate detail in what respects the Redeveloper has failed to complete the Minimum Improvements in accordance with the provisions of this Agreement, or is otherwise in default, and what measures or acts it will be necessary, in the opinion of the Authority, for the Redeveloper to take or perform in order for the Authority to issue the Certificate of Completion. Issuance of the Certificate of Completion shall not be unreasonably withheld.

(c) The construction of the Minimum Improvements shall be deemed to be complete upon (i) issuance of a certificate of occupancy for the Minimum Improvements, ~~and~~ (ii) determination by the Authority Representative that all related site improvements on the Redevelopment Property have been substantially completed in accordance with the approved Construction Plans, and (iii) certification by the Redeveloper to the Authority that to the extent due and payable for work performed to the date of such certification, all costs related to the Minimum Improvements and the development of the Redevelopment Property, including without limitation payments to all contractors, subcontractors, and project laborers, have been paid prior to the date of the Redeveloper's request for the Certificate of Completion.

Section 4.5. Affordable Housing Covenant. The Redeveloper represents, warrants, and covenants that for a period of 20 years from the date of the Certificate of Completion, 100% of the residential units of the Minimum Improvements shall be occupied or held vacant and available for occupancy by individuals whose income does not exceed an imputed income limitation of 20 percent, 30 percent, 40 percent, 50 percent, 60 percent, 70 percent or 80 percent of area median gross income (including adjustments for family size) as determined in accordance with Section 42 of the Internal Revenue Code of 1986, as amended (the "Code"), as designated by the Owner. The average of the imputed income limitations designated by the Owner with respect to the low-income units shall not exceed 60 percent of area median gross income. The Owner shall designate the number of low-income units with an imputed income limitation at or below 80 percent of area median gross income. The imputed income limitation of any unit designated shall be 20 percent, 30 percent, 40 percent, 50 percent, 60 percent, 70 percent or 80 percent of area median gross income (including adjustments for family size) as determined in accordance with Section 42 of the Code.

The Owner may change from time to time the Owner's designations unless prohibited by the Code or regulations or rules promulgated thereunder. The determination of whether an individual or family is of low or moderate income will be made at the time the tenancy commences and on an ongoing basis thereafter to the extent required by and determined in accordance with Section 42 of the Code.

Section 4.6. Public Improvements. The City intends, but is not obligated, to construct a recreational trail over a portion of the Redevelopment Property in conjunction with a watershed management project (the "Trail Improvements"). The Authority and Redeveloper agree that the Redeveloper will pay an infrastructure improvement fee in connection with such watershed management project in an amount equal to \$1,377,000 (the "Infrastructure Improvement Fee"). The Redeveloper agrees and acknowledges that the Infrastructure Improvement Fee and, if constructed, the Trail Improvements, will benefit the Minimum Improvements and the Redevelopment Property, and agrees to pay the Infrastructure Improvement Fee to the City prior to the issuance of any City permits for the construction of the Minimum Improvements. The Redeveloper and Authority agree that (i) by accepting the Infrastructure Improvement Fee, neither the Authority nor the City is obligating itself to build the Trail Improvements and (ii) Redeveloper will not be obligated to contribute additional money other than the Infrastructure Improvement Fee to the City or EDA for the construction of the Trail Improvements (provided that the Redeveloper agrees and acknowledges that the Redevelopment Property may be subject to a special assessment by the watershed district related to certain piping activities).

Section 4.7. Management. The Redeveloper shall at all times engage a property management company with substantial experience in operating multifamily housing developments, subject to approval by the Authority, which approval will not be unreasonably withheld. The Redeveloper will submit evidence of such management upon request by the Authority. The Authority approves Dominion Management Services, LLC as the initial property manager of the Minimum Improvements. If the Redeveloper intends to retain a different property management company the Redeveloper must do so in compliance with this Section.

The Redeveloper shall further enter into a Memorandum of Understanding (the "Memorandum") with the City in connection with public safety services to be provided by the City to the Minimum Improvements, which Memorandum is incorporated into this Agreement by reference.

Section 4.8. Records. The Authority, through any authorized representatives, shall have the right at all reasonable times after reasonable notice to inspect, examine and copy all books and records of the Redeveloper relating to the Minimum Improvements. Such records shall be kept and maintained by the Redeveloper through the Termination Date.

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## ARTICLE V

### Insurance

#### Section 5.1. Insurance.

(a) The Redeveloper will provide and maintain at all times during the process of constructing the Minimum Improvements an All Risk Broad Form Basis Insurance Policy and, from time to time during that period, at the request of the Authority, furnish the Authority with proof of payment of premiums on policies covering the following:

(i) Builder's risk insurance, written on the so-called "Builder's Risk -- Completed Value Basis," in an amount equal to 100% of the principal amount of the TIF Note, and with coverage available in nonreporting form on the so-called "all risk" form of policy. The interest of the Authority shall be protected in accordance with a clause in form and content satisfactory to the Authority;

(ii) Comprehensive general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations, and contractual liability insurance) together with an Owner's Protective Liability Policy with limits against bodily injury and property damage of not less than \$1,000,000 for each occurrence (to accomplish the above-required limits, an umbrella excess liability policy may be used). The Authority shall be listed as an additional insured on the policy; and

(iii) Workers' compensation insurance, with statutory coverage, provided that the Redeveloper may be self-insured with respect to all or any part of its liability for workers' compensation.

(b) Upon completion of construction of the Minimum Improvements and prior to the Termination Date, the Redeveloper shall maintain, or cause to be maintained, at its cost and expense, and from time to time at the request of the Authority shall furnish proof of the payment of premiums on, insurance as follows:

(i) Insurance against loss and/or damage to the Minimum Improvements under a policy or policies covering such risks as are ordinarily insured against by similar businesses.

(ii) Comprehensive general public liability insurance, including personal injury liability (with employee exclusion deleted), against liability for injuries to persons and/or property, in the minimum amount for each occurrence and for each year of \$1,000,000, and shall be endorsed to show the City and Authority as additional insureds.

(iii) Such other insurance, including workers' compensation insurance respecting all employees of the Redeveloper, in such amount as is customarily carried by



like organizations engaged in like activities of comparable size and liability exposure; provided that the Redeveloper may be self-insured with respect to all or any part of its liability for workers' compensation.

(c) All insurance required in Article V of this Agreement shall be taken out and maintained in responsible insurance companies selected by the Redeveloper that are authorized under the laws of the State to assume the risks covered thereby. Upon request, the Redeveloper will deposit annually with the Authority a certificate or certificates or binders of the respective insurers stating that the insurance required herein is in force and effect. Unless otherwise provided in this Article each policy shall contain a provision that the insurer shall not cancel the policy without giving written notice to the Redeveloper and the Authority at least thirty (30) days before the cancellation becomes effective. In lieu of separate policies, the Redeveloper may maintain a single policy, blanket or umbrella policies, or a combination thereof, having the coverage required herein, in which event the Redeveloper shall deposit with the Authority a certificate or certificates of the respective insurers as to the amount of coverage in force upon the Minimum Improvements.

(d) The Redeveloper agrees to notify the Authority immediately in the case of damage exceeding \$250,000 in amount to, or destruction of, the Minimum Improvements or any portion thereof resulting from fire or other casualty. Subject to the terms of Redeveloper's financing documents, including without limitation any Mortgage, in such event the Redeveloper will forthwith repair, reconstruct, and restore the Minimum Improvements to substantially the same or an improved condition or value as it existed prior to the event causing such damage and, to the extent necessary to accomplish such repair, reconstruction, and restoration, the Redeveloper will apply the net proceeds of any insurance relating to such damage received by the Redeveloper to the payment or reimbursement of the costs thereof. Any net proceeds remaining after completion of such repairs, construction, and restoration shall be the property of the Redeveloper.

(e) In lieu of its obligation to reconstruct the Minimum Improvements as set forth in this Section, the Redeveloper shall have the option of waiving its right to receive subsequent payments under the TIF Note.

(f) The Redeveloper and the Authority agree that all of the insurance provisions set forth in this Article shall terminate upon the termination of this Agreement.

Section 5.2. Subordination. Notwithstanding anything to the contrary herein, the rights of the Authority with respect to the receipt and application of any insurance proceeds shall, in all respects, be subordinate and subject to the rights of any Holder under a Mortgage allowed pursuant to Article VII of this Agreement.

## ARTICLE VI

### **Tax Increment; Taxes**

Section 6.1. Right to Collect Delinquent Taxes. The Redeveloper acknowledges that the Authority is providing substantial aid and assistance in furtherance of the development through reimbursement of Public Redevelopment Costs. The Redeveloper understands that the Tax Increments pledged to payment on the TIF Note are derived from real estate taxes on the Redevelopment Property, which taxes must be promptly and timely paid. To that end, the Redeveloper agrees for itself, its successors and assigns, that in addition to the obligation pursuant to statute to pay real estate taxes, it is also obligated by reason of this Agreement to pay before delinquency all real estate taxes assessed against the Redevelopment Property and the Minimum Improvements. The Redeveloper acknowledges that this obligation creates a contractual right on behalf of the Authority to sue the Redeveloper or its successors and assigns to collect delinquent real estate taxes and any penalty or interest thereon and to pay over the same as a tax payment to the county auditor. In any such suit, the Authority shall also be entitled to recover its costs, expenses, and reasonable attorney fees.

Section 6.2. Review of Taxes. The Redeveloper agrees that prior to the Termination Date, it will not cause a reduction in the real property taxes paid in respect of the Redevelopment Property through: (A) willful destruction of the Redevelopment Property or any part thereof; or (B) willful refusal to reconstruct damaged or destroyed property pursuant to Section 5.1 of this Agreement, except as provided in Sections 5.1(d) and (e). The Redeveloper also agrees that it will not, prior to the Termination Date, seek exemption from property tax for the Redevelopment Property or any portion thereof or transfer or permit the transfer of the Redevelopment Property to any entity that is exempt from real property taxes and state law (other than any portion thereof dedicated or conveyed to the City in accordance with platting of the Redevelopment Property), or apply for a deferral of property tax on the Redevelopment Property pursuant to any law.

Section 6.3. Assessment Agreement. (a) Upon execution of this Agreement, the Redeveloper shall, with the Authority, execute an Assessment Agreement pursuant to Minnesota Statutes, Section 469.177, subdivision 8, specifying an assessor's minimum market value (the "Market Value") for the Redevelopment Property and the Minimum Improvements constructed thereon. The amount of the minimum Market Value shall be \$41,040,000 as of January 2, 2022, and each January 2 thereafter, notwithstanding the status of construction by such dates.

(b) The Assessment Agreement shall be substantially in the form attached hereto as Schedule F. Nothing in the Assessment Agreement shall limit the discretion of the County assessor to assign a market value to the Redevelopment Property and Minimum Improvements in excess of such assessor's minimum Market Value. The Assessment Agreement shall remain in force for the period specified in the Assessment Agreement.

(c) Nothing in this Agreement or in the Assessment Agreement shall limit the right of the Redeveloper, or its successors and assigns, to bring a tax petition challenging a Market Value determination that exceeds the established minimum Market Value for the Redevelopment Property

or the Minimum Improvements; provided that if the Redeveloper brings such a challenge, the Redeveloper must inform the Authority of such tax petition in writing. During the pendency of such challenge, the Authority will pay principal of and interest on the TIF Note only to the extent of the Available Tax Increment attributable to the greater of the minimum Market Value of the Redevelopment Property and the Minimum Improvements established in the Assessment Agreement or the amount in excess of such minimum Market Value uncontested by the Redeveloper; provided that if the Redeveloper fails to notify the Authority of the tax petition, the Authority shall have the right to withhold all payments of principal of and interest on the TIF Note until the Redeveloper's challenge is resolved. Upon resolution of Redeveloper's tax petition, any Available Tax Increment deferred and withheld under this Section shall be paid, without interest thereon, to the extent payable under the assessor's final determination of Market Value.

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## ARTICLE VII

### **Other Financing**

Section 7.1. Generally. Before delivery of the TIF Note , the Redeveloper shall submit to the Authority or provide access thereto for review by Authority staff, consultants and agents, evidence reasonably satisfactory to the Authority that Redeveloper has available funds, or commitments to obtain funds, whether in the nature of mortgage financing, equity, grants, loans, or other sources sufficient for paying the cost of developing the Minimum Improvements, provided that any lender or grantor commitments shall be subject only to such conditions as are normal and customary in the commercial lending industry. Delivery of the TIF Note constitutes the Authority's determination that the Redeveloper has available funds or other sources sufficient to pay the cost of developing the Minimum Improvements.

Section 7.2. Authority's Option to Cure Default on Mortgage. In the event that any portion of the Redeveloper's funds is provided through mortgage financing, and there occurs a default under any Mortgage reviewed by the Authority pursuant to Article VII of this Agreement, the Redeveloper shall cause the Authority to receive copies of any notice of default received by the Redeveloper from the holder of such Mortgage. Thereafter, the Authority shall have the right, but not the obligation, to cure any such default on behalf of the Redeveloper within such cure periods as are available to the Redeveloper under the Mortgage documents, to the extent the Mortgage documents permit the Authority to cure such default.

Section 7.3. Modification; Subordination. The Authority agrees to subordinate its rights under this Agreement to the Holder of any Mortgage securing construction or permanent financing, in accordance with the terms of a subordination agreement in a form reasonably acceptable to the Authority and approved by the Authority by formal action.

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## ARTICLE VIII

### **Prohibitions Against Assignment and Transfer; Indemnification**

Section 8.1. Representation as to Redevelopment. The Redeveloper represents and agrees that its purchase of the Redevelopment Property, and its other undertakings pursuant to this Agreement, are, and will be used, for the purpose of development of the Redevelopment Property and not for speculation in land holding.

Section 8.2. Prohibition Against Redeveloper's Transfer of Property and Assignment of Agreement. The Redeveloper represents and agrees that until the Termination Date:

(a) Except only by way of security for, and only for, the purpose of obtaining financing necessary to enable the Redeveloper or any successor in interest to the Redevelopment Property, or any part thereof, to perform its obligations with respect to undertaking the development contemplated under this Agreement, and any other purpose authorized by this Agreement, the Redeveloper has not made or created and will not make or create or suffer to be made or created any total or partial sale, assignment, conveyance, or lease, or any trust or power, or transfer in any other mode or form of or with respect to this Agreement or the Redevelopment Property or any part thereof or any interest therein, or any contract or agreement to do any of the same, to any person or entity whether or not related in any way to the Redeveloper (collectively, a "Transfer"), without the prior written approval of the Authority (whose approval will not be unreasonably withheld, subject to the standards described in paragraph (b) of this Section) unless the Redeveloper remains liable and bound by this Agreement in which event the Authority's approval is not required. Any such Transfer shall be subject to the provisions of this Agreement. For the purposes of this Agreement, the term Transfer does not include (i) acquisition of a controlling interest in the Redeveloper by another person or entity or merger of the Redeveloper with another entity; (ii) any sale, conveyance, or transfer in any form to any Affiliate; (iii) any lease, license, easement or similar arrangement entered into in the ordinary course of business related to operation of the Minimum Improvements; (iv) the admission of limited partners and any subsequent transfer of limited partnership interests in accordance with Redeveloper's agreement of limited liability limited partnership (the "Partnership Agreement"); or (v) the removal and replacement of the Redeveloper's general partner by the investor limited partner for cause in accordance with the terms of the Partnership Agreement.

(b) In the event the Redeveloper, upon Transfer of the Redevelopment Property or any portion thereof, seeks to be released from its obligations under this Agreement as to the portions of the Redevelopment Property that are transferred, the Authority shall be entitled to require, except as otherwise provided in this Agreement, as conditions to any such release that:

(i) Any proposed transferee shall have the qualifications and financial responsibility, in the reasonable judgment of the Authority, necessary and adequate to fulfill the obligations undertaken in this Agreement by the Redeveloper as to the portion of the Redevelopment Property to be transferred.

(ii) Any proposed transferee, by instrument in writing satisfactory to the Authority and in form recordable in the public land records of the County, shall, for itself and its successors and assigns, and expressly for the benefit of the Authority, have expressly assumed all of the obligations of the Redeveloper under this Agreement as to the portion of the Redevelopment Property to be transferred and agreed to be subject to all the conditions and restrictions to which the Redeveloper is subject as to such portion; provided, however, that the fact that any transferee of, or any other successor in interest whatsoever to, the Redevelopment Property, or any part thereof, shall not, for whatever reason, have assumed such obligations or so agreed, and shall not (unless and only to the extent otherwise specifically provided in this Agreement or agreed to in writing by the Authority) deprive the Authority of any rights or remedies or controls with respect to the Redevelopment Property, the Minimum Improvements or any part thereof or the construction of the Minimum Improvements; it being the intent of the parties as expressed in this Agreement that (to the fullest extent permitted at law and in equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement) no transfer of, or change with respect to, ownership in the Redevelopment Property or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, shall operate, legally, or practically, to deprive or limit the Authority of or with respect to any rights or remedies or controls provided in or resulting from this Agreement with respect to the Redevelopment Property that the Authority would have had, had there been no such transfer or change. In the absence of specific written agreement by the Authority to the contrary, no such transfer or approval by the Authority thereof shall be deemed to relieve the Redeveloper, or any other party bound in any way by this Agreement or otherwise with respect to the Redevelopment Property, from any of its obligations with respect thereto.

(iii) Any and all instruments and other legal documents involved in effecting the transfer of any interest in this Agreement or the Redevelopment Property governed by this Article, shall be in a form reasonably satisfactory to the Authority, other than amendments to the Partnership Agreement for the sole purpose of effecting the transfers referenced in Section 8.2(a)(iv) and 8.2(a)(v) hereof.

In the event the foregoing conditions are satisfied the Redeveloper shall be released from its obligation under this Agreement, as to the portion of the Redevelopment Property that is transferred, assigned, or otherwise conveyed.

### Section 8.3. Release and Indemnification Covenants.

(a) Except for any gross negligence or willful misconduct of the Indemnified Parties as hereinafter defined, and except for any breach by any of the Indemnified Parties of their obligations under this Agreement, the Redeveloper releases from and covenants and agrees that the Authority, and the governing body members, officers, agents, servants, and employees thereof (the "Indemnified Parties") shall not be liable for and agrees to indemnify and hold harmless the Indemnified Parties against any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the Redevelopment Property or the Minimum Improvements.

(b) Except for any gross negligence or willful or negligent misrepresentation of the Indemnified Parties, and except for any breach by any of the Indemnified Parties of their obligations under this Agreement, the Redeveloper agrees to protect and defend the Indemnified Parties, now and forever, and further agrees to hold the aforesaid harmless from any claim, demand, suit, action, or other proceeding whatsoever by any person or entity whatsoever arising or purportedly arising from this Agreement, or the transactions contemplated hereby or the acquisition, construction, installation, ownership, maintenance, and operation of the Redevelopment Property or the Minimum Improvements.

(c) Except for any gross negligence or willful or negligent misrepresentation of the Indemnified Parties, and except for any breach by any of the Indemnified Parties of their obligations under this Agreement, the Indemnified Parties shall not be liable for any damage or injury to the persons or property of the Redeveloper or its officers, agents, servants, or employees or any other person who may be about the Redevelopment Property or the Minimum Improvements.

(d) All covenants, stipulations, promises, agreements and obligations of the Authority contained herein shall be deemed to be the covenants, stipulations, promises, agreements, and obligations of such entity and not of any governing body member, officer, agent, servant, or employee of such entities in the individual capacity thereof.

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## ARTICLE IX

### Events of Default

Section 9.1. Events of Default Defined. The following shall be “Events of Default” under this Agreement and the term “Event of Default” shall mean, whenever it is used in this Agreement, any one or more of the following events, after the non-defaulting party provides thirty (30) days written notice to the defaulting party of the event, but only if the event has not been cured within said thirty (30) days or, if the event is by its nature incurable within thirty (30) days, the defaulting party does not, within such thirty- (30) day period, provide assurances reasonably satisfactory to the party providing notice of default that the event will be cured and will be cured as soon as reasonably possible:

(a) Failure by the Redeveloper or the Authority to observe or perform any material covenant, condition, obligation, or agreement on its part to be observed or performed under this Agreement, unless such failure to perform is the result of an Unavoidable Delay; or any certification, representation, or warranty by the Redeveloper to the City or the Authority that is substantiated by evidence to be untrue or misrepresented.

(b) If, before issuance of the Certificate of Completion for all the Minimum Improvements, the Redeveloper shall

(i) file any petition in bankruptcy or for any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the United States Bankruptcy Act or under any similar federal or State law, which action is not dismissed within sixty (60) days after filing; or

(ii) make an assignment for benefit of its creditors; or

(iii) admit in writing its inability to pay its debts generally as they become due;  
or

(iv) be adjudicated as bankrupt or insolvent.

Section 9.2. Remedies on Default. Whenever any Event of Default referred to in Section 9.1 of this Agreement occurs, the non-defaulting party may:

(a) Suspend its performance under this Agreement until it receives assurances that the defaulting party will cure its default and continue its performance under this Agreement.

(b) Upon a default by the Redeveloper under this Agreement, the Authority may withhold payments under the TIF Note or, subject to the provisions of Section 9.3 hereof, terminate the TIF Note and this Agreement.



(c) Take whatever action, including legal, equitable, or administrative action, which may appear necessary or desirable to collect any payments due under this Agreement, or to enforce performance and observance of any obligation, agreement, or covenant under this Agreement, provided that nothing contained herein shall give the Authority the right to seek specific performance by the Redeveloper of the construction of the Minimum Improvements.

Section 9.3. Termination of TIF Note. After the Authority has issued the Certificate of Completion for the Minimum Improvements, the Authority may exercise its rights under Section 9.2(b) hereof or any other right under this Agreement that operates to cancel or terminate payments under the TIF Note only for the following Events of Default:

(a) the Redeveloper fails to pay real estate taxes or assessments on the Redevelopment Property or any part thereof when due, and the taxes or assessments have not been paid, or provision satisfactory to the Authority made for their payment, within thirty (30) days after written demand by the Authority to do so;

(b) the Redeveloper fails to comply with the Redeveloper's obligation to operate and maintain, preserve and keep the Minimum Improvements or cause the improvements to be maintained, preserved and kept with the appurtenances and every part and parcel thereof, in good repair and condition, pursuant to Sections 4.1 and 5.1(d) hereof; provided that, upon the Redeveloper's failure to comply with Redeveloper's obligations under Section 4.1 or 5.1(d) hereof, if uncured after thirty (30) days' written notice to the Redeveloper of the failure, the Authority may only suspend payments under the TIF Note until the Redeveloper complies with said obligations, but if the Redeveloper fails to comply with said obligations for a period of 365 days, the Authority may terminate the TIF Note; or

(c) the Redeveloper fails to comply with the rent and income restrictions as provided in Section 4.5 hereof.

Section 9.4. No Remedy Exclusive. No remedy herein conferred upon or reserved to any party is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. To entitle the Authority to exercise any remedy reserved to it, it shall not be necessary to give notice, other than such notice as may be required in this Article.

Section 9.5. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

Section 9.6. Attorneys' Fees. Whenever any Event of Default occurs and the Authority employs attorneys or incurs other expenses for the collection of payments due or to become due

or for the enforcement of performance or observance of any obligation or agreement on the part of the Redeveloper under this Agreement, the Redeveloper agrees it shall, on demand therefor, pay to the Authority the reasonable fees of such attorneys and such other expenses so incurred by the Authority.

Section 9.7. Rights of Limited Partners. Whenever Authority delivers any notice of default hereunder, Authority shall concurrently deliver a copy of such notice to the limited partner of Redeveloper in accordance with Section 10.6 hereof. The limited partner shall have the same right as Redeveloper to cure or remedy any default hereunder within the cure period provided to Redeveloper.

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## ARTICLE X

### Additional Provisions

Section 10.1. Conflict of Interests; Representatives Not Individually Liable. The Authority and the Redeveloper, to the best of their respective knowledge, represent and agree that no member, official, or employee of the Authority shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to this Agreement that affects his or her personal interests or the interests of any corporation, partnership, or association in which he or she, directly or indirectly, is interested. No member, official, or employee of the City or the Authority shall be personally liable to the Redeveloper, or any successor in interest, in the event of any default or breach by the Authority or for any amount that may become due to the Redeveloper or successor or on any obligations under the terms of this Agreement.

Section 10.2. Equal Employment Opportunity. The Redeveloper, for itself and its successors and assigns, agrees that during the construction of the Minimum Improvements provided for in this Agreement it will comply with all applicable federal, state, and local equal employment and non-discrimination laws and regulations.

Section 10.3. Restrictions on Use. The Redeveloper agrees that until the Termination Date, the Redeveloper, and such successors and assigns, shall devote the Redevelopment Property to the operation of the Minimum Improvements as defined in Section 1.1 hereof, and shall not discriminate upon the basis of race, color, creed, sex or national origin in the sale, lease, or rental or in the use or occupancy of the Redevelopment Property or any improvements erected or to be erected thereon, or any part thereof.

Section 10.4. Provisions Not Merged With Deed. None of the provisions of this Agreement are intended to or shall be merged by reason of any deed transferring any interest in the Redevelopment Property and any such deed shall not be deemed to affect or impair the provisions and covenants of this Agreement.

Section 10.5. Titles of Articles and Sections. Any titles of the several parts, Articles, and Sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 10.6. Notices and Demands. Except as otherwise expressly provided in this Agreement, a notice, demand, or other communication under this Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, to the following addresses (or to such other addresses as either party may notify the other):

To Redeveloper: Roseville Leased Housing Associates I, LLLP  
Attn: Ryan Lunderby and Mark Moorhouse  
2905 Northwest Boulevard, Suite 150  
Plymouth, Minnesota, 55441

With a copy to: Winthrop & Weinstine, P.A.  
Attn: John Stern and Scott Jahnke  
225 South Sixth Street, Suite 3500  
Minneapolis, Minnesota 55402

With a copy to: RBC Community Investments, LLC  
600 Superior Avenue, Suite 2300  
Cleveland, Ohio 44114  
Attention: President and General Counsel

With a copy to: Nixon Peabody LLP  
Exchange Place  
53 State Street  
Boston, MA 02109  
Attention: Roger W. Holmes

To Authority: Roseville Economic Development Authority  
Attn: Executive Director  
2660 Civic Center Drive  
Roseville, Minnesota 55113

Section 10.7. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 10.8. Recording. The Authority may record this Agreement and any amendments thereto with the Ramsey County recorder. The Redeveloper shall pay all costs for recording. The Redeveloper's obligations under this Agreement are covenants running with the land for the term of this Agreement, enforceable by the Authority against the Redeveloper, its successor and assigns, and every successor in interest to the Redevelopment Property, or any part thereof or any interest therein.

Section 10.9. Amendment. This Agreement may be amended only by written agreement approved by the Authority and the Redeveloper.

Section 10.10. Authority Approvals. Unless otherwise specified, any approval required by the Authority under this Agreement may be given by the Authority Representative, except that final approval of issuance of the TIF Note shall be made by the Authority's board of commissioners pursuant to the Authorizing Resolution.

[The remainder of this page is intentionally left blank.]

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

ROSEVILLE ECONOMIC DEVELOPMENT  
AUTHORITY, a public body corporate and politic  
and political subdivision of the State of Minnesota

By \_\_\_\_\_  
Its President

By \_\_\_\_\_  
Its Executive Director

STATE OF MINNESOTA    )  
  ) SS.  
COUNTY OF RAMSEY    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020 by Dan Roe and Patrick Trudgeon, the President and Executive Director of the Roseville Economic Development Authority, a public body corporate and politic and political subdivision of the State of Minnesota, on behalf of the Authority.

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

ROSEVILLE LEASED HOUSING ASSOCIATES  
I, LLLP, a Minnesota limited liability limited  
partnership

By: Roseville Leased Housing Associates I, LLC, a  
Minnesota limited liability company, its General  
Partner

By: \_\_\_\_\_  
Ryan Lunderby, its Vice President

STATE OF MINNESOTA    )  
  ) SS.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by Ryan Lunderby, the Vice President of Roseville Leased Housing I, LLC, a Minnesota limited liability company, as General Partner of Roseville Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership, on behalf of the company.

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

**SCHEDULE A**  
**REDEVELOPMENT PROPERTY**

Lot 1, Block 1, Twin Lakes 3<sup>rd</sup> Addition, Ramsey County, Minnesota.



**SCHEDULE B**

**FORM OF AUTHORIZING RESOLUTION**

**ROSEVILLE ECONOMIC DEVELOPMENT AUTHORITY**

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION APPROVING CONTRACT FOR PRIVATE REDEVELOPMENT WITH AND AWARDING THE SALE OF, AND PROVIDING THE FORM, TERMS, COVENANTS AND DIRECTIONS FOR THE ISSUANCE OF ITS TAX INCREMENT REVENUE NOTE TO ROSEVILLE LEASED HOUSING ASSOCIATES I, LLLP**

BE IT RESOLVED BY the Board of Commissioners (“Board”) of the Roseville Economic Development Authority (the “Authority”) as follows:

Section 1. Background; Authorization; Award of Sale.

1.01. Background; Authorization. (a) The Authority and the City of Roseville, Minnesota (the “City”) have heretofore approved the establishment of Tax Increment Financing District No. 22 (the “TIF District”) within Development District No. 1 (“Project”), and have adopted a tax increment financing plan for the purpose of financing certain improvements within the Project.

(b) Pursuant to Minnesota Statutes, Section 469.178, the Authority is authorized to issue and sell its bonds for the purpose of financing a portion of the public redevelopment costs of the TIF District. The Authority hereby finds and determines that it is in the best interests of the Authority that it issue and sell its Tax Increment Revenue Note (Roseville Leased Housing Project) (the “Note”) for the purpose of financing certain public redevelopment costs of the Project, pursuant to the terms of this resolution.

1.02. Agreement Approved; Issuance, Sale, and Terms of the Note. (a) The Authority hereby approves the Contract for Private Redevelopment, dated June \_\_, 2020 (the “Agreement”), between the Authority and Roseville Leased Housing Associates I, LLLP (the “Owner”), and authorizes the President and Executive Director of the Board to execute such Agreement in substantially the form on file with City, subject to modifications that do not alter the substance of the transaction and are approved by such officials, provided that execution of the Agreement by such officials is conclusive evidence of their approval. All capitalized terms in this resolution have the meaning provided in the Agreement or the Note unless the context requires otherwise.

(b) The Authority hereby authorizes the President and Executive Director of the Board to issue the Note in accordance with the Agreement.

(c) The Note shall be issued in the maximum principal amount of \$3,629,000 to the Owner (subject to adjustment as provided in the Agreement), in consideration of certain eligible costs incurred by the Owner under the Agreement, shall be dated the date of delivery thereof, and shall bear interest at the rate that is the lesser of 5.0% or the Owner's actual financing rate. The Note will be issued in the principal amount of the Public Redevelopment Costs submitted and approved in accordance with Section 3.3 of the Agreement. The Note is secured by Available Tax Increment, as further described in the form of the Note set forth in Exhibit A attached hereto. The Authority hereby delegates to the Executive Director the determination of the date on which the Note is to be delivered, in accordance with the Agreement.

Section 2. Form of Note. The Notes shall be in substantially the form set forth in Exhibit A attached hereto, with the interest rate adjusted as of the date of delivery.

Section 3. Terms, Execution and Delivery.

3.01. Denomination, Payment. The Note shall be issued as a single typewritten note numbered R-1.

The Note shall be issuable only in fully registered form. Principal of and interest on the Note shall be payable by check or draft issued by the Registrar described herein.

3.02. Payment Dates. Principal of and interest on the Note shall be payable by mail to the owner of record thereof as of the close of business on the fifteenth day of the month preceding the Payment Date (as defined in the Note), whether or not such day is a business day.

3.03. Registration. The Authority hereby appoints the City Finance Director to perform the functions of registrar, transfer agent and paying agent (the 'Registrar'). The effect of registration and the rights and duties of the Authority and the Registrar with respect thereto shall be as follows:

(a) Register. The Registrar shall keep at its office a bond register in which the Registrar shall provide for the registration of ownership of the Note and the registration of transfers and exchanges of the Note.

(b) Transfer of Note. Upon surrender for transfer of the Note duly endorsed by the registered owner thereof or accompanied by a written instrument of transfer, in form reasonably satisfactory to the Registrar, duly executed by the registered owner thereof or by an attorney duly authorized by the registered owner in writing, the Registrar shall authenticate and deliver, in the name of the designated transferee or transferees, a new Note of a like aggregate principal amount, interest rate, and maturity, as requested by the transferor. The Registrar may close the books for registration of any transfer after the fifteenth day of the month preceding each Payment Date and until such Payment Date.

(c) Cancellation. The Note surrendered upon any transfer shall be promptly cancelled by the Registrar and thereafter disposed of as directed by the Authority.

(d) Improper or Unauthorized Transfer. When the Note is presented to the Registrar for transfer, the Registrar may refuse to transfer the same until it is satisfied that the endorsement on such Note or separate instrument of transfer is legally authorized. The Registrar shall incur no liability for its refusal, in good faith, to make transfers which it, in its judgment, deems improper or unauthorized.

(e) Persons Deemed Owners. The Authority and the Registrar may treat the person in whose name the Note is at any time registered in the bond register as the absolute owner of the Note, whether the Note shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on such Note and for all other purposes, and all such payments so made to any such registered owner or upon the owner's order shall be valid and effectual to satisfy and discharge the liability of the Authority upon such Note to the extent of the sum or sums so paid.

(f) Taxes, Fees and Charges. For every transfer or exchange of the Note, the Registrar may impose a charge upon the owner thereof sufficient to reimburse the Registrar for any tax, fee, or other governmental charge required to be paid with respect to such transfer or exchange.

(g) Mutilated, Lost, Stolen or Destroyed Note. In case any Note shall become mutilated or be lost, stolen, or destroyed, the Registrar shall deliver a new Note of like amount, interest rate, maturity dates and tenor in exchange and substitution for and upon cancellation of such mutilated Note or in lieu of and in substitution for such Note lost, stolen, or destroyed, upon the payment of the reasonable expenses and charges of the Registrar in connection therewith; and, in the case the Note lost, stolen, or destroyed, upon filing with the Registrar of evidence satisfactory to it that such Note was lost, stolen, or destroyed, and of the ownership thereof, and upon furnishing to the Registrar of an appropriate bond or indemnity in form, substance, and amount satisfactory to it, in which both the Authority and the Registrar shall be named as obligees. The Note so surrendered to the Registrar shall be cancelled by it and evidence of such cancellation shall be given to the Authority. If the mutilated, lost, stolen, or destroyed Note has already matured or been called for redemption in accordance with its terms, it shall not be necessary to issue a new Note prior to payment.

3.04. Preparation and Delivery. The Note shall be prepared under the direction of the Executive Director and shall be executed on behalf of the Authority by the signatures of its President and Executive Director. In case any officer whose signature shall appear on the Note shall cease to be such officer before the delivery of the Note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery. When the Note has been so executed, it shall be delivered by the Executive Director to the Owner thereof in accordance with the Agreement.

Section 4. Security Provisions.

4.01. Pledge. The Authority hereby pledges to the payment of the principal and interest on the Note all Available Tax Increment, as defined in, and subject to the terms described in, the Note. Available Tax Increment shall be applied to payment of the principal and interest on the Note in accordance with the terms of the form of Note set forth in Exhibit A attached hereto.

4.02. Bond Fund. Until the date the Note is no longer outstanding and no principal or interest thereof (to the extent required to be paid pursuant to this resolution) remains unpaid, the Authority shall maintain a separate and special "Bond Fund" to be used for no purpose other than the payment of the principal of and interest on the Note. The Authority irrevocably agrees to appropriate to the Bond Fund in each year Available Tax Increment. Any Available Tax Increment remaining in the Bond Fund shall be transferred to the Authority's account for the TIF District upon the termination of the Note in accordance with its terms.

4.03. Additional Obligations. The Authority will issue no obligations secured by Available Tax Increment unless such pledge is on a subordinate basis to the pledge to the Note.

Section 5. Certification of Proceedings.

5.01. Certification of Proceedings. The officers of the Authority are hereby authorized and directed to prepare and furnish to the Owner of the Note certified copies of all proceedings and records of the Authority, and such other affidavits, certificates, and information as may be required to show the facts relating to the legality and marketability of the Note as the same appear from the books and records under their custody and control or as otherwise known to them, and all such certified copies, certificates, and affidavits, including any heretofore furnished, shall be deemed representations of the Authority as to the facts recited therein.

Section 6. Effective Date. This resolution shall be effective upon full execution of the Agreement.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

**Exhibit A to Authorizing Resolution**

**FORM OF NOTE**

UNITED STATES OF AMERICA  
STATE OF MINNESOTA  
COUNTY OF RAMSEY  
ROSEVILLE ECONOMIC DEVELOPMENT AUTHORITY

No. R-1

\$3,629,000

TAX INCREMENT REVENUE NOTE  
(ROSEVILLE LEASED HOUSING PROJECT)

Rate  
\_\_\_\_%

Date  
of Original Issue

The Roseville Economic Development Authority (“Authority”) for value received, certifies that it is indebted and hereby promises to pay to Roseville Leased Housing Associates I, LLLP or its registered assigns (the "Owner"), the principal sum of Three Million Six Hundred Twenty-Nine Thousand and no/100 Dollars (\$3,629,000.00) and to pay interest thereon at the rate of \_\_\_\_% per annum, but solely from the sources and to the extent set forth herein. Unless the context clearly requires otherwise, capitalized terms in this Note have the meaning provided in the Contract for Private Redevelopment between the Authority and Owner dated as of June \_\_, 2020 (the “Agreement”).

1. Payments. Principal and interest (“Payments”) shall be paid on August 1, 2023 and each February 1 and August 1 thereafter to and including February 1, 2042 (“Payment Dates”) in the amounts set forth herein, payable solely from and to the extent of the sources set forth in Section 3 hereof. Payments shall be applied first to accrued interest, and then to unpaid principal.

Payments are payable by mail to the address of the Owner or such other address as the Owner may designate upon thirty (30) days written notice to the Authority. Payments on this Note are payable in any coin or currency of the United States of America which, on the Payment Date, is legal tender for the payment of public and private debts.

2. Interest. Simple interest at the rate stated herein shall accrue on the unpaid principal, commencing on the deemed date of original issue as described in Section 3.3 of the Agreement. Interest shall be computed on the basis of a year of 360 days consisting of twelve months of thirty days, and charged for actual days principal is unpaid.

3. Available Tax Increment. (a) Payments on this Note are payable on each Payment Date solely from and in the amount of “Available Tax Increment,” which shall mean ninety percent (90%) of the total Tax Increment attributable to the Minimum Improvements and Redevelopment Property that has been paid to the Authority by Ramsey County in the six (6) months prior to the subject Payment Date.

(b) The Authority shall have no obligation to pay principal and interest on this Note on each Payment Date from any source other than Available Tax Increment, and the failure of the Authority to pay the entire amount of principal or interest on this Note on any Payment Date shall not constitute a default hereunder as long as the Authority pays principal and interest hereon to the extent of Available Tax Increment. The Authority shall have no obligation to pay any unpaid balance of principal or accrued interest that may remain after the final Payment.

4. Default. If on any Payment Date there has occurred and is continuing any Event of Default by the Owner under the Agreement, the Authority may withhold payments of all Available Tax Increment hereunder as provided in Section 9.2 of the Agreement. If the Event of Default is thereafter cured in accordance with the Agreement, the Available Tax Increment withheld under this Section shall be deferred and paid, without interest thereon, within thirty (30) days after the Event of Default is cured. Subject to Section 9.3 of the Agreement, if the Event of Default is not cured within three hundred sixty-five (365) days following the Authority’s written notice to the Owner of such default, the Authority may terminate this Note by written notice to the Owner in accordance with the Agreement.

5. Prepayment.

(a) The principal sum and all accrued interest payable under this Note is prepayable in whole or in part at any time by the Authority without premium or penalty. No partial prepayment shall affect the amount or timing of any other regular payment otherwise required to be made under this Note.

(b) Upon completion of the lookback calculations as described in Section 3.5(b)(1) or (2) of the Agreement, any amounts resulting from such calculations will be deemed to constitute, and will be applied to, prepayment of the principal amount of this Note. Such deemed prepayment is effective as of the date of delivery of such statement to the Owner, and will be recorded by the Registrar in its records for the Note. Upon request of the Owner, the Authority will deliver to the Owner a statement of the outstanding principal balance of the Note after application of the deemed prepayment under this paragraph.

6. Nature of Obligation. This Note is one of an issue in the total principal amount of \$3,629,000 (subject to adjustment as described in Section 3.5 of the Agreement) issued to aid in financing certain public redevelopment costs of a Project undertaken by the Authority pursuant to Minnesota Statutes, Sections 469.001 through 469.047, and is issued pursuant to an authorizing resolution (the “Resolution”) duly adopted by the Authority on \_\_\_\_\_, 2020, and pursuant to and in full conformity with the Constitution and laws of the State of Minnesota, including Minnesota Statutes, Sections 469.174 to 469.1794. This Note is a limited obligation of the Authority which is payable solely from Available Tax Increment pledged to the payment hereof

under the Resolution. This Note shall not be deemed to constitute a general obligation of the State of Minnesota or any political subdivision thereof, including, without limitation, the Authority or the City. Neither the State of Minnesota, nor any political subdivision thereof shall be obligated to pay the principal of or interest on this Note or other costs incident hereto except out of Available Tax Increment, and neither the full faith and credit nor the taxing power of the State of Minnesota or any political subdivision thereof is pledged to the payment of the principal of or interest on this Note or other costs incident hereto.

7. Registration and Transfer. This Note is issuable only as a fully registered note without coupons. As provided in the Resolution, and subject to certain limitations set forth therein, this Note is transferable upon the books of the Authority kept for that purpose at the principal office of the City Finance Director, by the Owner hereof in person or by such Owner's attorney duly authorized in writing, upon surrender of this Note together with a written instrument of transfer satisfactory to the Authority, duly executed by the Owner. Upon such transfer or exchange and the payment by the Owner of any tax, fee, or governmental charge required to be paid by the Authority with respect to such transfer or exchange, there will be issued in the name of the transferee a new Note of the same aggregate principal amount, bearing interest at the same rate and maturing on the same date.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions, and things required by the Constitution and laws of the State of Minnesota to be done, to exist, to happen, and to be performed in order to make this Note a valid and binding limited obligation of the Authority according to its terms, have been done, do exist, have happened, and have been performed in due form, time and manner as so required.

IN WITNESS WHEREOF, the Board of Commissioners of the Roseville Economic Development Authority has caused this Note to be executed with the manual signatures of its President and Executive Director, all as of the Date of Original Issue specified above.

ROSEVILLE ECONOMIC  
DEVELOPMENT AUTHORITY

\_\_\_\_\_  
Executive Director

\_\_\_\_\_  
President

#### REGISTRATION PROVISIONS

The ownership of the unpaid balance of the within Note is registered in the bond register of the City Finance Director, in the name of the person last listed below.

_____ Date of Registration	_____ Registered Owner	_____ Signature of City Finance Director
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Roseville Leased Housing  
Associates I, LLLP  
Federal Tax I.D. No. \_\_\_\_\_

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**SCHEDULE C**  
**FORM OF DRAW REQUEST**

TO: Roseville Economic Development Authority  
2660 Civic Center Drive  
Roseville, MN 55113

DISBURSEMENT DIRECTION

The undersigned authorized representative (the “Authorized representative”) of Roseville Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the “Redeveloper”), hereby authorizes and requests you to disburse from proceeds of the Third-Party Grants in accordance with the terms of the Contract for Private Redevelopment, dated June \_\_\_, 2020 (the “Agreement”), between the Roseville Economic Development Authority (“Authority”) and the Redeveloper, the following amount to the following person and for the following proper Environmental Costs:

1. Amount: \_\_\_\_\_
2. Payee: \_\_\_\_\_
3. Purpose: \_\_\_\_\_
4. Grant Source: \_\_\_\_\_

all as defined and provided in the Agreement. The undersigned further certifies to the Authority that (a) none of the items for which the payment is proposed to be made has formed the basis for any payment previously made under Section 3.4 of the Agreement (or before the date of the Agreement); (b) that each item for which the payment is proposed is an Environmental Cost, eligible for funding from the grant source(s) identified above; and (c) the Redeveloper reasonably anticipates completion of the Environmental Costs and the Minimum Improvements in accordance with the terms of the Agreement.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Redeveloper’s Authorized Representative

## SCHEDULE D

### REDEVELOPMENT COSTS AND LOOKBACK PROFORMA

Exhibit D			
	Amount	% of Cost	Per Unit
<b>ACQUISITION COSTS</b>	<b>5,900,000</b>	<b>8.8%</b>	<b>25,877</b>
Land Cost	5,900,000	8.8%	25,877
Building Cost (if applicable)		0.0%	0
Assessments		0.0%	0
Other		0.0%	0
<b>CONSTRUCTION COSTS</b>	<b>44,341,440</b>	<b>66.3%</b>	<b>194,480</b>
Residential Building	36,725,000	54.9%	161,075
Parking	636,000	1.0%	2,789
General Requirements	2,244,000	3.4%	9,842
Builder's Overhead	748,000	1.1%	3,281
Builder's Profit	2,244,000	3.4%	9,842
Construction Contingency	1,705,440	4.0%	7,480
Other	39,000	0.1%	171
<b>ENVIRONMENTAL ABATEMENT/SOIL CORRECTION</b>	<b>1,234,572</b>	<b>1.8%</b>	<b>5,415</b>
Soil Remediation Work	776,572	1.2%	3,406
Asbestos Abatement work	100,000	0.1%	439
Other	358,000	0.5%	1,570
<b>PERMITS/FEEES</b>	<b>2,110,463</b>	<b>3.2%</b>	<b>9,256</b>
Permits/Inspection	253,848	0.4%	1,113
Local SAC/WAC Connection Fees	479,605	0.7%	2,104
Other	1,377,000	2.1%	6,039
<b>PROFESSIONAL SERVICES</b>	<b>2,409,971</b>	<b>3.6%</b>	<b>10,570</b>
Appraisals	15,000	0.0%	66
Architectural & Engineering Fees	1,097,000	1.6%	4,811
Architectural Reimbursements	25,000	0.0%	110
Construction Testing	68,000	0.1%	298
Cost Certification/Audit	12,000	0.0%	53
Energy Audit/Energy Consulting	164,171	0.2%	720
FF&E	456,000	0.7%	2,000
Legal - Development	250,000	0.4%	1,096
Market Research	10,000	0.0%	44
Marketing/Leasing	22,800	0.0%	100
Soft Cost Contingency	150,000	0.2%	658
Soils Consultant	10,000	0.0%	44
Survey	15,000	0.0%	66
Civil/Structural	115,000	0.2%	504
<b>FINANCING COSTS</b>	<b>4,221,750</b>	<b>6.3%</b>	<b>18,516</b>
Bond - Counsel	80,000	0.1%	351
Bond - Issuance Fee	340,000	0.5%	1,491
Bond - Trustee	7,500	0.0%	33
Bond - Other	31,800	0.0%	139
Bridge Loan Fees	279,032	0.4%	1,224
Construction Period Interest	1,752,755	2.6%	7,688
Inspections - Lenders	319,770	0.5%	1,403
Insurance - Hazard/Liability	19,950	0.0%	88
Lender Legal	90,000	0.1%	395
Loan Origination Fees	195,800	0.3%	859
Other Fee (e.g. MHFA, HUD, and FHA Fees)	182,392	0.3%	800
Real Estate Taxes During Construction	238,537	0.4%	1,046
Syndication Fees	150,000	0.2%	658
Tax Credit & Compliance Fees	132,170	0.2%	580
Title & Recording	162,974	0.2%	715
Other Inspection	750	0.0%	3
Due Dilligence	130,000	0.2%	570
TIF Costs	108,320	0.2%	475
<b>DEVELOPER FEE</b>	<b>5,818,111</b>	<b>8.7%</b>	<b>25,518</b>
Developer Fee	5,818,111	8.7%	25,518
<b>CASH ACCOUNTS/ESCROWS/RESERVES</b>	<b>799,717</b>	<b>1.2%</b>	<b>3,508</b>
Management Startup/Leasing	130,000	0.2%	570
Operating Reserves	669,717	1.0%	2,937
<b>TOTAL USES</b>	<b>66,836,014</b>	<b>100%</b>	<b>293,140</b>
<i>Note: Items highlighted in gray are public redevelopment costs</i>			

5/29/2020

**SCHEDULE E**  
**CERTIFICATE OF COMPLETION**

(See following page.)

**CERTIFICATE OF COMPLETION**

WHEREAS, the Roseville Economic Development Authority (the “Authority”) and Roseville Leased Housing Associates I, LLLP (the “Redeveloper”) entered into a certain Contract for Private Redevelopment dated as of June \_\_\_, 2020 (the “Agreement”), filed of record as Document No. \_\_\_\_\_ on \_\_\_\_\_, 2020; and

WHEREAS, the Agreement contains certain covenants and restrictions set forth in Articles III and IV thereof related to completing certain Minimum Improvements; and

WHEREAS, the Redeveloper has performed said covenants and conditions insofar as it is able in a manner deemed sufficient by the Authority to permit the execution and recording of this certification;

NOW, THEREFORE, this is to certify that all construction and other physical improvements related to the Minimum Improvements specified to be done and made by the Redeveloper have been completed and the agreements and covenants in Articles III and IV of the Agreement have been performed by the Redeveloper, and this Certificate of Completion is intended to be a conclusive determination of the satisfactory termination of the covenants and conditions of Articles III and IV of the Agreement related to completion of the Minimum Improvements, but any other covenants in the Agreement shall remain in full force and effect until the Termination Date (as such term is defined in the Agreement).

Dated: \_\_\_\_\_, 20\_\_.

ROSEVILLE ECONOMIC DEVELOPMENT  
AUTHORITY

By \_\_\_\_\_  
Authority Representative

STATE OF MINNESOTA    )  
  ) SS.  
COUNTY OF RAMSEY    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, the \_\_\_\_\_ of the Roseville Economic Development Authority, a public body corporate and politic and political subdivision of the State of Minnesota, on behalf of the Authority.

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Notary Public

This document drafted by:

Kennedy & Graven, Chartered (MNI)  
470 U.S. Bank Plaza  
Minneapolis, Minnesota 55402  
Phone: 612-337-9300

**SCHEDULE F**

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**ASSESSMENT AGREEMENT**

**and**

**ASSESSOR'S CERTIFICATION**

**By and Between**

**ROSEVILLE ECONOMIC DEVELOPMENT AUTHORITY**

**and**

**ROSEVILLE LEASED HOUSING ASSOCIATES I, LLLP**

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This Document was drafted by:

KENNEDY & GRAVEN, Chartered (MNI)  
470 U.S. Bank Plaza  
Minneapolis, Minnesota 55402

## ASSESSMENT AGREEMENT

THIS AGREEMENT, made on or as of the \_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the Roseville Economic Development Authority, a public body corporate and politic and political subdivision of the State of Minnesota (the “Authority”) and Roseville Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the “Redeveloper”).

WITNESSETH, that

WHEREAS, on or before the date hereof the Authority and Redeveloper have entered into a Contract for Private Redevelopment dated June \_\_\_, 2020 (the “Redevelopment Agreement”), pursuant to which the Authority is to facilitate the redevelopment of certain property in the City of Roseville, Minnesota (the “City”), hereinafter referred to as the “Property” and legally described in Exhibit A hereto; and

WHEREAS, pursuant to the Redevelopment Agreement the Redeveloper is obligated to construct certain improvements (the “Minimum Improvements”) upon the Property; and

WHEREAS, the Authority and the Redeveloper desire to establish a minimum market value for the Property and the Minimum Improvements to be constructed thereon, pursuant to Minnesota Statutes, Section 469.177, subdivision 8; and

WHEREAS, the Authority and the County Assessor of Ramsey County (the “Assessor”) have reviewed the preliminary plans and specifications for the improvements and have inspected such improvements;

NOW, THEREFORE, the parties to this Agreement, in consideration of the promises, covenants and agreements made by each to the other, do hereby agree as follows:

1. The minimum market value which shall be assessed for ad valorem tax purposes for the Property described in Exhibit A attached hereto, together with the Minimum Improvements constructed thereon, shall be \$41,040,000 as of January 2, 2022, and each January 2 thereafter, regardless of the status of construction on such dates, until termination of this Agreement under Section 2 hereof.

2. The minimum market value herein established shall be of no further force and effect and this Agreement shall terminate on the earlier of (a) the date of receipt by the Authority of the final payment from Ramsey County of Tax Increments (as defined in the Redevelopment Agreement) from Tax Increment Financing District No. 22: Twin Lakes II in the City; or (b) termination of the Redevelopment Agreement and/or the TIF Note issued thereunder pursuant to their respective terms.

3. This Agreement shall be promptly recorded by the Authority. The Redeveloper shall pay all costs of recording.

4. Neither the preambles nor provisions of this Agreement are intended to, nor shall they be construed as, modifying the terms of the Redevelopment Agreement between the Authority and the Redeveloper.

5. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

6. Each of the parties has authority to enter into this Agreement and to take all actions required of it, and has taken all actions necessary to authorize the execution and delivery of this Agreement.

7. In the event any provision of this Agreement shall be held invalid and unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

8. The parties hereto agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements, amendments and modifications hereto, and such further instruments as may reasonably be required for correcting any inadequate, or incorrect, or amended description of the Property or the Minimum Improvements or for carrying out the expressed intention of this Agreement, including, without limitation, any further instruments required to delete from the description of the Property such part or parts as may be included within a separate assessment agreement.

9. Except as provided in Section 8 hereof, this Agreement may not be amended nor any of its terms modified except by a writing authorized and executed by all parties hereto.

10. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

11. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.



**ROSEVILLE ECONOMIC DEVELOPMENT  
AUTHORITY**

By \_\_\_\_\_  
Its President

By \_\_\_\_\_  
Its Executive Director

STATE OF MINNESOTA    )  
  ) SS.  
COUNTY OF RAMSEY    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by Dan Roe and Patrick Trudgeon, the President and Executive Director of the Roseville Economic Development Authority, a public body corporate and politic and political subdivision of the State of Minnesota, on behalf of the Authority.

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

ROSEVILLE LEASED HOUSING ASSOCIATES  
I, LLLP, a Minnesota limited liability limited  
partnership

By: Roseville Leased Housing Associates I, LLC, a  
Minnesota limited liability company, its General  
Partner

By: \_\_\_\_\_  
Ryan Lunderby, its Vice President

STATE OF MINNESOTA    )  
  ) SS.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by Ryan Lunderby, the Vice President of Roseville Leased Housing I, LLC, a Minnesota limited liability company, as General Partner of Roseville Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership, on behalf of the company.

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

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



**EXHIBIT A of ASSESSMENT AGREEMENT**

**Legal Description of Property**

Lot 1, Block 1, Twin Lakes 3<sup>rd</sup> Addition, Ramsey County, Minnesota.

SCHEDULE G

TBRA Documents

**LOAN AGREEMENT**

This Loan Agreement (“Agreement”) is made this \_\_\_ day of \_\_\_\_\_, 2020, between Roseville Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (“Borrower”) and the Roseville Economic Development Authority (“Lender”), a public body corporate and politic under the laws of Minnesota.

RECITALS

A. The Lender and the Metropolitan Council (the “Council”) have entered into a Metropolitan Livable Communities Act Grant Agreement approved by the Council on January 22, 2020 (the “Grant Agreement”), committing grant funds from the Council’s Tax Base Revitalization Account (the “Grant”) to the Lender, to be used by the Lender to assist the Borrower with the costs of asbestos abatement, soil and vapor sampling, soil remediation and soil vapor mitigation, and related environmental oversight (the “Project Costs”) on certain property located in the City of Roseville described in Exhibit A (the “Property”).

B. In order to facilitate the use of low income tax credits for affordable multifamily rental housing on the Property (the “Affordable Housing”), the Borrower has requested that the Grant by the Lender to the Borrower be structured as a loan.

C. Lender agrees to loan to Borrower the proceeds of the Grant to finance a portion of the Project Costs on the Property, pursuant to the terms and conditions of this Agreement.

D. In consideration for the loan contemplated by this Agreement, Borrower is executing and delivering to Lender this Agreement.

ACCORDINGLY, to induce Lender to make the Loan (as defined hereinafter) to Borrower, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The Loan Amount. Subject to and upon the terms and conditions of this Agreement and the Grant Agreement, Lender agrees to loan to Borrower the sum of Seven Hundred Twenty-Two Thousand Five Hundred and no/100 Dollars (\$722,500), or so much thereof as may have been advanced to Borrower (the “Loan”). The Loan shall be evidenced by a promissory note (“Note”) payable by Borrower to Lender and substantially in the form of Exhibit B attached to this Agreement, which shall be dated as of the date of closing on the Loan (the “Loan Closing Date”). Proceeds of the Loan shall be disbursed in accordance with Section 3 hereof.

2. Repayment of Loan. The Loan shall be repaid with interest as follows:

(a) No interest shall accrue on the Note.

(b) The entire amount of principal and accrued interest on the Loan shall be due and payable on \_\_\_\_\_, 2060. The Borrower may prepay the Loan, in whole or in part, on any date, subject to the terms provided in the Note.

3. Disbursement of Loan Proceeds.

(a) The proceeds of the Loan shall be disbursed by the Lender to the Borrower in accordance with the terms and conditions of the Grant Agreement and with Section 3.4 of the Contract for Private Development between the Lender and the Borrower dated as of June \_\_, 2020 (the "Contract"). Notwithstanding anything to the contrary herein, any excess of the Project Costs over the principal amount of the Loan shall be the sole responsibility of the Borrower.

(b) Disbursement of the proceeds of the Loan will be made subject to the conditions precedent that on or prior to the Loan Closing Date:

(i) The Lender has received from Borrower, without expense to Lender, executed copies of this Agreement and the Note, and Borrower further having caused to be executed and delivered to Lender a mortgage in substantially the form set forth hereto at Exhibit C (the "Mortgage");

(ii) The Borrower has presented the Lender with evidence that the Loan funds are being allocated solely to the Affordable Housing on the Property; and

(iii) No Event of Default under this Agreement or the Contract as to the Grant Agreement shall have occurred and be continuing.

4. No Business Subsidy. The parties agree and acknowledge that the Loan is not a business subsidy as defined in Minnesota Statutes, Section 116J.993, because the assistance is for housing.

5. Representations and Warranties. Borrower represents and warrants to Lender that:

(a) Borrower is duly authorized and empowered to execute, deliver, and perform this Agreement and to borrow money from Lender.

(b) The execution and delivery of this Agreement, and the performance by Borrower of its obligations hereunder, do not and will not violate or conflict with any provision of law and do not and will not violate or conflict with, or cause any default or event of default to occur under, any agreement binding upon Borrower.

(c) The execution and delivery of this Agreement has been duly approved by all necessary action of Borrower, and this Agreement has in fact been duly executed and delivered by Borrower and constitutes its lawful and binding obligation, legally enforceable against it.

(d) Borrower warrants that it shall keep and maintain books, records, and other documents relating directly to the receipt and disbursements of Loan proceeds and that any duly authorized representative of Lender shall, at all reasonable times, have access to and the right to inspect, copy, audit, and examine all such books, records, and other documents of Borrower pertaining to the Loan disbursements until the completion of all closeout procedures and the final settlement and conclusion of all issues arising out of this Loan.

(e) Borrower warrants that it has fully complied with all applicable state and federal laws pertaining to its business and will continue to comply throughout the terms of this Agreement. If at any time Borrower receives notice of noncompliance from any governmental entity, Borrower agrees to take any necessary action to comply with the state or federal law in question.

(f) Borrower warrants that it will use the proceeds of the Loan made by Lender solely for the Project Costs.

(g) Borrower warrants that it will not create, permit to be created, or allow to exist any liens, charges, or encumbrances prior to the obligation created by this Loan Agreement, except as otherwise authorized in writing by Lender and except as may be allowed pursuant to the Mortgage.

6. Event of Default by Borrower. The following shall be Events of Default under this Agreement, subject to any cure or grace periods contained in the Loan Documents:

(a) failure to pay any principal or interest on the Loan when due;

(b) any material representation or warranty made by Borrower herein or in any document, instrument, or certificate given in connection with this Agreement, the Note, or the Mortgage (the "Loan Documents") which is materially false when made;

(c) Borrower fails to pay its debts as they become due, makes an assignment for the benefit of its creditors, admits in writing its inability to pay its debts as they become due, files a petition under any chapter of the Federal Bankruptcy Code or any similar law, state or federal, now or hereafter existing, becomes "insolvent" as that term is generally defined under the Federal Bankruptcy Code, files an answer admitting insolvency or inability to pay its debts as they become due in any involuntary bankruptcy case commenced against it, or fails to obtain a dismissal of such case within thirty (30) days after its commencement or convert the case from one chapter of the Federal Bankruptcy Code to another chapter, or be the subject of an order for relief in such bankruptcy case, or be adjudged a bankrupt or insolvent, or has a custodian, trustee, or receiver appointed for, or has any court take jurisdiction of its property, or any part thereof, in any proceeding for the purpose of

reorganization, arrangement, dissolution, or liquidation, and such custodian, trustee, or receiver is not discharged, or such jurisdiction is not relinquished, vacated, or stayed within thirty (30) days of the appointment;

(d) a garnishment summons or writ of attachment is issued against or served upon Lender for the attachment of any property of Borrower in Lender's possession or any indebtedness owing to Borrower, unless appropriate papers are filed by Borrower contesting the same within thirty (30) days after the date of such service or such shorter period of time as may be reasonable in the circumstances;

(e) Borrower breaches or fails to perform any other term or condition of this Agreement not specifically described as an Event of Default in this Agreement and such breach or failure continues for a period of thirty (30) days after Lender has given written notice to Borrower specifying such default or breach, unless Lender agrees in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, Lender will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Borrower within the applicable period and is being diligently pursued until the Default is corrected, but no such extension shall be given for an Event of Default that can be cured by the payment of money (i.e., payment of taxes, insurance premiums, or other amounts required to be paid hereunder);

(f) Borrower fails to perform any requirement under the Grant Agreement; or

(g) any breach by Borrower of any other agreement between Borrower and Lender and/or the City of Roseville.

Notwithstanding anything to the contrary in the Loan Documents, the limited partner of the Borrower ( "Investor") shall have the right, but not the obligation, to cure any default of Borrower, and Lender agrees to accept cures tendered by Investor as follows: (i) with respect to any monetary default, Lender shall notify Investor in writing of such monetary default, and Investor shall have ten (10) days after the receipt of such notice of such monetary default to cure such monetary default; and (ii) with respect to any non-monetary default, Lender shall notify Investor in writing of such non-monetary default, and Investor shall have thirty (30) days after the receipt of such notice of such non-monetary default to cure such non-monetary default; provided, however, that if such non-monetary default cannot be cured within such thirty- (30-) day cure period, then Lender shall permit additional time to cure such non-monetary default as long as Investor is diligently pursuing such cure.

Notwithstanding anything to the contrary contained in the Loan Documents, the following transfers of interests in Borrower (or in the interests of the members of Borrower) shall be expressly permitted under the Loan Documents, and shall not be deemed an Event of Default or trigger any due on sale or other similar provisions in the Loan Documents: (a) the sale, transfer, conveyance or pledge of the Investor's or of any limited partner of the Borrower's ("Special Limited Partner") interest in Borrower; (b) the sale, transfer,



conveyance or pledge of any interests within the Investor or Special Limited Partner; (c) the removal of the general partner of Borrower for cause under the terms of the Borrower's then current partnership agreement and the admission of a new or additional substitute general partner; and (d) any amendment to the operating agreement evidencing the transfers described above.

7. Lender's Remedies upon Borrower's Default. Upon an Event of Default by Borrower and after provision by Lender of written notice, and subject to any cure or grace periods contained in the Loan Documents, Lender shall have the right to exercise any or all of the following remedies (and any other rights and remedies available to it):

- (a) declare the principal amount of the Loan and any accrued interest thereon to be immediately due and payable upon providing written notice to Borrower;
- (b) suspend its performance under this Loan Agreement;
- (c) take any action provided for at law to enforce compliance by Borrower with the terms of this Agreement and the Note;
- (d) exercise its rights under the Mortgage.

In addition to any other amounts due on the Loan, and without waiving any other right of Lender under any this Agreement or any other instrument securing the Loan applicable documents, Borrower shall pay to Lender a late fee of \$250 for any payment not received in full by Lender within 30 calendar days of the date on which it is due. Furthermore, interest will continue to accrue on any amount due until the date on which it is paid to Lender, and all such interest will be due and payable at the same time as the amount on which it has accrued.

8. Lender's Costs of Enforcement of Agreement. If an Event of Default has occurred as provided herein, then upon demand by Lender, Borrower shall pay or reimburse Lender for all expenses, including all reasonable attorneys' fees and expenses incurred by Lender in connection with the enforcement of this Agreement and the Note, or in connection with the protection or enforcement of the interests and collateral security of Lender in any litigation or bankruptcy or insolvency proceeding or in any action or proceeding relating in any way to the transactions contemplated by this Agreement.

9. Indemnification.

(a) Except for any claims, lawsuits, or damages arising or related to the gross negligence or willful misconduct of the Lender, Borrower shall and does hereby agree to indemnify against and to hold Lender, and its officers, agents, and employees, harmless of and from any and all liability, loss, or damage that it may incur under or by reason of this Agreement, and of and from any and all claims and demands whatsoever that may be asserted against Lender by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained herein.



Roseville, MN 55113  
Attn: Executive Director

To Redeveloper: Roseville Leased Housing Associates I, LLLP  
Attn: Ryan J. Lunderby  
2905 Northwest Boulevard, Suite 150  
Plymouth, Minnesota, 55441

With a copy to: Winthrop & Weinstine, P.A.  
Attn: John Stern and Scott Jahnke  
225 South Sixth Street, Suite 3500  
Minneapolis, Minnesota 55402

With a copy to: RBC Community Investments, LLC  
600 Superior Avenue, Suite 2300  
Cleveland, Ohio 44114  
Attention: President and General Counsel

With a copy to: Nixon Peabody LLP  
Exchange Place  
53 State Street  
Boston, MA 02109  
Attention: Roger W. Holmes

(f) Termination. Subject to extensions agreed to by the Lender and Borrower and approved by the Council, if the Loan is not disbursed pursuant to this Agreement and the Grant Agreement by December 31, 2022, this Agreement shall terminate and neither party shall have any further obligation to the other, except that if the Loan is not disbursed because Borrower has failed to use its best efforts to comply with the conditions set forth in Section 3 of this Agreement then Borrower shall pay to Lender all reasonable attorneys' fees, costs, and expenses incurred by Lender in connection with this Agreement and the Note.

(g) Entire Agreement. This Agreement, together with the Exhibits hereto, which are incorporated by reference, constitutes the complete and exclusive statement of all mutual understandings between the parties with respect to this Agreement, superseding all prior or contemporaneous proposals, communications, and understandings, whether oral or written, concerning the Loan.

(h) Headings. The headings appearing at the beginning of the several sections contained in this Agreement have been inserted for identification and reference purposes only and shall not be used in the construction and interpretation of this Agreement.

(i) Land Use Restriction. Notwithstanding any provision to the contrary in the Loan Documents, Lender acknowledges and agrees that (a) the Property is or will be subject to a Land Use Restriction Agreement (as defined below); (b) the recordation of the Land Use Restriction Agreement against the Property is permitted under the terms of the Loan Documents; and (c) the

lien of any Loan Documents, and the terms and provision thereof, shall be subordinate to the Land Use Restriction Agreement, regardless of the order of recording of either document. "Land Use Restriction Agreement" means the extended low-income housing commitment, regulatory agreement or restrictive covenants executed or to be executed by Borrower, as may be amended, setting forth certain terms and conditions under which the Property is to be operated and which shall meet the requirements of Section 42(h)(6)(B) of the Internal Revenue Code of 1986, as amended.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the proper officers thereunto duly authorized on the day and year first written above.

ROSEVILLE ECONOMIC  
DEVELOPMENT AUTHORITY

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

Its President

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

Its Executive Director

ROSEVILLE LEASED HOUSING ASSOCIATES I,  
LLLP, a Minnesota limited liability limited  
partnership

By Roseville Leased Housing Associates I, LLC  
Its General Partner

By: \_\_\_\_\_  
Ryan J. Lunderby  
Title: Vice President

[SIGNATURE PAGE TO LOAN AGREEMENT – ROSEVILLE LEASED HOUSING ASSOCIATES I, LLLP]

**EXHIBIT A**

**PROPERTY**

Lot 1, Block 1, Twin Lakes 3<sup>rd</sup> Addition, Ramsey County, Minnesota.

Abstract property.

**EXHIBIT B**

\$722,500  
PROMISSORY NOTE  
given by

**ROSEVILLE LEASED HOUSING ASSOCIATES I, LLLP,  
a Minnesota limited liability limited partnership to**

**THE ROSEVILLE ECONOMIC DEVELOPMENT AUTHORITY  
a public body corporate and politic  
and political subdivision of the State of Minnesota**

Dated: \_\_\_\_\_, 2020

At: Roseville, Minnesota

**FOR VALUE RECEIVED**, the undersigned, **ROSEVILLE LEASED HOUSING ASSOCIATES I, LLLP**, a Minnesota limited liability limited partnership (the "Borrower"), hereby promises to pay to the order of **THE ROSEVILLE ECONOMIC DEVELOPMENT AUTHORITY**, a public body corporate and politic and political subdivision of the State of Minnesota ("Holder") at the offices of the Holder or such other place as the Holder may, from time to time, designate in writing, the principal sum of Seven Hundred Twenty-Two Thousand Five Hundred and No/100 Dollars (\$722,500), or so much thereof as may be advanced to Borrower (the "Loan"). This Note shall not bear interest. The entire principal balance of this Note is due and payable on \_\_\_\_\_, 2060.

This Note is secured by, among other things, a Loan Agreement between Holder and Borrower dated as of \_\_\_\_\_, 2020 (the "Loan Agreement") and a Mortgage dated the date hereof from Borrower, as Borrower, to the Holder, as Holder (the "Mortgage"), on property owned by Borrower (the "Project"). This Note is issued pursuant to that certain TBRA Grant Agreement between the Metropolitan Council and Holder and defined in the Loan Agreement and Mortgage. All of the agreements, conditions, covenants, provisions and stipulations contained in the Loan Agreement and Mortgage are hereby made a part of this Note to the same extent and with the same force and effect as if they were fully set forth herein. Time is of the essence hereof. In the event of any default in the payment of any principal or other indebtedness due hereunder, or if the Borrower defaults on any of its other obligations under this Note, the Loan Agreement, or the Mortgage, the Holder may, at its right and option, declare immediately due and payable the principal balance of this Note, together with any attorneys' fees incurred by the Holder in collecting or enforcing payment thereof, whether suit be brought or not, and all other sums due hereunder and payment thereof may be enforced and recovered in whole or in part at any time by one or more of the remedies provided in any document securing this Note, including any Mortgage. The Holder may extend the time of payment of principal of this Note without notice to or consent of any party liable hereon and without releasing such party.

The Borrower hereby waives demand, presentment, notice of nonpayment, protest, notice of protest, notice of dishonor and diligence in collection and agree that without any notice the Holder hereof may take and/or release additional security herefor or the Holder hereof may, from time to time, release any part or parts of security interests from Borrower in favor of Holder with



or without consideration and that in any such case the Borrower and any guarantor, surety or endorser shall remain liable to pay the unpaid balance of the indebtedness evidenced hereby as so additionally secured, extended, renewed or modified and notwithstanding any such release.

The remedies of the Holder, as provided herein and in any document securing this Note shall be cumulative and concurrent and may be pursued singly, successively or together, at the sole discretion of the Holder, and may be exercised as often as occasion therefor shall occur. The Holder may, in its discretion, waive any default hereunder and its consequences and rescind any declaration of acceleration of principal; provided, however, that no action or inaction by the Holder shall be deemed a waiver of any of the Holder's rights or remedies unless the Holder specifically agrees in writing that such action or inaction shall constitute a waiver of its rights or remedies. Any waiver shall only apply to the particular instance for which it was agreed. No delay in exercising and no failure in exercising any right or remedy hereunder or afforded by law shall be a waiver of or preclude the exercise of any right or remedy hereunder or provided by law, whether on such occasion or any future occasion, nor shall such delay be construed as a waiver of any default or acquiescence therein. The exercise or the beginning of the exercise of one right or remedy shall not be deemed a waiver of the right to exercise at the same time or thereafter any other right or remedy.

In the event of any default hereunder the Borrower agrees to pay the costs of collection including reasonable attorneys' fees.

This Note may be prepaid in whole or in part without penalty.

The obligations of the Borrower hereunder are unconditional except as otherwise stated herein, irrespective of any defense or any rights of setoff, recoupment or counterclaim it might otherwise have against the Holder or any governmental body or other person.

The indebtedness evidenced by this Note is and shall be subordinate in right of payment to the prior payment in full of the indebtedness evidenced by a Promissory Note ("Promissory Note") of even date herewith in the original aggregate principal amount stated therein issued by Borrower, and payable to America First Multifamily Investors, LP, a Delaware limited partnership, its successors and assigns ("Senior Lender"), or order, to the extent and in the manner provided in that certain Subordination Agreement ("Subordination Agreement") of even date herewith between the payee of this Note, the Senior Lender, and the Holder. The Mortgage securing this Note is and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the Senior Lender mortgage securing the Promissory Note as more fully set forth in the Subordination Agreement. The rights and remedies of the payee and each subsequent holder of this Note under the Mortgage securing this Note are subject to the restrictions and limitations set forth in the Subordination Agreement. Each subsequent holder of this Note shall be deemed, by virtue of such holder's acquisition of the Note, to have agreed to perform and observe all of the terms, covenants and conditions to be performed or observed by the Holder under the Subordination Agreement.

The Loan is a non-recourse obligation of the Borrower. Neither the Borrower nor any of its partners or officers, nor any other party, shall have any personal liability for repayment of the Loan. The sole recourse of Holder for repayment of the Loan shall be the exercise of its rights against the Project and related security thereunder.

This Note may not be sold, transferred, assigned or pledged without the prior written approval of the Senior Lender and of the Investor or Special Limited Partner (as such terms are defined in the Loan Agreement) of the Borrower.

This Note shall be governed by and construed in accordance with the laws of the State of Minnesota.

If any of the terms of this Note, or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Note, or the application of such terms to persons or circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each of the terms of this Note shall be valid and enforceable to the fullest extent permitted by law.

**IT IS HEREBY CERTIFIED AND RECITED** that all conditions, acts and things required to exist, to happen and to be performed precedent to or in the issuance of this Note do exist, have happened and have been performed in regular and due form as required by law.

*[Signature Page Follows]*

**IN WITNESS WHEREOF**, the Borrower has caused this Note to be duly executed by its authorized representative, all on the date and year first above written.

BORROWER:

ROSEVILLE LEASED HOUSING ASSOCIATES I,  
LLLP

By Roseville Leased Housing Associates I, LLC

Its General Partner

By:

\_\_\_\_\_ Its Vice President

**EXHIBIT C**

**MORTGAGE  
(\$722,500 TBRA Loan)**

**THIS MORTGAGE IS EXEMPT FROM MORTGAGE REGISTRATION TAX PURSUANT TO MINN STAT SECTION 287.04 (f) BECAUSE THIS MORTGAGE WAS MADE UNDER THE MORTGAGEE'S LOW AND MODERATE INCOME OR OTHER AFFORDABLE HOUSING PROGRAM THAT PROVIDES FOR LOANS THAT MEET THE INCOME LIMITS AND SALES PRICE LIMITS AS DETERMINED UNDER FEDERAL AND STATE LAW.**

**THIS MORTGAGE** is made this \_\_\_ day of \_\_\_\_\_, 2020 by and between **ROSEVILLE LEASED HOUSING ASSOCIATES I, LLLP**, a Minnesota limited liability limited partnership (the "Mortgagor") in favor of **THE ROSEVILLE ECONOMIC DEVELOPMENT AUTHORITY**, a public body corporate and politic and political subdivision of the state of Minnesota (the "Mortgagee").

**WHEREAS**, pursuant to that Loan Agreement between the Mortgagor and Mortgagee dated as of \_\_\_\_\_, 2020 (the "Loan Agreement"), Mortgagor executed that certain Promissory Note of even date herewith (the "Note") in the amount of Seven Hundred Twenty-Two Thousand Five Hundred Dollars (\$722,500) evidencing the loan described in the Loan Agreement (the "Loan"); and

**WHEREAS**, pursuant to the Loan Agreement and the Note, the entire indebtedness of Mortgagor to Mortgagee of the Loan is due and payable in full on \_\_\_\_\_, 2060; and

**WHEREAS**, this Mortgage is given to secure repayment of all amounts due by Mortgagor to Mortgagee under the Loan Agreement and the Note, as well as other amounts due by Mortgagor to Mortgagee under the terms of this Mortgage.

**NOW, THEREFORE**, in consideration of the foregoing, and for other good and valuable consideration, Mortgagor hereby grants, bargains, sells and conveys to Mortgagee the following real property in Ramsey County, Minnesota (the "Premises") legally described on Exhibit A attached hereto and incorporated herein to have and to hold the same, together with all the hereditaments and appurtenances thereto belonging or in anywhere appertaining, forever.

**PROVIDED NEVERTHELESS** that if Mortgagor, or Mortgagor's successors or permitted assigns, shall (i) pay, or cause to be paid, to Mortgagee the principal amount of the Loan heretofore and hereafter advanced by Mortgagee to Mortgagor under the Note; (ii) pay all

taxes and special assessments that are now or may be hereafter levied and assessed on and against the Premises as they shall be due and before they become delinquent; (iii) keep the improvements on the Premises continuously insured as hereinafter provided; (iv) pay the principal and interest installments on any prior mortgage or mortgages as the same or any part thereof become due; and (v) keep and perform each and every covenant herein, then this Mortgage shall be null and void; otherwise it shall be and remain in full force and effect.

**MORTGAGOR WARRANTS AND COVENANTS** to and with Mortgagee as follows:

1. Mortgagor is lawfully seized of a fee simple interest in the Premises and has good right to sell and convey the same. The Premises are free from all liens and encumbrances, except any prior mortgage or mortgages of record and other matters listed in the Mortgagor's title policy. Mortgagor shall warrant and defend the title of the Premises against all lawful claims except such prior mortgage or mortgages of record. The foregoing covenants and warranties shall survive foreclosure of this Mortgage and shall run with the land.
2. Mortgagor shall pay the principal and interest (if any) as the same become due on any prior mortgage or mortgages on the Premises.
3. Mortgagor shall procure at Mortgagor's own expense fire and extended coverage insurance on the improvements on the Premises, payable in case of loss to Mortgagee, its successors and assigns, as its interest may appear, such insurance to be written by a reliable insurance company approved by Mortgagee in an amount at least equal to the full insurable value of such improvements.
4. Mortgagor shall pay all taxes and special assessments now and hereafter levied and assessed on the Premises before the same become delinquent, provided, however, that Mortgagor is permitted to contest the same in good faith.
5. Mortgagor shall keep the Premises in good repair, shall not remove the improvements from the Premises, unless promptly replaced with substantially similar improvements, and shall not commit waste or permit impairment or deterioration of the Premises.
6. Mortgagor shall comply with and perform all of the Mortgagor's obligations under the Loan Agreement, this Mortgage and the Note.
7. In the case of failure of Mortgagor to pay such taxes or special assessments or to keep said improvements insured as provided herein, or to pay the principal or interest (if any) on the prior mortgage or mortgages on the Premises, Mortgagee may at its option, after ten (10) days' written notice to Mortgagor, pay and discharge such taxes and assessments, effect such insurance on said improvements and pay the premiums thereon and pay the principal and interest (if any) that become due and remain unpaid on the prior mortgage or mortgages on the Premises, and the sum or sums that may be so paid by Mortgagee shall bear interest from the time of such payment at the rate of 8% per annum or the highest rate allowed by law, whichever is lower, and shall be deemed and is hereby declared to be an additional lien upon the Premises in the amount that shall be so paid, with interest thereon, as aforesaid, and shall

be added to and be collectable as part of and in the same manner as the original debt which this Mortgage is given to secure.

8. Reserved.

9. The following shall be Events of Default by Mortgagor; provided, however, that Mortgagee shall have given the Mortgagor notice of such Event of Default hereunder and at least thirty (30) days within which to cure such Event of Default, and that if such Event of Default cannot reasonably be cured within such thirty (30) days, Mortgagor shall have such additional time as may be reasonably necessary if Mortgagor commences to cure such Event of Default within such thirty (30) day period and thereafter diligently prosecutes such cure to completion:

- a) The failure to pay the indebtedness hereby secured, as it becomes due;
- b) The failure to pay, when due, the taxes or special assessments on the Premises;
- c) The failure to keep the improvements on the Premises insured as herein provided;
- d) The failure to keep and perform any of the covenants and agreements herein contained to be kept and performed by Mortgagor;
- e) Except as otherwise permitted in the Loan Agreement, the sale, assignment, conveyance or other transfer (whether by deed, contract for deed, lease or otherwise) of the Premises, except for leases for one year or less, not approved in advance by Mortgagee; or
- f) The failure to comply with and perform all of the requirements of the TBRA Grant Agreement (as defined below) related to the Premises, which failure results in the Mortgagee being obligated to indemnify or repay all or any portion of the TBRA grant funds to the Metropolitan Council.

Upon the occurrence of any Event of Default, Mortgagor hereby authorizes and empowers Mortgagee to declare the entire indebtedness hereby secured to be immediately due and payable, at Mortgagee's option, and to enforce the payment thereof and to foreclose this Mortgage by judicial proceedings or by sale of the Premises at public auction and convey the same to the purchaser in fee simple, pursuant to the statutes of the State of Minnesota, and out of the monies arising from said sale to retain (i) the principal which shall then be due on the indebtedness secured hereby, and interest, if any, accrued thereon, (ii) an amount equal to all taxes and special assessments paid by Mortgagee upon the Premises, or then levied and unpaid, (iii) any sum paid by Mortgagee for principal or interest on any prior mortgage or mortgages on the Premises, (iv) an amount equal to any insurance premiums paid by Mortgagee upon the Premises, (v) any other amounts payable by the Mortgagee to the Metropolitan Council as a result of the failure of the Mortgagor

to comply with and perform all of the requirements of the TBRA Grant Agreement related to the Premises, and (vi) costs and disbursements of such foreclosure, including statutory attorney's fees; and to pay the surplus, if any, to Mortgagor. In the event of any default hereunder the Mortgagor agrees to pay the costs of collection including reasonable attorneys' fees.

10. So long as this Mortgage and the Note evidencing the indebtedness secured hereby are held by Mortgagee, Mortgagor will not execute or file for record any instrument which imposes a restriction upon the sale or occupancy of the Premises on the basis of race, color, religion, or sex.

11. No delay by Mortgagee in exercising any right or remedy provided herein or otherwise afforded by law or equity shall be deemed a waiver of or preclude the exercise of such right or remedy. All such rights and remedies shall be distinct and cumulative and may be exercised singularly or serially (in any order) or concurrently, and as often as the occasion therefore arises.

12. Mortgagee may at any time and from time to time, without notice, release any person liable for the payment of any indebtedness under the Note, extend the time or agree to alter the terms of payment of any indebtedness, release any property securing any indebtedness, consent to the creation of any easement on the Premises, or agree to alter or amend the terms of this Mortgage in any way, all without in any way affecting the liability of any person (other than the person so released, if any) or the validity or priority of this Mortgage (except as it covers property so released, if any).

13. The covenants and agreements contained in this Mortgage shall bind, and the rights conferred hereby shall inure to, the respective, legal representatives, successors and assigns of Mortgagor and Mortgagee. Wherever used, the singular number shall include the plural, and the plural the singular. All covenants and agreements of Mortgagor shall be joint and several.

14. Mortgagee shall furnish to Mortgagor a conformed and fully completed copy of the Note and this Mortgage at the time that this Mortgage is executed or at a reasonable time after this Mortgage is recorded.

15. The Mortgagee, for itself and its successors and assigns, covenants and agrees that it will not commence procedures to foreclose on this Mortgage without the prior written consent of any of the senior lenders or the Minnesota Housing Finance Agency, or its successors and assigns ("MHFA") if there is a mortgage held by MHFA on the Project

16. The Loan is a non-recourse obligation of the Mortgagor. Neither Mortgagor nor any of its members or officers, nor any other party, shall have any personal liability for repayment of the Loan. The sole recourse of Mortgagee for repayment of the Loan shall be the exercise of its rights against the Premises and related security thereunder.

17. Except for willful misrepresentation, misconduct or negligence of the Indemnified Parties (as hereafter defined), and except for any breach by any of the Indemnified Parties of

their obligations under the Loan Agreement, this Mortgage or the Note, the Mortgagor agrees to protect and defend the Mortgagee and the governing body members, officers, agents, servants and employees thereof (the "Indemnified Parties"), now or forever, and further agrees to hold the Indemnified Parties harmless from any claim, demand, suit, action or other proceeding whatsoever by any person or entity whatsoever arising or purportedly arising from the Loan Agreement, this Mortgage, the Note, or the transactions contemplated hereby or the acquisition, construction, improvement, ownership, and operation of the Premises.

18. Mortgagee has been awarded a \$722,500 TBRA grant from the Metropolitan Council pursuant to the Metropolitan Livable Communities Act Grant Agreement approved by the Council on January 22, 2020, committing grant funds from the Council's Tax Base Revitalization Account to the Mortgagee (the "TBRA Grant Agreement"), and has agreed to loan such funds to finance certain costs of the Mortgagor's development of the Premises. Mortgagee is loaning the funds to Mortgagor pursuant to the Loan Agreement, this Mortgage and the Note subject to the following conditions:

(a) Loan funds can be used to finance only the costs of asbestos abatement, soil and vapor sampling, soil remediation and soil vapor mitigation, and related environmental oversight on the Premises, as more fully described in the TBRA Grant Agreement, and

(b) Loan funds may only be drawn down upon the Mortgagee's receipt of documentation demonstrating that the work for which the funds are being requested has been completed.

The Mortgagor shall comply with the foregoing and all other requirements of the TBRA Grant Agreement related to the Premises and if it fails to do so and the Mortgagee is obligated to repay all or any portion of the TBRA grant funds to the Metropolitan Council, the Mortgagor shall be liable to and shall pay to the Mortgagee the amount required to be repaid. The Mortgagor shall provide the Mortgagee all reports, certificates, information and documents which are necessary for the Mortgagee to comply with its obligations under the TBRA Grant Agreement.

19. Mortgagor will permit Mortgagee and its agents to enter and to authorize others to enter upon any or all of the Premises, or inspect Mortgagor's records regarding the Premises at reasonable times, to perform or observe any covenants, conditions, or terms which Mortgagor shall fail to perform, meet or comply with and which Mortgagee is authorized to perform under the terms of this Mortgage, or for any other purpose in connection with the protection or preservation of Mortgagee's security, without thereby becoming liable to Mortgagor or any person in possession under Mortgagor.

20. Mortgagee acknowledges that Mortgagor has entered into and delivered or intends to enter into and deliver concurrently with the execution and delivery of this Mortgage, a first lien Mortgage, Security Agreement, and Fixture Financing Statement ("Senior Mortgage") in favor of America First Multifamily Investors, LP, a Delaware limited partnership, its successors and assigns ("Senior Lender") securing indebtedness evidenced by that certain Promissory Note Secured by Mortgage ("Senior Note") payable to Senior Lender. Mortgagee agrees to subordinate the lien of this Mortgage to the Senior Mortgage and Senior Mortgage



loan documents, and that this Mortgage is and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the Senior Mortgage as more fully set forth in that certain Master Subordination Agreement and Estoppel Certificate of even date herewith between the Mortgagor, Senior Lender, and the Mortgagee.

(Execution page follows.)



**EXHIBIT A**

**LEGAL DESCRIPTION**

Lot 1, Block 3, Twin Lakes 3<sup>rd</sup> Addition, Ramsey County, Minnesota.

Abstract property.

Document comparison by Workshare 10.0 on Friday, June 19, 2020 2:03:26 PM

Input:	
Document 1 ID	PowerDocs://DOCSOPEN/647460/6
Description	DOCSOPEN-#647460-v6-Roseville_Leased_Housing_Contract_for_Private_Redevelopment
Document 2 ID	PowerDocs://DOCSOPEN/647460/7
Description	DOCSOPEN-#647460-v7-Roseville_Leased_Housing_Contract_for_Private_Redevelopment
Rendering set	Standard

Legend:	
<u>Insertion</u>	
<del>Deletion</del>	
<del>Moved from</del>	
<u>Moved to</u>	
Style change	
Format change	
<del>Moved deletion</del>	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	4
Deletions	4
Moved from	0
Moved to	0
Style change	0
Format changed	0

Total changes	8
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# REQUEST FOR ECONOMIC DEVELOPMENT AUTHORITY ACTION

Date: June 22, 2020  
Item No.: 5.b

Department Approval

Executive Director Approval

Item Description: Consider a Resolution, expressing support for Tax Increment Financing in connection with the acquisition and rehabilitation of existing multifamily housing located at 1720, 1721, 1736, 1740, 1746, 1750 Marion St.; 175 and 195 Larpenteur Ave. W; and 1722, 1725, 1735, and 1736 Woodbridge Court.

**BACKGROUND**

The properties addressed at 1720, 1721, 1736, 1740, 1746, 1750 Marion St.; 175 and 195 Larpenteur Ave. W; and 1722, 1725, 1735, and 1736 Woodbridge Court consist of 277 units of multifamily rental housing managed by G & G Management, LLC. The City Council, on November 25, 2019, by Resolution 11653, revoked the rental license governing these properties due to pervasive City Code violations throughout the interior and exterior of the properties. The property remains without a rental license and the current owner, RSR Management, LLC listed the properties for sale. Aeon, a housing non-profit entity that owns and manages affordable housing developments recently entered into a purchase agreement with G&G. As part of the due-diligence process, Aeon is seeking Tax Increment Financing assistance from the Roseville Economic Development Authority (REDA) to assist with the rehabilitation of the existing buildings, which is estimated to be \$45,542 a unit. This rehabilitation investment equates to a budget of \$12,615,000 or 31% of the overall anticipated development costs of \$40,050,280 (Attachment A).

AEON is acquiring these apartments to maintain them as Naturally Occurring Affordable Housing (NOAH) units. Rents will remain at current rates until rehabilitation of each unit is completed.

Current rates average:  
\$853 for a 1-bedroom,  
\$1,032 for a 2-bedroom.

After rehabilitation, all of the units will be affordable to households at or below 60% of the area median income (AMI). Rent and income limits for affordable units are derived by the United States Department of Housing and Urban Development (HUD) on an annual basis. The rents noted below are the 2020 rent maximum's established by HUD. Aeon is not projecting to raise rents to the maximum at this time nor would they possibly be able to achieve them after rehabilitation.

Maximum Gross Monthly Rent for 60% AMI:  
\$1,164 for a 1-bedroom,  
\$1,396 for a 2-bedroom.

33 The request for TIF assistance from a newly created district (#23) will help leverage other funds that are  
34 needed in order to assist with the acquisition and rehabilitation estimate of \$40,050,280. The  
35 rehabilitation of the buildings would generate \$3.785 million in TIF over 25 years, all of which is needed  
36 based upon the many years of deferred maintenance and the current market cost/unit for acquisition.  
37 This shouldn't be a surprise based upon the 2019 rental license revocation, the outstanding code  
38 violations that persist at the property, and the region's demand for the preservation of affordable housing  
39 units. This TIF investment accounts for 1/3 of the rehabilitation costs and 10% of the overall  
40 development costs. Based upon current conditions of the property and Aeon's need to leverage other  
41 funding, Aeon is requesting the REDA consider up-front financial assistance for a portion of the  
42 REDA's total investment (Attachment B).

43  
44 On March 9, 2019, the REDA, as part of the TIF Management Plan discussion, authorized staff to work  
45 with Aeon to amend the development agreement for TIF District #18/Sienna Green Apartments, extending  
46 the district out an additional 10 years to 2038, which allows generation of additional TIF dollars for  
47 affordable housing projects throughout the City. This additional TIF generation was intended to be used for  
48 NOAH preservation and/or construction of new affordable units. The extension of this district is estimated  
49 to generate an additional \$1.185 million. In order to meet Aeon's request for upfront assistance, staff is  
50 recommending the REDA consider assisting \$1.1 million to Aeon, paid for from the REDA's current Multi-  
51 Family Fund balance of \$1.6 million. The \$1.1 million would be structured as a deferred loan that would be  
52 paid out of 8% of the net cash flow (after expenses and debt service) with a possibility to negotiate a balloon  
53 payment in year 5 upon refinancing of the property post rehabilitation. This represents the EDA's percent  
54 of equity in the project compared to AEON's 92% equity amount. It is anticipated that if the project is not  
55 refinanced, it would take 25 years to repay the Loan at 3.5% interest (26 years at 4%).

56  
57 To better secure repayment of the REDA's \$1.1 million loan, including the potential of Aeon's loan not  
58 being repaid after 5 years, the TIF generated by the additional 10 years of collection from Sienna Green  
59 TIF #18 could be used to repay the Multi-Family Fund.

60  
61 In addition, staff would also recommend the REDA consider including other adjacent parcels into the  
62 Marion/Brittany Apartments TIF district (TIF #23), that are currently on the market and likely to realize  
63 redevelopment, which would provide greater opportunity for additional resources to pay back the \$1.1  
64 million upfront investment sooner and/or to decertify the new district sooner (Attachment C). Whether  
65 the EDA secures its upfront investment through TIF repayment via district #18 or from Aeon's balloon  
66 payment in year 5, the obligation of repayment of the upfront loan to Aeon will remain and be contingent  
67 on the rehabilitation of the Marion/Brittany apartments.

68  
69 If the REDA provides upfront funds, this would shorten the number of years of pay-as-you-go assistance  
70 of TIF #23 to Marion/Brittany from 25 to 20 years, including fully repaying the REDA, including  
71 generation of interest earning on those up-front funds. The REDA's finance consultant estimates  
72 interest earnings of \$104,000 annually.

73  
74 **POLICY OBJECTIVE**

75 The TIF requested for rehabilitation of the Marion/Brittany Apartments meets the following three (3) of  
76 the seven (7) City objectives:

- 77 1. Remove blight and/or encourage redevelopment in designated redevelopment/development  
78 area(s) per the goals and visions established by the City Council and EDA.
- 79 2. Offset increased costs for redevelopment over and above the costs that a developer would  
80 incur in normal urban and suburban development (determined as part of the But-For analysis).

81 3. Facilitate the development process and promote development on sites that could not be  
82 developed without this assistance.  
83

84 In addition to meeting three (3) of the City’s objectives, it meets the following three (3) of the twelve  
85 (12) City’s desired qualifications:

- 86 1. Implements the City’s vision and values for a City-identified redevelopment area.
- 87 2. Provides significant improvement to surrounding land uses, the neighborhood, and/or the City.
- 88 3. Redevelops a blighted, contaminated and/or challenged site.  
89

90 The project is located in Rice & Larpenteur area, which has been identified as a priority in the City’s  
91 Policy Priority Plan. This project would achieve the following desired outcomes:

- 92 o Economic investment in SE Roseville
- 93 o Improvement of Quality of Life in SE Roseville
- 94 o Increased Public Safety in SE Roseville (Attachment D)  
95

96 Preservation of affordable housing units is also a goal outlined in the Vision Plan commissioned by the  
97 Rice & Larpenteur Alliance and adopted by the City of Roseville.  
98

99 **REQUEST FOR ASSISTANCE**

100 Ehlers, the REDA’s public finance advisor, has reviewed the public finance request and has deemed the  
101 request for public subsidy meets the “but-for” test and substantially meets the REDA policy objectives  
102 for TIF (attachment A). Staff seeks REDA direction on the following items:  
103

- 104 1. Does the REDA support providing financial assistance in the amount of \$3.785 million through  
105 creation of Affordable Housing TIF District #23?
- 106 2. If the REDA supports TIF, would the REDA support Aeon’s request for \$1.1 million of upfront  
107 assistance, thereby reducing the duration of the district from 25 years to 20 years, paid from the  
108 REDA’s existing Multi-Family Fund balance?
- 109 3. Would the REDA support the inclusion of 210 S. McCarrons, 196 S. McCarrons, and Golden  
110 Sun Apartments (1721 Marion Street) in the newly created TIF district #23 in an effort to secure  
111 sooner repayment of the Multi-Family Fund account and/or reducing the duration of the district?  
112

113 Stacie Kvilvang from Ehlers had another meeting conflict and will not be available. However, Keith  
114 Dahl with Ehlers has been responsible for a majority of the financial analysis and discussions with Aeon.  
115 He will present and discuss these options thoroughly with the REDA.  
116

117 **STAFF RECOMMENDATION**

118 Staff recommends adoption of a resolution expressing support for financial assistance in connection with  
119 the rehabilitation of the properties addressed 1720, 1721, 1736, 1740, 1746, 1750 Marion ST.; 175 and  
120 195 Larpenteur Ave. W; and 1722, 1725, 1735, and 1736 Woodbridge Court by creating an Affordable  
121 Housing Tax Increment Financing District for Aeon, based upon the following:

- 122 • The proposed project would sustain 277 NOAH unites of affordable multi-family housing in the  
123 Rice & Larpenteur area, a priority area for the city,
- 124 • Review of the project’s sources and uses reveals a gap in funding, passing the “but-for” test,
- 125 • The project meets three (3) of seven (7) of the City’s objectives, and three (3) of twelve (12) of  
126 the City’s desired qualifications as outlined in the City’s Public Assistance Policy,
- 127 • The project would result in consolidation of ownership to one main owner of the multi-family  
128 properties in the area, who is a non-profit, responsible management organization, and



- 129
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- 134
- The project is located in Rice & Larpenteur area, which has been identified as a priority in the City's Policy Priority Plan, achieving economic investment in SE Roseville, improvement of quality of life in SE Roseville, and increased Public Safety in SE Roseville.
  - The project would meet affordable housing preservation goals outlined in the Vision Plan commissioned by the Rice & Larpenteur Alliance and adopted by the City of Roseville.

135 **REQUESTED REDA ACTION**

136 Staff seeks direction from the REDA on the following three questions:

137

- 138
- 139
- 140
- 141
- 142
- 143
- 144
- 145
- 146
1. Does the REDA support providing financial assistance in the amount of \$3.785 million through creation of an Affordable Housing TIF District?
  2. If the REDA supports TIF, would the REDA support Aeon's request for \$1.1 million of upfront assistance, thereby reducing the duration of the district from 25 years to 20 years, paid from the REDA's existing Multi-Family Fund balance?
  3. Would the REDA support the inclusion of 210 S. McCarrons, 196 S. McCarrons, and Golden Sun Apartments (1721 Marion Street) in the newly created TIF district #23 in an effort to have additional security of reimbursement to the Multi-Family Fund account and/or reducing the duration of the district?

147

148 Adopt a resolution expressing support for financial assistance in connection with rehabilitation of the

149 properties addressed 1720, 1721, 1736, 1740, 1746, 1750 Marion St.; 175 and 195 Larpenteur Ave. W;

150 and 1722, 1725, 1735, and 1736 Woodbridge Court by creating an Affordable Housing Tax Increment

151 Financing District for Aeon (Attachment E).

152 Prepared by: Jeanne Kelsey, Housing and Economic Development Program Manager, 651-792-7086

- Attachment A: Summary of underwriting from Ehlers
- B: Letter from Aeon
- C: Aerial with TIF options for consideration
- D: Memorandums noting support from the Roseville Police & Fire Chiefs
- E: Resolution of support

# Memo

**To:** Jeanne Kelsey, Housing and Economic Development Program Manager  
**From:** Stacie Kvilvang and Keith Dahl, Ehlers  
**Date:** June 22, 2020  
**Subject:** Analysis of TIF Request – Brittney and Marion Street Redevelopment

The City received an application for tax increment financing assistance (TIF) from AEON requesting \$4 million in the form of a pay-as-you-go (PAYGO) TIF Note. AEON is proposing to purchase and rehabilitate the above referenced Apartments (Project), which consist of twelve buildings and 276-units of naturally occurring affordable housing (NOAH). They've proposed to purchase the Apartments later in 2020 and spend approximately \$45,000/unit to fully rehabilitate them over the course of 2-3 years.

We've conducted a review of the Project, specifically AEON's budget and pro forma based on industry standards for construction, land acquisition, and project costs; as well as ensured all revenues, and expenditures have been appropriately accounted for and considered.

Based on our review and discussions with staff about additional resources available to the project to lessen the number of years of TIF, AEON's requested financial assistance is more than what is necessary for the project to become "financially feasible". We've concluded that if the EDA chooses to provide a \$1.1M Cashflow Note (Loan) to the Project, it would only require \$2.68 million in TIF assistance over a 20-year period (total of \$3.78M of assistance).

The tables below provide a synopsis of the sources and uses associated to the proposed project.

<b>SOURCES</b>			
	<b>Amount</b>	<b>Pct.</b>	<b>Per Unit</b>
First Mortgage	23,890,000	60%	86,558
<b>TIF Note</b>	<b>2,680,000</b>	<b>7%</b>	<b>9,710</b>
<b>Cash Flow Note</b>	<b>1,100,000</b>	<b>3%</b>	<b>3,986</b>
Equity	11,980,280	30%	43,407
Other Public Sources	400,000	1%	1,449
<b>TOTAL SOURCES</b>	<b>40,050,280</b>	<b>100%</b>	<b>145,110</b>

<b>USES</b>			
	<b>Amount</b>	<b>Pct.</b>	<b>Per Unit</b>
Acquisition Costs	24,930,000	62%	90,326
<b>Construction Costs</b>	<b>12,615,000</b>	<b>31%</b>	<b>45,707</b>
Professional Services	50,000	0%	181
Financing Costs	1,130,875	3%	4,097
Developer Fee	311,625	1%	1,129
Cash Accounts/Escrows/Reserves	1,012,780	3%	3,669
<b>TOTAL USES</b>	<b>40,050,280</b>	<b>100%</b>	<b>145,110</b>

## Pro Forma Analysis:

1. **Financing** – The developer has proposed to obtain a first mortgage in the approximate amount of \$23.890 million, which is 60% of the total development costs. Based on current underwriting conditions, it appears AEON is maximizing its amount of first mortgage debt due to the product type and work to be completed. In addition, AEON will be providing approximately \$12 million in equity for the project or 30% of the overall financing.
2. **TIF Assistance and Cash Flow Note** –We’ve reduced the TIF assistance to \$2.68 million (approximately \$9,700/unit) and provided a Loan of \$1.1M (approximately \$4,000/unit) based on the projected return on investment. This represents approximately 1/3 of the unit rehabilitation costs and 10% of the total development costs. Typically, TIF assistance ranges from 5% - 10% for similar projects of this type. The Loan will be paid out of 8% of the net cashflow (after expenses and debt service), which represents the EDA’s percent of equity in the project compared to AEON’s 92% equity amount. It is anticipated that if the project is not refinanced, it would take 25 years to repay the Loan at 3.5% interest (26 years at 4%).
3. **Acquisition Costs** – The total acquisition cost of the twelve apartment buildings is \$24,930,000 or approximately \$90,000 per unit. This price has been negotiated between AEON and the current property owner. It appears to be reasonable based on review of the anticipated appraisal of approximately \$31.5 million.
4. **Developer Fee** – The proposed developer fee is approximately 1% of the TDC. Typically, developer fees are between 3% and 5%, but the developer has lowered the fee to assist in making the project financially feasible.
5. **Rents** – Since AEON is acquiring NOAH units, rents will remain at current rates until rehabilitation of each unit is completed. Current rates average \$853 for a 1-bedroom and \$1,032 for a 2-bedroom. After rehabilitation, all of the units will be affordable to households at or below 60% of the area median income (AMI). Rent and income limits for affordable units are derived by the United States Department of Housing and Urban Development (HUD) on an annual basis. The rents noted in the table below are the 2020 rent limits at 50% AMI and 60% AMI:

Maximum Gross Monthly Rent		
Bedroom Size	50% AMI	60% AMI
One Bedroom	\$ 970	\$ 1,164
Two Bedroom	\$ 1,163	\$ 1,396

6. **Operating Expenses** – The operating expenses on a per unit basis for the project are \$4,500, which is at the high end of the typical market range of \$3,500 to \$4,500 per unit per year. The increase is due to increased management costs of the property due to layout (separate buildings), age of the structures and costs for on-going maintenance, etc. Please note that this per unit expense is before management fees, property taxes, and replacement reserves.
7. **Management Fee** – The proposed management fee is 4% of the effective gross income of the project. This is within the typical 3% to 5%.
8. **Reserves** – The annual deposit to replacement reserves is set at \$350 per unit per year, which is within the typical range of \$250 - \$450.



4. Provide a \$2.68 million PAYGO Note at 3.5% interest with a term of 20 years and paid with 95% of the TIF generated from the Project
5. Provide look back provision to review need of \$2.68 million PAYGO Note in year five (5), which is the mandatory refinancing date.
6. Sign a Minimum Assessment Agreement for \$32.154 million as of January 1, 2022 (pay 2023 taxes)
7. EDA approval of scope of rehabilitation work; and
8. Provide a claw back provision of the TIF assistance if the rehabilitation is not completed in a timely fashion and at the level of the EDA's expectations

We reviewed the request in light of your public assistance policy. Based upon that, the proposed developments meet the following three (3) of the seven (7) City objectives:

1. Remove blight and/or encourage redevelopment in designated redevelopment/development area(s) per the goals and visions established by the City Council and EDA.
2. Offset increased costs for redevelopment over and above the costs that a developer would incur in normal urban and suburban development (determined as part of the But-For analysis).
3. Facilitate the development process and promote development on sites that could not be developed without this assistance.

The four (4) City objectives not met are (i) to retain local jobs and/or increase the number and diversity of quality jobs (ii) expand and diversify the local economy and tax base (iii) encourage additional unsubsidized private development in the area; and (iv) meet other uses of public policy, including but not limited to promotion of quality urban design (N/A), quality architectural design (N/A), energy conservation (unsure), sustainable building practices (unsure), and decreasing the capital and operating costs of local government (Meets).

In addition to meeting three (3) of the City's objectives, it meets the following three (3) of the twelve (12) City's desired qualifications:

1. Implements the City's vision and values for a City-identified redevelopment area
2. Provides significant improvement to surrounding land uses, the neighborhood, and/or the City
3. Redevelops a blighted, contaminated and/or challenged site

The seven (7) goals it does not meet include:

1. Attracts or retains a significant employer within the City
2. Provides significant rehabilitation or expansion and/or replacement of existing office or commercial facility
3. Not a corporate campus or medical office development
4. Not a hi-tech office or R & D facility
5. Not a small business (2 objectives for this)
6. Promotes multi-family housing development

7. Addition of specific project enhancements including, but not limited to, architectural upgrades, pedestrian and transit connections, green building practices and enhanced site planning features.
8. Doesn't add needed road improvements (non-required) or multi-modal transportation; and

If the City wants to see this property transformed into a nicer property that will reduce public safety calls, then based on review of the developer's proforma and current market conditions, the proposed development is not reasonably expected to occur solely through private investment within the reasonably near future.

Aeon has indicated that they are accepting of this proposal and are willing to move forward based upon the TIF assistance.

Please contact either of us at 651-697-8500 with any questions.

June 1, 2020

Ms. Janice Gundlach  
Economic Development Director  
City of Roseville  
2660 Civic Center Drive  
Roseville, MN 55113

RE: City Financial Support for the Acquisition of  
The Brittneys and Marion Street Apartments

Dear Ms Gundlach:

I am writing to provide background and rationale for our request for financial assistance from the City of Roseville for Aeon's proposed acquisition of the Brittneys and Marion Street Apartments. Aeon is under contract to acquire this troubled 277-unit project, home to over 500 residents of Roseville.

#### Background

Aeon is a non-profit developer, owner, and manager of affordable homes for low-income individuals and families throughout Minnesota. Since 1986 Aeon has acquired and/or developed over 4,700 safe, quality, affordable multifamily homes for individuals and families. Notably, since 2017, Aeon has led the State and the Nation in the acquisition of Naturally Occurring Affordable Housing (NOAH) properties. These are typically Class B and C properties constructed prior to the 1990's, and which are affordable to families at or below 60% Area Median Income due largely to age and location, without a regulatory agreement or public assistance.

While new construction affordable units are created under the Low Income Housing Tax Credit program at a rate of approximately 2,500/year, and an average cost of \$300,000, NOAH units are currently disappearing from the market at a rate of between 4,000 – 5,000/year through acquisition and conversion to market rate projects. In the process, hundreds of families are displaced from their homes, communities, school districts and jobs. The social and financial impact on these families is enormous. These projects can be acquired

and rehabilitated for between \$130,000 and \$160,000, roughly half of the cost of new construction units, and at a rate equal, or greater, annually.

Over the past 3 years, Aeon has acquired over 2,800 NOAH units throughout the metro area, preserving homes for over 5,000 individuals. In each of these cases we sought, and needed, local and community financial support, typically between \$10,000 and \$20,000/unit. This need is driven by two distinct factors, both of which are at play with the Brittneys and Marion Street Apartments:

*Price pressure:* National value-add buyers are purchasing NOAH properties that are well-located at very high price premiums, anticipating increasing rents by \$150 – 300/unit as they make renovations. This competition drives prices, typically over \$100,000/unit.

*Renovation needs:* As we all know, the renovation needs at the Brittneys and Marion Street Apartments are considerable. By our estimate, before having professional engineers inspect the property, we anticipate renovation needs in excess of \$45,000/unit, including pest extermination, roof replacement, boiler replacement, and common area and full-unit renovations. We anticipate a 3-year program of renovations, a minimal displacement of existing families. This will cost in excess of \$12 million, and the City's assistance will go specifically to assist with these repairs.

### Request

The City's assistance, in the form of TIF financing, a TIF loan, and support for 4d real estate tax classification are absolutely critical. But for this support, we would not be able to compete for this acquisition, and these units would very likely be lost to market-rate conversion in the very near future.

Specifically, our request is to provide a portion of the TIF funds as a direct loan to the property from the City, available at initial closing. While the TIF Note structure is helpful, investors and lenders are concerned, as are the City and Aeon, about the current condition of the property and our ability to do immediate major repairs. The City's advance of \$1.1MM in additional funds through a direct loan will provide a portion of the additional capital needed immediately to correct infestation, replace roofs, and upgrade unit interiors that are not safe and sanitary.

Our mission is to provide affordable homes for families. For the Brittneys and Marion Street Apartments, we intend to maintain 100% of the units for residents at or below 60% area median income (AMI), with a portion of the units affordable to families at 50% AMI, assuming we get the community support needed to do so. With the City's assistance, we have secured \$400,000 in HOME funds through Ramsey County to support some of these lower-rent units.

Finally, we have made a commitment to participate financially and in policy work with the Rice-Larpenteur Alliance. We already own over 300 affordable units in the greater Rice-Larpenteur area and are happy to be an active member of that leadership effort.

We are committed to the permanent affordability of the Brittney and Marion Street Apartments and the preservation of quality affordable homes for the 277 families that reside there. We cannot, however, do this work without the support of the local community. We are



but the tool by which the community expresses its priorities, and only with the support and participation of our host communities can we make these projects work for the residents of Roseville.

We stand ready to move forward and are grateful for the City's support.

Please contact me at [aarthur@aeon.org](mailto:aarthur@aeon.org) or at 612-746-0540 with any questions or for additional information.

My very best,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end.

Alan Arthur  
President and CEO



**INTEROFFICE MEMORANDUM**

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**Date:** June 15, 2020

**To:** Janice Gundlach, Community Development Director  
Jeanne Kelsey, Housing & Economic Development Program Manager

**From:** Chief Rick Mathwig- Roseville Police Department

**RE:** Aeon's Request for Public Finance Assistance for The Brittanys/Marion ST APTS

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Community Development staff have informed our department of a request for public finance assistance for Aeon related to the acquisition and rehabilitation of The Brittanys/Marion Street Apartments located in southeast Roseville, at the northwest corner of Rice Street and Larpenteur Avenue. For the reasons summarized below, our department would offer support and requests per the following:

Based on the information provided to the police department as of June 15, 2020, the following recommendations are made.

1. Management of Project. Aeon or subsequent developer/owner shall undertake the following obligations regarding the management of the Project:
  - A. Establish tenant selection criteria that includes reviewing credit history, criminal history, income history and rental history.
  - B. Use tenant selection criteria noted in A above as the basis for approving and rejecting rental applications.
  - C. Require all occupants of the unit to be on the lease.
  - D. Diligently enforce the lease as it relates to legal action for non-payment of rent and lease infractions.

The City shall quarterly provide to Aeon a list of all police and fire calls for service to the Project to assist Aeon with ensuring the obligations specified in this paragraph are being appropriately undertaken.

2. City Approval of Management of Project. Prior to release of a Certificate of Occupancy for the Project, Aeon shall obtain written approval from the City's Police Chief and Fire Chief regarding the Aeon's selected property management company. After issuance of a Certificate of Occupancy and police calls for service exceed .25 police calls for service per unit over a period of four months, the Aeon acknowledges the City will suspend its approval of the property management company until the redeveloper commits in writing to the City the actions they commit to taking that result in reducing police calls for service below over a period of four months and those actions are acceptable to the City. This process is consistent with other recent multi-family projects approved, or in process in the City (Reuter Walton and Dominionium).
3. The recommendation and concerns could change if the proposed use of the property is altered.

**INTEROFFICE MEMORANDUM**



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**Date:** June 17, 2020

**To:** Janice Gundlach, Community Development Director  
Jeanne Kelsey, Housing & Economic Development Program Manager

**From:** Timothy O'Neill Fire Chief

**RE:** Aeon's Request for Public Finance Assistance for The Brittany's/Marion ST APTS

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Community Development staff have informed our department of a request for public finance assistance for Aeon related to the acquisition and rehabilitation of The Brittanys/Marion Street Apartments located in southeast Roseville, at the northwest corner of Rice Street and Larpenteur Avenue. For the reasons summarized below, our department would offer support and requests per the following:

From a fire life safety perspective, the Brittanys/Marion Street Apartments are the highest risk buildings in the city. This determination is based on the condition of the buildings, the continuous fire code violations, and the number of tenants in each building. Normally we anticipate about 2.3 people per apartment unit, while at the Brittanys/Marion Street Apartments we anticipate the occupant load to be double the average.

The Fire Department both from a fire code perspective and multi-family rental inspections process, have invested a significant amount of time on these buildings over the past few years. November 2019 the City Council revoked all twelve multi-family rental licenses for the Brittanys/Marion Street Apartments due to code violations and overall conditions of the buildings and units. Management's attempts to make necessary repairs to the buildings and provide livable conditions have been exhausting. Bare minimum attempts are made to current the needed repairs, and no real investment in the buildings have occurred.

While the buildings for the most part are in better condition now than when revocation occurred, given the limited investment and the overall low standards being used in an attempt to regain rental licenses, the probability for future problem reoccurrence and livability conditions deteriorating are very high.

An example would be replacing water damaged sheetrock and paint, without making necessary repairs to the roofing which contributed to the water damage. I feel that without a change in ownership and management we will have an everlasting battle to keep these buildings violation free, and in livable conditions.

The tenants of these buildings deserve a better future and improved conditions that I believe will only come from change in ownership.

**EXTRACT OF MINUTES OF MEETING  
OF THE  
ROSEVILLE ECONOMIC DEVELOPMENT AUTHORITY**

\* \* \* \* \*

Pursuant to due call and notice thereof, a regular meeting of the Roseville Economic Development Authority, County of Ramsey, Minnesota was duly held on the 8th day of June, 2020, at 6:00 p.m.

The following members were present:

and the following were absent: .

Member introduced the following resolution and moved its adoption:

**RESOLUTION No. XX**

**RESOLUTION EXPRESSING SUPPORT FOR TAX INCREMENT FINANCING ASSISTANCE REQUESTED IN CONNECTION WITH A PROPOSED MULTIFAMILY HOUSING REDEVELOPMENT AT 1720, 1721, 1736, 1740, 1746, 1750 MARION STREET; 175 AND 195 LARPENTEUR AVENUE WEST; AND 1722, 1725, 1735, AND 1736 WOODBRIDGE COURT**

WHEREAS, pursuant to Minnesota Statutes, Sections 469.174 to 469.1794 (the “TIF Act”) and 469.090 to 469.1081 (the “EDA Act”), the Roseville Economic Development Authority (“REDA”) is authorized to create and administer tax increment financing districts within the City of Roseville (the “City”); and

WHEREAS, REDA is further authorized to identify and utilize other funds for the purpose of assisting redevelopment; and

WHEREAS, Aeon or an affiliate thereof (the “Redeveloper”) has requested tax increment financing assistance in connection with Redeveloper’s proposed redevelopment of certain property located at 1720, 1721, 1736, 1740, 1746, 1750 Marion Street; 175 and 195 Larpenteur Avenue West; and 1722, 1725, 1735, and 1736 Woodbridge Court in the City (the “Property”), in order to rehabilitate approximately 277 units of affordable rental housing on the Property at a cost of approximately \$45,000 per unit, along with the rehabilitation and/or reconstruction of associated parking and landscaping (the “Improvements”); and

WHEREAS, REDA is willing to explore tax increment and other financial assistance at a level to be determined, subject to a pro forma analysis by REDA’s

47 municipal advisor, Ehlers and Associates, to finance a portion of the  
48 extraordinary costs of the Improvements.

49  
50 NOW, THEREFORE, BE IT RESOLVED, that subject to (i) further verification of  
51 Redeveloper's need for financial assistance and (ii) negotiation and  
52 approval of a Contract for Private Redevelopment that addresses (among  
53 other things) the terms under which the Redeveloper will construct the  
54 Improvements on the Property, the terms and conditions under which  
55 REDA will provide financial assistance, and the sources of such financial  
56 assistance, REDA agrees to create a housing tax increment financing district  
57 for the purpose of financing a portion of the extraordinary costs of the  
58 Improvements in compliance with the TIF Act and the EDA Act.

59  
60  
61 The motion for the adoption of the foregoing resolution was duly seconded by Member

62  
63 , and upon a vote being taken thereon, the following voted in favor thereof:

64  
65 and the following voted against the same:

66  
67 WHEREUPON said resolution was declared duly passed and adopted.

68

Certificate

I, the undersigned, being duly appointed Executive Director of the Roseville Economic Development Authority, hereby certify that I have carefully compared the attached and foregoing resolution with the original thereof on file in my office and further certify that the same is a full, true, and complete copy of a resolution which was duly adopted by the Board of Commissioners of said Authority at a duly called and regular meeting thereof on June 8, 2020.

I further certify that Commissioner \_\_\_\_\_ introduced said resolution and moved its adoption, which motion was duly seconded by Commissioner \_\_\_\_\_, and that upon roll call vote being taken thereon, the following Commissioners voted in favor thereof:

and the following voted against the same:

whereupon said resolution was declared duly passed and adopted.

Witness my hand as the Executive Director of the Authority this \_\_\_ day of June, 2020.

\_\_\_\_\_  
Patrick Trudgeon, Executive Director  
Roseville Economic Development  
Authority