

April 4, 2019
HRA Meeting
Regular Meeting Agenda
8:15 p.m.

Call to order

Roll call.

Action Items

1. Approval of Expenditures
2. Approval of March 7, 2019 Meeting Minutes
3. Approval of Amendment to Development Contract – Sherman Associates
4. Approval of Land Sale – Sherman Associates – 6050 Main Street
5. Approval of Amendment to Development Contract – Fridley Investments, LLC
6. Approval of Land Sale – Fridley Investments, LLC – 6431 University Ave

Informational Items

1. Housing Program Update

Adjournment



City of Fridley, MN

Check Report

By Check Number

Date Range: 03/11/2019 - 03/22/2019

Vendor Number	Vendor Name	Payment Date	Payment Type	Discount Amount	Payment Amount	Number
Bank Code: APBNK-HRA-APBNK-HRA						
PPT: 107738	FRIDLEY HRA ICMA 401	03/22/2019	EFT	0.00	319.38	300
PPT: 307066	FRIDLEY HRA ICMA 457	03/22/2019	EFT	0.00	184.62	301
hra-623	FRIDLEY, CITY OF	03/20/2019	Regular	0.00	964.01	30282
hra-1113	MONROE MOXNESS BERG PA	03/22/2019	Regular	0.00	6,510.00	30283
hra-1915	STAR TRIBUNE	03/22/2019	Regular	0.00	515.20	30284
hra-220	BRAUN INTERTEC CORPORATION	03/22/2019	Regular	0.00	8,368.00	30285
HRA-2621	JOHNSON, GREG	03/22/2019	Regular	0.00	810.00	30286
HRA-2635	BOLTON & MENK	03/22/2019	Regular	0.00	2,372.00	30287

Bank Code APBNK-HRA Summary

Payment Type	Payable Count	Payment Count	Discount	Payment
Regular Checks	8	6	0.00	19,539.21
Manual Checks	0	0	0.00	0.00
Voided Checks	0	0	0.00	0.00
Bank Drafts	0	0	0.00	0.00
EFT's	2	2	0.00	504.00
	10	8	0.00	20,043.21

All Bank Codes Check Summary

Payment Type	Payable Count	Payment Count	Discount	Payment
Regular Checks	8	6	0.00	19,539.21
Manual Checks	0	0	0.00	0.00
Voided Checks	0	0	0.00	0.00
Bank Drafts	0	0	0.00	0.00
EFT's	2	2	0.00	504.00
	10	8	0.00	20,043.21

Fund Summary

Fund	Name	Period	Amount
099	Pooled Cash - HRA	3/2019	20,043.21
			20,043.21

**CITY OF FRIDLEY
HOUSING AND REDEVELOPMENT AUTHORITY COMMISSION
March 7, 2019**

Chairperson Holm called the Housing and Redevelopment Authority Meeting to order at 8:15 p.m.

MEMBERS PRESENT: William Holm
Elizabeth Showalter
Dave Ostwald
Gordon Backlund

MEMBERS ABSENT: Kyle Mulrooney

OTHERS PRESENT: Wally Wysopal, City Manager
Paul Bolin, HRA Assistant Executive Director

Action Items:

1. Approval of Expenditures

MOTION by Commissioner Backlund to approve the expenditures as presented. Seconded by Commissioner Showalter.

UPON A VOICE VOTE, ALL VOTING AYE, CHAIRPERSON HOLM DECLARED THE MOTION CARRIED UNANIMOUSLY.

2. Approval of February 13, 2019 Meeting Minutes

MOTION by Commissioner Showalter to approve the minutes as presented. Seconded by Commissioner Ostwald.

UPON A VOICE VOTE, ALL VOTING AYE, CHAIRPERSON HOLM DECLARED THE MINUTES APPROVED.

3. Approval of Resolution – HRP Parcels – Anoka County Tax Forfeiture

Paul Bolin, HRA Assistant Executive Director, stated that in late 2010, the Authority and Council approved an amended and restated plan for the HRP. The restated plan gave the Authority the ability to add Phases (parcels) to the program by resolution. The City Council recently adopted a resolution expressing their desire to obtaining these properties from Anoka County. This past week, the Council provided pricing, including all acquisition costs to the City. The total cost for both of the homes is \$187,065.97.

Mr. Bolin said that once a parcel is included in the district, the HRA collects tax increment for a period of 15 years. The increment is used to help cover some of the costs of the program. Unlike a traditional tax increment district, the HRP is less cumbersome to administer. Since the program originally began in 1995, the City has approved thirteen phases for a total of 40 properties. Under special legislation approved in April 2010, the City can designate up to 100 total parcels, inclusive of the 40 properties currently in the program.

Mr. Bolin said that Anoka County recently made two tax-forfeit properties available to the City. Both properties are vacant, dilapidated and meet the requirements for the Housing Replacement Program. The properties are located at 6209 Baker Avenue NE and 4733 2 ½ Street NE. The property at 6209 Baker Avenue appears to be repairable and its visible location would lend itself well to be used as a home remodeling demonstration through our Fridley Foundations program. It has been over 8 years since the Authority has been able to acquire a property that would be suitable for that program. The property at 4733 2 ½ Street NE is a teardown. Staff will have the home demolished and place the lot for sale later this spring. Based on demand for Fridley lots, this site is likely to have a new home in place by Halloween.

MOTION by Commissioner Backlund to approve the resolution, HRP Parcels, Anoka County Tax Forfeiture. Seconded by Commissioner Showalter.

UPON A VOICE VOTE, ALL VOTING AYE, CHAIRPERSON HOLM DECLARED THE MOTION CARRIED UNANIMOUSLY.

4. Postponement of Approval of Land Sale – Sherman Associates - 6050 Main Street

Paul Bolin, HRA Assistant Executive Director, stated that staff have been working with Sherman Associates to help fill a \$600,000 funding gap on the mixed income portion of their development project. They are very close to having a solution that works well for both parties, but that will require an amendment to the existing redevelopment agreement. The amendment will be ready for the Authority approval on April 4th. Staff is asking that the public hearing on the land sale be postponed until April 4th to be approved the same time as the amendment to the redevelopment agreement.

Mr. Bolin noted that public hearing notices are required to be published in one of the official newspapers, a number of days before the meeting. Because the ad was placed prior to making the determination that an amendment would be needed to accommodate the gap financing, the public hearing was scheduled for March 7th. Staff is now asking the Authority to simply adopt a motion postponing the public hearing on the land sale until April 4th, so it can be acted upon with the redevelopment agreement.

MOTION by Commissioner Showalter to defer the public hearing to April 4, 2019. Seconded by Commissioner Backlund.

UPON A VOICE VOTE, ALL VOTING AYE, CHAIRPERSON HOLM DECLARED THE MOTION CARRIED UNANIMOUSLY.

5. Approval of Bid Solicitation – Demolition of 6431 University Avenue

Paul Bolin, HRA Assistant Executive Director, stated that when staff was developing the contract for the redevelopment of the former City Hall site, it was envisioned that it would be advantageous for the Authority to have the developer be responsible for the demolition. The deal was structured such that the demolition costs would be deducted from the sales price. As we have moved forward, the demolition has become more complicated and it may be advantageous for the Authority to complete the demolition prior to the closing.

Mr. Bolin noted that discussions with the developer and separate discussions with the demolition contractors, staff believe the Authority can do the demolition for less than what would be paid to the developer to take on the demolition. Staff would work to solicit bids in anticipation of awarding the demolition contract on April 4th. Staff recommends that Authority authorize Staff to begin the bid solicitation process for the demolition of the former City Hall building located at 6431 University Avenue NE.

Chairperson Holm asked if this approval means staff may or may not go out for bids depending on negotiations.

Mr. Bolin replied correct, but that there will be bidding on this project either way. If they do work on our behalf, the developer will get bids. If the Authority takes on all of demolition staff would get bids from contractors for the demolition.

MOTION by Commissioner Showalter to approve the bid solicitation, demolition of 6431 University Avenue. Seconded by Commissioner Backlund.

UPON A VOICE VOTE, ALL VOTING AYE, CHAIRPERSON HOLM DECLARED THE MOTION CARRIED UNANIMOUSLY.

6. Postponement of Approval of Land Sale – Fridley Investments, LLC – 6431 University Avenue

Paul Bolin, HRA Assistant Executive Director, said that this item is in relation to item the Authority already acted upon with the bid solicitation. Staff is asking the Authority to open the public hearing and continue to the April 4 meeting to authorize the actual land sale.

Commissioner Backlund asked why the Authority doesn't just table the public hearing.

Jim Casserly, Development Consultant, replied that staff wants to set a certain date. If the public hearing is deferred we don't know when to take it off of the table.

MOTION by Commissioner Backlund to open the public hearing and continue to April 4, 2019. Seconded by Commissioner Showalter.

UPON A VOICE VOTE, ALL VOTING AYE, CHAIRPERSON HOLM DECLARED THE MOTION CARRIED UNANIMOUSLY.

Informational Items:

1. Housing Programs Update

Paul Bolin, HRA Assistant Executive Director, said three loans closed on making three year to date. There were no remodel advisor visits and four home energy squad visits for 11 year to date.

The next meeting is April 4 starting at 8:15 pm.

Adjournment:

MOTION by Commissioner Backlund to adjourn. Seconded by Commissioner Ostwald.

UPON A VOICE VOTE, ALL VOTING AYE, CHAIRPERSON PRO TEM EGGERT DECLARED THE MOTION CARRIED UNANIMOUSLY AND THE MEETING ADJOURNED AT 8:36 P.M.



ACTION ITEM

HRA MEETING OF APRIL 4, 2019

To: Wally Wysopal, Executive Director of HRA
From: Paul Bolin, Assistant Executive Director
Date: March 29, 2019
Re: Amendment to Redevelopment Contract – Sherman Associates – Northstar

Sherman Associates recently requested additional assistance from the Authority to help cover a growing gap in their financing for the construction of the mixed use building. The delays caused by Metropolitan Council, combined with an unsuccessful application for housing tax credits, have added \$1.35 million dollars to the project costs as labor, materials and interest rates have all increased.

Sherman Associates plans to fill the gap by negotiating a \$500K reduction in construction, deferring their developer's fee, and obtaining an additional \$600k in the form of a low interest deferred loan from the Authority for the mixed income building (the "Authority Loan"). Staff and legal counsel have analyzed Sherman's development cost information and have determined that there is a real need for the additional assistance. Without the assistance, the mixed income building will not move forward.

Analysis of the TIF generated by the mixed income building show that the project will likely generate enough tax increment to not only pay off a \$628,350 revenue note (PAYGO) but also repay a substantial portion, if not all, of the \$600,000 Authority loan from the HRA to Sherman. This is in addition to the loan repayments from Sherman as described in the attached memo from HRA Counsel.

The long delay by Metro Transit, has had an impact on some of the dates listed in the May 2018 agreement. As part of amending the agreement, any dates that need to be adjusted will be changed.

Staff recommends the Authority approve a motion to provide the \$600,000 necessary to facilitate the project and allow Officers of the Authority to execute the agreements necessary. Attorney Casserly has provided a memo describing the changes to the original contract.



TO: City of Fridley HRA
Attn: Wally Wysopal, Executive Director
Paul Bolin, Assistant Executive Director

FROM: James Casserly, Esq.

SUBJECT: Restated Redevelopment Contract between the Fridley HRA and Sherman Associates Development

FILE NO.: 9571-85

DATE: March 29, 2019

We have been discussing for some weeks new changes to the HRA/Sherman Redevelopment Contract that was made as of May 3, 2018. There are a number of minor changes and one major change. It is easier to note the changes with a redline of what is now the Restated Contract for Private Redevelopment (the "Restated Contract").

The minor changes include the following:

Page 3:

A definition of Authority Loan. This will be discussed in more details below.

Page 4:

The minimum improvements have been increased to 95 units for Phase 1A and 107 units for Phase 1B.

Page 12:

The closing has been extended from May 1st to July 15th.

Page 14:

The new language describes the Authority Loan that will be provided for Phase 2 and will be discussed in more detail below.

Page 17:

There needed to be a clarification that a Certification of Completion would be provided for each phase and that each phase shall be completed within 18 months of the Closing Date.

Page 18:

Again, the changes clarify that a Certificate of Completion is provided for each phase.

Page 31:

The new address for the Authority is inserted.

Pages 33-34:

The new dates are inserted.

Pages 36-37, 39, and 42:

The new dates have been inserted.

Page 43:

Because of the additional number of units being constructed, a new master plan had to be provided and that is shown on Schedule E.

Pages 46, 49, and 50:

The new dates have been inserted.

A major change to the original May 3, 2018 Contract is reflected on the new Schedule I (Promissory Note) and Schedule J (Loan Agreement). These schedules refer to the Authority Loan which is defined on page 3 and summarized on pages 14 and 15. To facilitate the construction of the Phase 2 units, the Authority is being asked to loan Sherman \$600,000 at the time of the Phase 2 closing. Sherman will repay this loan from the Authority receiving 25% of the annual net cash flow of the project. Payments are to start 2 years after closing and the Note will be due 17 years from the date of closing if not previously paid. The Authority Loan will be made from its General Fund or from the TIF District No. 22 Fund. The Authority Loan will also be secured by a mortgage. As indicated above, terms and the security are fully described on Schedules I and J.

Let me know if we can provide any additional information or assistance.

**HOUSING AND REDEVELOPMENT AUTHORITY
IN AND FOR THE
CITY OF FRIDLEY
COUNTY OF ANOKA
STATE OF MINNESOTA**

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING EXECUTION AND DELIVERY OF A RESTATED
CONTRACT FOR PRIVATE REDEVELOPMENT BY AND BETWEEN THE
HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF
FRIDLEY MINNESOTA AND SHERMAN ASSOCIATES DEVELOPMENT LLC**

BE IT RESOLVED by the Board of Commissioners (the "Board") of the Housing and Redevelopment Authority in and for the City of Fridley Minnesota (the "Authority") as follows:

Section 1. Recitals.

1.01. It has been proposed that the Authority enter into a Restated Contract for Private Redevelopment (the "Restated Contract") with Sherman Associates Development LLC, a Minnesota limited liability company (the "Redeveloper").

Section 2. Findings.

2.01. The Authority hereby finds that it has approved and adopted a development program known as the Redevelopment Plan for its Redevelopment Project No. 1 (the "Redevelopment Program") pursuant to Minnesota Statutes, Section 469.001 *et seq.*, as amended and supplemented from time to time.

2.02 The Authority hereby finds that the Authority and the Redeveloper have previously executed a Contract for Private Redevelopment as of May 3, 2018 and that both the Authority and the Redeveloper wish to make a number of changes to the Contract.

The Authority hereby finds that the Restated Contract promotes the objectives set forth in its Redevelopment Program.

Section 3. Authorization for Execution and Delivery.

3.01. The Chairperson and the Executive Director of the Authority (the "Officers") are hereby authorized to execute and deliver the Restated Contract when the following conditions are met:

Substantial conformity of the Restated Contract to the form of Restated Contract presented to the Authority as of this date, with such additions and modifications as the Officers may deem desirable or necessary as evidenced by their execution of the Restated Contract.

PASSED AND ADOPTED BY THE HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF FRIDLEY this ____ day of _____, 2019.

Chairperson

ATTEST:

Executive Director

~~EXECUTION: May 3, 2018~~ DRAFT: March 25, 2019

RESTATED CONTRACT

FOR

PRIVATE REDEVELOPMENT

By and Between the

HOUSING AND REDEVELOPMENT AUTHORITY

In and For

THE CITY OF FRIDLEY, MINNESOTA

And

SHERMAN ASSOCIATES DEVELOPMENT LLC

This document was drafted by:

James R. Casserly, Esq.
Vickie Loher Johnson, Esq.
Monroe Moxness Berg PA
7760 France Ave South, Suite 700
Minneapolis, MN 55435
952-885-5999

RESTATED CONTRACT FOR PRIVATE REDEVELOPMENT

THIS AGREEMENT, made as of the ~~3rd~~ _____ day of ~~May, 2018,~~ _____, 2019, by and between the **Housing and Redevelopment Authority in and for the City of Fridley, Minnesota** (the “Authority”), a political subdivision of the State of Minnesota organized under the Constitution and laws of the State of Minnesota and **Sherman Associates Development LLC** (the “Redeveloper”), a Minnesota limited liability company organized under the laws of the State of Minnesota.

WITNESSETH:

WHEREAS, the Authority and the Redeveloper have previously executed a Contract for Private Redevelopment as of May 3, 2018 (the “May 3, 2018 Contract”) and this Agreement shall replace in its entirety the May 3, 2018 Contract;

WHEREAS, the Board of Commissioners (the “Board”) of the Authority has determined that there is a need for development and redevelopment within the corporate limits of the City to provide employment opportunities, to provide adequate housing in the City, to improve the tax base and to improve the general economy of the City and the State of Minnesota;

WHEREAS, in furtherance of these objectives, the Authority has established, pursuant to Minnesota Statutes, Sections 469.001 et seq. (the “Act”), the redevelopment plan known as the Modified Redevelopment Plan for its Redevelopment Project No. 1 (the “Project Area”) which plan, as amended, and as it may be amended, is hereinafter referred to as the “Redevelopment Plan” in the City to encourage and provide maximum opportunity for private development and redevelopment of certain property in the City which is not now in its highest and best use;

WHEREAS, in connection with the Project Area, Tax Increment Financing District No. 22 (the “Tax Increment District”) has been approved by the Authority and the City and the Tax Increment Financing Plan has been certified by Anoka County and filed with the State, pursuant to the Minnesota Tax Increment Financing Act contained in Minnesota Statutes, Section 469.174 to 469.1799;

WHEREAS, major objectives in establishing the Redevelopment Plan are to:

1. Promote and secure the prompt redevelopment of certain property in the Project Area, which property is not now in its highest and best use in a manner consistent with the City’s Comprehensive Plan and with a minimum adverse impact on the environment, and thereby promote and secure the redevelopment of other land in the City.

2. Secure additional employment opportunities within the Project Area and the City for residents of the City and the surrounding area, thereby improving living standards, reducing unemployment and the loss of skilled and unskilled labor and other human resources in the City.

3. Prevent the deterioration of and secure the increase of commercial/industrial property subject to taxation by the City, Independent School Districts, Anoka County, and the other taxing jurisdictions in order to better enable such entities to pay for governmental services and programs required to be provided by them.

4. Provide for the financing and construction for public improvements in and adjacent to the Project Area necessary for the orderly and beneficial redevelopment of the Project Area and adjacent areas of the City.

5. Promote the concentration of new desirable housing, retail, and other appropriate redevelopment in the Project Area so as to maintain the area in a manner compatible with its accessibility and prominence in the City.

6. Encourage local business expansion, improvement, and redevelopment, whenever possible.

7. Create a desirable and unique character within the Project Area through quality land use alternatives and design quality in new or remodeled buildings; and

8. Encourage and provide maximum opportunity for private redevelopment of existing areas and structures which are compatible with the Project Area.

WHEREAS, in order to achieve the objectives of the Authority and City in creating the Project Area and adopting the Redevelopment Plan the Authority is prepared to provide assistance in accordance with this Agreement; and

WHEREAS, the Authority believes that the development and redevelopment of the Project Area pursuant to this Agreement, and fulfillment generally of the terms of this Agreement, are in the vital and best interests of the Authority and the health, safety, morals and welfare of its residents, and in accord with the public purposes and provisions of applicable federal, state and local laws under which the development and redevelopment are being undertaken and 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 the Minnesota Statutes, Sections 469.001 to 469.047, as amended.

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

“Authority” means the Housing and Redevelopment Authority in and for the City of Fridley, Minnesota.

“Authority Loan” means a \$600,000 loan made by the Authority to the Redeveloper as set forth in Section 3.2(l) and Schedule I and Schedule J.

“Available Tax Increment” means 90% of the Tax Increment.

“Certificate of Completion” means the certification, in the form of the certificate contained in Schedule D attached to and made a part of this Agreement, provided to the Redeveloper, pursuant to Section 4.4 of this Agreement.

“City” means the City of Fridley, Minnesota, or its successors or assigns.

“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 shall be as detailed as the plans, specifications, drawings and related documents which are submitted to the building official of the City and which includes at least the following for each building: (1) site plan; (2) foundation plan; (3) floor plan for each floor; (4) elevations (all sides); (5) facade and landscape plan; and (6) such other plans or supplements to the foregoing plans as the City may reasonably request.

“County” means the County of Anoka, Minnesota.

“Date of Closing” means the date or dates set forth in Section 3.1(b).

“Estimated Market Value” or “Market Valuation” means the market value of real property as determined by the county assessor of the County in accordance with Minnesota Statutes, Section 469.177, subd. 8 (or as finally adjusted by any assessor, board of equalization, commissioner of revenue, or any court).

“Event of Default” means an action by the Redeveloper described in Section 7.1 of this Agreement.

“Master Plan” means the Fridley LRT Station Full Phase Master Plan dated April 23, 2018, attached as Schedule E.

“Minimum Improvements” means the Site Improvements and improvements to be constructed by the Redeveloper in three Phases on the Redevelopment Property which improvements consist of approximately the following: ~~8795~~ market rate rental units (Phase 1A); ~~90107~~ units of market rate rental senior (Phase 1B) both as shown on the Master Plan; and if the Option (defined below) is exercised by the Redeveloper, 71 mixed-income rental units (Phase 2) as shown on the Master Plan, subject to modifications as approved by the City and Authority.

“Minnesota Critical Areas Act” means the statutes located at Minnesota Statutes, Section 116G.01 et seq., as amended.

“Minnesota Environmental Policy Act” means the statutes located at Minnesota Statutes, Sections 116D.01 et seq., as amended.

“Minnesota Environmental Rights Act” means the statutes located at Minnesota Statutes, Sections 116B.01 et seq., as amended.

“National Environmental Policy Act” means the federal law located at 42 U.S.C. Sub. Sect. 4331 et seq., as amended.

“Note” means a Limited Revenue Tax Increment Note, substantially in the form of Schedule H attached to and made a part of this Agreement, and to be made by the Authority payable to the order of the Redeveloper in accordance with Article III of this Agreement. Interest on the Note shall be 5.0% commencing on the date the Certificate of Completion is issued and the principal shall be as calculated in Section 3.4.

“Option” means the Redeveloper’s Option to purchase the Option Property as provided in Section 8.4 of the Agreement.

“Option Property” means that portion of the Redevelopment Property upon which the Phase 2 Minimum Improvements are to be constructed.

“Party” means a party to this Agreement.

“Park Improvements” means the improvements and amenities as described more specifically on the Site Plan.

“Phase” means a Phase of the Minimum Improvements including Phase 1A, Phase 1B and Phase 2. Phase 1A and Phase 1B may be referred to together as Phase 1 as the context indicates. Phase 2 is to be constructed on the Option Property if the Option is exercised.

“Project” means the Redevelopment Property and the Minimum Improvements.

“Purchase Price” means the sums described in Section 3.1(c).

“Purchase Price Note” means a \$400,000 note executed by the Redeveloper as described in Section 3.1(c)(ii) and Section 3.2(j).

“Redeveloper” means Sherman Associates Development LLC, a Minnesota limited liability company, organized under the laws of the State of Minnesota, its permitted successors or assigns, or an affiliated entity as described in Section 6.2(a).

“Redevelopment Plan” means the Modified Redevelopment Plan adopted by the Authority in connection with its Redevelopment Project No. 1.

“Redevelopment Property” means the real property upon which the Minimum Improvements are to be constructed, which real property is described on Schedule A of this Agreement.

“Redevelopment Property Deed” means a quit claim deed or deeds, substantially in the form of the deed in Schedule B of this Agreement, used to convey a Phase of the Redevelopment Property from the Authority to the Redeveloper.

“Site Improvements” means the improvements to be constructed by the Redeveloper on the Redevelopment Property as shown on Schedule F.

“State” means the State of Minnesota.

“Tax Increment” means only that portion of the real estate taxes paid with respect to each Phase of the Redevelopment Property resulting from the Phase 1A, Phase 1B or Phase 2 Minimum Improvements which is remitted to the Authority as tax increment from the Tax Increment District pursuant to the Tax Increment Act.

“Tax Increment Act” means the Tax Increment Financing Act, Minnesota Statutes, Sections 469.174 to 469.179, as amended and as it may be amended.

“Tax Increment District” means the Tax Increment Financing District No. 22 approved and adopted by the Authority and the City within the Redevelopment Project No. 1 pursuant to the Tax Increment Act and is required by the Tax Increment Act to be decertified no later than December 31, 2042.

“Tax Official” means any City or county assessor, County auditor, City, County or State board of equalization, the commissioner of revenue of the State, or any State or federal district court, the tax court of the State, the State Court of Appeals or the State Supreme Court.

“Termination Date” means the date on which this Agreement is terminated in accordance with the provisions contained in Articles VII or IX.

“Unavoidable Delays” means delays in the performance of a party’s obligations herein, which delays are outside the control of the party claiming its occurrence, and which are the direct result of unforeseeable events or causes, including but not limited to acts of God, act of war or terrorism, acts of the public enemy, acts of the state, federal and local government (except that the Authority may not create an Unavoidable Delay by virtue of its own action), acts of the other party, strikes, delay in condemnation proceedings for the Property, other labor troubles, fire, floods, epidemics, quarantines,

restrictions, unavailability of power, unavailability of materials, delays due to damage or destruction of the Minimum Improvements, discovery of hazardous materials or other concealed site conditions or delays of contractors due to such discovery, acts of governmental entities including legislative or administrative actions taken by entity, unusually adverse weather or delays of contractors due to such causes, unforeseen environmental issues, and litigation commenced by third parties which by injunction or other similar judicial action directly results in delays and other casualty to the Minimum Improvements, the Redevelopment Property or the equipment used to construct the Minimum Improvements.

ARTICLE II
Representations and Warranties

Section 2.1. Representations by the Authority. The Authority represents and warrants that:

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

(b) The Authority has created, adopted and approved the Redevelopment Program in accordance with the terms of the Act.

(c) The Authority has created, adopted and approved the Tax Increment District pursuant to the Tax Increment Act.

(d) The Authority, subject to Unavoidable Delays, will convey the Redevelopment Property to the Redeveloper pursuant to and subject to Article III hereof for uses in accordance with the Redevelopment Program and this Agreement.

(e) The Authority will cooperate with the Redeveloper with respect to any litigation commenced by third parties in connection with this Agreement.

(f) The Authority makes no representation, guarantee, or warranty, either express or implied, and hereby assumes no responsibility or liability as to the Redevelopment Property or its condition (regarding soils, pollutants, hazardous wastes or otherwise) except as described in Section 2.1(g).

(g) The Authority has no knowledge as to the presence of hazardous substances (as the same are described in the regulations promulgated under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, and/or in the environmental laws of the State of Minnesota, and specifically including petroleum and related hydrocarbons and their byproducts, asbestos, and polychlorinated biphenyls) in, on or under the Redevelopment property, except as expressly set forth in the reports described in Schedule C, copies of which have been delivered by the Authority to the Redeveloper.

The Authority's representations and warranties shall survive the delivery of the deed for the Redevelopment Property to the Redeveloper.

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

(a) The Redeveloper will purchase the Redevelopment Property from the Authority pursuant to Article III hereof and in the event the Redevelopment Property is conveyed to the Redeveloper, then the Redeveloper will construct the Minimum Improvements in accordance with the terms of this Agreement, the Redevelopment

Program and all local, state and federal laws and regulations (including, but not limited to, environmental, zoning, building code and public health laws and regulations).

(b) At the time of construction of the Minimum Improvements, the Redeveloper will have complied with all applicable local, state and federal environmental laws and regulations, and will have obtained any and all necessary environmental reviews, licenses or clearances under (and is in compliance with the requirements of) the National Environmental Policy Act, the Minnesota Environmental Policy Act, and Minnesota Critical Areas, Act of 1973. As of the date of execution of this Agreement, the Redeveloper is aware of no facts, the existence of which would cause it to be in violation of any local, state or federal environmental law, regulation or review procedure or which would give any person a valid claim under the Minnesota Environmental Rights Act.

(c) The Redeveloper will construct the Minimum Improvements in accordance with all applicable local, state or federal energy-conservation laws or regulations.

(d) The Redeveloper will obtain all required permits, licenses and approvals, and will meet, in a timely manner, subject to unavoidable delays, all requirements of all applicable local, state and federal laws and regulations which must be obtained or met before the Minimum Improvements may be lawfully constructed.

(e) The Redeveloper is a limited liability company organized under the laws of the State of Minnesota, is authorized to transact business in the State, has duly authorized the execution of this Agreement and the performance of its obligations hereunder, and 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, 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 Redeveloper agrees that it will cooperate with the Authority with respect to any litigation commenced by third parties in connection with this Agreement.

(g) Whenever any Event of Default occurs and continues beyond the expiration of any applicable cure period and the Authority shall employ attorneys or incur other expenses for the collection of payments due or to become due or for the enforcement or performance or observance of any obligation or agreement on the part of the Redeveloper under this Agreement, the Redeveloper agrees that it shall, within thirty (30) days of written demand by the Authority, pay to the Authority the reasonable fees of such attorneys and such other reasonable expenses so incurred by the Authority.

(h) The financing arrangements which the Redeveloper has obtained or will obtain to finance construction of the Minimum Improvements will be sufficient to enable the Redeveloper to successfully complete the Minimum Improvements as contemplated in this Agreement.

(i) The construction of the Minimum Improvements in the opinion of the Redeveloper, would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future without the assistance provided by the Authority pursuant to this Agreement.

(j) The Redeveloper shall not allow any use or occupancy of the Redevelopment Property or Minimum Improvements by a "Sexually Orientated Business" as defined in Ordinance No. 965 of the City's Code.

(k) Once acquired by the Redeveloper, the Redevelopment Property shall not become exempt from the levy of ad valorem property taxes, or any statutorily authorized alternative, and any improvements of any kind constructed on the Redevelopment Property shall similarly not become exempt until after the dissolution or other termination of the Tax Increment District. The Redeveloper acknowledges and agrees that the Declaration of Restrictive Covenants and Prohibition Against Tax Exemption attached hereto as Schedule G ("Declaration") shall be recorded against the Redevelopment Property on the Date of Closing.

(l) The Redeveloper agrees, notwithstanding the provisions of Article VI, that it will not assign, convey or lease (except as set forth in the next sentence) any interest of the Redevelopment Property or any portion thereof, or this Agreement or any portion thereof, to any tax-exempt entity under the U.S. Internal Revenue Code of 1986, as the same may be amended from time to time, without the prior written approval of the Authority. A lease of an interest or portion of the Redevelopment Property shall not be prohibited by this subparagraph unless it results in an exemption of the redevelopment Property from ad valorem property taxes pursuant to subparagraph (k) above.

(m) The Redeveloper shall construct the Minimum Improvements pursuant to the Construction Plans and the Master Plan approved by the City.

(n) The Redeveloper's representations and warranties shall survive the delivery of the deed for the Redevelopment Property to the Redeveloper.

(o) If the Option is exercised, then until the Termination Date, the Redeveloper will maintain the Phase 2 Minimum Improvements as rental housing for low and moderate income individuals as described in Section 469.1761 of the Tax Increment Act and with the following income and rent restrictions:

1. Income restrictions: One of the following income tests must be met; at least 20% of the units must be occupied by tenants whose income is 50% or less of the area median income or 40% of the units are occupied by tenants with income of 60% or less of the area median income.

2. Rent restrictions: For the income restricted units, the rental rates must minimally follow the maximum gross rents by family or bedroom size as established by Minnesota Housing Finance Agency for the Section 42 Tax Credit program.

All apartment units comprising the Phase 2 Minimum Improvements will be leased, rented, or available for lease or rental on a continuous basis to members of the general public so that this representation and warranty is satisfied.

Prior to February 15th of each year commencing with the year following the year that the Certificate of Completion has been issued, the Redeveloper shall provide an affidavit, on a form used for the Section 42 Tax Credit Program, stating that the Phase 2 Minimum Improvements have been maintained as rental housing for low and moderate income individuals for the preceding year and that the applicable rent restrictions have been satisfied.

ARTICLE III
Conveyance of Property and Note

Section 3.1. Conveyance of the Redevelopment Property.

(a) Title. The Authority shall convey marketable title to and possession of the Redevelopment Property to the Redeveloper under a quit claim deed in the form of the Redevelopment Property Deed contained in Schedule B of this Agreement. The conveyance of title to the Redevelopment Property pursuant to the Redevelopment Property Deed and the Redeveloper's use of the Redevelopment Property shall be subject to all of the conditions, covenants, restrictions and limitations imposed by this Agreement, the Redevelopment Property Deed, the Ground Lease and the Declaration of Covenants & Restrictions (the latter two are described in Section 3.2(i)).

The Authority shall deliver to the Redeveloper a commitment for an owner's title insurance policy (ALTA Form B-1970) issued by a title insurance company acceptable to the Authority and Redeveloper, naming Redeveloper as the proposed owner-insured of the Redevelopment Property in the amount of the Purchase Price (the "Commitment"). The Commitment shall have a current date as its effective date and shall commit to insure marketable title in Redeveloper, free and clear of all mechanics' lien claims, unrecorded interests, rights of parties in possession or other standard title exceptions, including the deletion of the survey exception should Redeveloper obtain the Survey (as such term is defined herein). The Commitment shall set forth all levied real estate and special assessments. Said commitment shall have attached copies of all instruments of record which create any easements or restrictions which are referred to in Schedule B of the title commitment. Redeveloper will be allowed thirty (30) days after receipt of the Commitment and the Survey (as defined herein) to make an examination of the Commitment and to make any objections to the marketability of the title to Redevelopment Property, said objections to be made by written notice to the Authority in the manner set forth in Section 8.5(b) herein, or shall be deemed waived, and shall be included in the Redevelopment Property Deed as a permitted encumbrance.

If the title to the Redevelopment Property, as evidenced by the Commitment and a survey, as provided by the Redeveloper at Redeveloper's sole cost and expense (the "Survey"), together with any appropriate endorsements, does not evidence good and marketable title of record in the Authority and is not made so by the Date of Closing, Redeveloper may, as its sole recourse, either:

- (i) Terminate this Agreement by giving written notice to the Authority, in which event this Agreement shall become null and void and neither party shall have any further rights or obligations hereunder except for the Authority's contribution of \$2,500 toward the survey costs; or
- (ii) Elect to accept the title in its then-existing condition by giving written notice to the Authority, and proceed to Closing, with no reduction in the Purchase Price.

(b) Time of Conveyance. Dates of Closing for the Phase 1A, Phase 1B and Phase 2 Redevelopment Properties are as follows (Date of Closing may refer to one or all Phases as the context indicates).

- (i) The Authority shall execute and deliver to the Redeveloper the Redevelopment Property Deed for the Phase 1A Redevelopment on ~~May 1,~~ July 15, 2019 or earlier as agreed to by the Parties (the “Phase 1A Date of Closing”).
- (ii) The Authority shall execute and deliver to the Redeveloper the Redevelopment Property Deed for the Phase 1B Redevelopment on ~~May 1,~~ July 15, 2019 or earlier as agreed to by the Parties (the “Phase 1B Date of Closing”).
- (iii) The Authority shall execute and deliver to the Redeveloper the Redevelopment Property Deed for the Phase 2 Redevelopment Property after both Phase 1A and Phase 1B closings and upon the closing of the Development Loan (as defined in Section 7.8) and the award of Housing Tax Credits by the Minnesota Housing Finance Agency or on such later date as the Authority and the Redeveloper shall mutually agree in writing, but not later than August 31, 2019 (the “Phase 2 Date of Closing”).

The Redeveloper shall take possession of the Redevelopment Property on the Date of Closing. The Authority will also execute any other documents reasonably required by the Commitment.

(c) Price and Payment. The Authority agrees to sell and the Redeveloper agrees to purchase a Phase of the Redevelopment Property for its Purchase Price.

- (i) The Purchase Price for the Phase 1A Redevelopment Property and the Phase 1B Redevelopment Property shall be \$500,000 for each Phase.
- (ii) The Purchase Price for the Phase 2 Redevelopment Property shall be \$400,000, payable by the Redeveloper executing ~~a promissory note~~ the Purchase Price Note secured by a mortgage, or other form of security acceptable to the Authority.

Unless otherwise mutually agreed by the Authority and the Redeveloper, the execution and delivery of all documents and the payment of the Purchase Price shall be made at the principal offices of the Authority. The Purchase Price to be paid by the Redeveloper for the conveyance of the Redevelopment Property from the Authority to the Redeveloper shall occur on the Date of Closing and be paid in immediately available U.S. funds. The Redevelopment Property Deed shall be in recordable form and shall be promptly recorded, along with the Declaration. The Redeveloper shall pay all costs for such recording.

Real estate taxes due and payable prior to the year of closing shall be paid by the Authority. Real estate taxes due and payable in the year of closing shall be prorated as of the Date of Closing based upon the parties' respective period of ownership in the year of closing. Real estate taxes due and payable in the years subsequent to the closing shall be paid by the Redeveloper. On or prior to the Date of Closing, the Redeveloper shall pay all pending or levied special assessments which will be a credit against the Purchase Price.

(d) Inspection. At the Redeveloper's expense, the Redeveloper and its agents are hereby granted the right following execution of this Agreement until October 1, 2018 (the "Feasibility Period") to inspect and test the Redevelopment Property. Any investigations, testing and/or inspections initiated by the Redeveloper shall be undertaken at the Redeveloper's sole cost and expense. After completing its investigation of the Redevelopment Property, if Redeveloper elects to terminate this Agreement, Redeveloper shall return the Redevelopment Property to substantially the same condition as existing prior to the investigations, testing and/or inspections; provided that Redeveloper shall not be responsible for any existing conditions on the Property that are discovered as a result of such investigations, testing and/or inspections. The Redeveloper shall hold the Indemnified Parties (as defined in Section 6.3) harmless from and shall indemnify the Indemnified Parties for any liability resulting from the Redeveloper's or its agents entrance upon the Redevelopment Property or any liability resulting from the performance of any of the tests or inspections referred to in this Section; provided that Redeveloper shall not be responsible for any existing conditions on the Property that are discovered as a result of such investigations, testing and/or inspections. The indemnification requirements set forth herein shall survive the Closing and the termination of this Agreement.

(e) Plat; Covenants; Easements. The Redeveloper at its expense shall replat the Redevelopment Property. The Redeveloper shall pay all costs for plats, replats, lot splits, preparation of restrictive covenants, easements and any other documentation necessary for the construction and sale of the Minimum Improvements and all costs of recording any such documents.

Section 3.2. Conditions Precedent to Conveyance. The obligations of the Authority to convey a Phase of the Redevelopment Property to the Redeveloper shall be subject to the following conditions precedent:

(a) On the Date of Closing, the Redeveloper shall be in material compliance with all of the terms and provisions of this Agreement;

(b) For the Phase 2 closing, low income housing tax credits shall have been awarded to the Project by the Minnesota Housing Finance Agency;

(c) The Development Loan, as defined in Section 7.8, to finance the construction of the Minimum Improvements and the Site Improvements will be closed contemporaneously with the conveyance of title;

(d) The Redeveloper shall have submitted Construction Plans to the Authority and the Authority shall have approved the Construction Plans for pursuant to the terms of Section 4.2(b);

(e) The Redeveloper shall have received the appropriate City permits for the construction of the Minimum Improvements;

(f) The Development Loan documents associated with the acquisition and Development Financing meet the criteria set forth in Section 7.8;

(g) The Authority shall have recorded in the office of the Anoka County Registrar of Titles and the office of the Anoka County Recorder the Declaration in the form attached hereto as Schedule G;

(h) The Redeveloper shall have executed any required agreements and declarations with the City required for replatting and construction of the Minimum Improvements including drainage, stormwater ponds, irrigation and construction in right of ways;

(i) The Authority shall have executed amendments to the Ground Lease (between the Authority and the Metropolitan Council) and the Declaration of Covenants and Restrictions (between the Authority and the Anoka County Regional Rail Authority) that will allow the Redeveloper to construct the Minimum Improvements in approximately the format as shown on the Site Plan. These amendments shall be executed not less than 180 days before the Date of Closing and recorded on or before the Date of Closing at the Authority's expense; and the Parties, if necessary, shall have executed documents providing for the ownership, maintenance and control of the parking stalls and public spaces described on Schedule F;

(j) For the Phase 2 closing, the Redeveloper shall deliver ~~a promissory note~~the Purchase Price Note in the amount of \$400,000 bearing no interest and maturing thirty (30) years from the Phase 2 Date of Closing. The ~~promissory note~~Purchase Price Note shall be secured by a mortgage subordinate to any financing necessary for the construction of the Phase 2 Minimum Improvements. This mortgage shall be recorded at Redeveloper's expense on the Phase 2 Date of Closing; and

(k) The Redevelopment Property shall have been replatted to provide the legal descriptions described in Schedule A.

(l) For the Phase 2 closing and on the Phase 2 Closing Date, the Authority shall loan the Redeveloper the sum of \$600,000, the principal of the Authority Loan. The Authority Loan shall be evidenced by a Promissory Note (the "Promissory Note" attached as Schedule I) and the Loan Agreement (the "Loan Agreement" attached as Schedule J) and secured by a mortgage subordinate to any financing necessary for construction of the Phase 2 Minimum Improvements. The mortgage securing the Authority Loan shall be senior to the mortgage described in Section 3.2(j) and shall be recorded at Redeveloper's expense on the Phase 2 Date of Closing. The Authority Loan shall incur 2.0% simple interest from the date of the Promissory Note with annual payments from net

cash flow and a maturity date seventeen (17) years from the date of the Promissory Note as further described in the Promissory Note and the Loan Agreement.

Section 3.3. Payment of Purchase Price. The Payment of the Purchase Price shall be made on the Date of Closing.

Section 3.4. Note. Upon the delivery of the Certificate of Completion for a Phase, the Authority shall issue and deliver its Note to the Redeveloper for that Phase.

(a) For Phase 1A and Phase 1B, the Note's principal shall be the sum of \$29,950/unit multiplied by the number of units included in the final Certificate of Occupancy for that Phase.

(b) For Phase 2 the Note principal shall be the sum of \$8,850/unit multiplied by the number of units included in the final Certificate of Occupancy.

ARTICLE IV
Construction of Minimum Improvements

Section 4.1. Construction of Minimum Improvements. The Redeveloper agrees that it will construct the Minimum Improvements on the Redevelopment Property in accordance with this Agreement and the approved Construction Plans and will 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. The Redeveloper agrees that subject to Unavoidable Delays, it shall commence construction of the Phase 1 Minimum Improvements on or before June 1, 2019 and the Phase 2 Minimum Improvements within sixty (60) days of the Date of Closing.

Section 4.2. Construction Plans.

(a) Sixty (60) days prior to the commencement of construction of the Minimum Improvements, the Redeveloper shall submit to the Authority "Preliminary Plans," consisting of typical floor plans and sketches of the typical exterior and interior of the proposed Minimum Improvements which illustrate the size and character of the proposed improvements. The Preliminary Plans shall not be inconsistent with the Site Plans, this Agreement or any applicable state and local laws and regulations, insofar as said consistency may be determined at said preliminary stage. If approval of the Preliminary Plans is requested in writing by the Redeveloper at the time of submission thereof to the Authority, the Authority shall approve or reject (in whole or in part) such Preliminary Plans in writing within twenty (20) days after the date of receipt thereof. If no written rejection is made within said twenty (20) days, the Preliminary Plans shall be deemed approved by the Authority. Any rejection shall set forth in detail the reasons therefor. If the Authority rejects the Preliminary Plans, in whole or in part, the Redeveloper may submit new or corrected Preliminary Plans at any time after receipt by the Redeveloper of the notice of rejection. The Authority's approval of the Preliminary Plans shall not be unreasonably withheld.

(b) Prior to the Redeveloper's commencement of construction of the Minimum Improvements, the Redeveloper shall submit to the Authority the Construction Plans for the Minimum Improvements. The Construction Plans shall provide for the construction of the Minimum Improvements and shall be in conformity with this Agreement, the Preliminary Plans, and all applicable state and local laws and regulations. The Authority shall approve the Construction Plans in writing if: (i) the Construction Plans conform to the terms and conditions of the Preliminary Plans and this Agreement; (ii) the Construction Plans conform to all applicable federal, State and local laws, ordinances, rules and regulations; (iii) the Construction Plans are adequate to provide for the construction of the Minimum Improvements; (iv) the Construction Plans do not provide for expenditures in excess of the funds available to the Redeveloper for the construction of the Minimum Improvements; and (v) no Event of Default has occurred and is continuing. 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 any Event of Default. If approval of the Construction Plans is requested in writing by the Redeveloper at the time of submission thereof to the Authority, the Authority shall approve or reject (in whole or in part) such Construction Plans in writing within twenty (20) days after the date of receipt thereof. If no written rejection is made within said twenty (20) days, the Construction Plans shall be deemed approved by the Authority. Any rejection shall set forth in detail the reasons therefor. If the Authority rejects the Construction Plans, in whole or in part, the Redeveloper shall submit new or corrected Construction Plans within thirty (30) days after receipt by the Redeveloper of the notice of rejection. The Authority's approval of the Construction Plans shall not be unreasonably withheld. 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, provided, however, that in any event the Redeveloper shall submit Construction Plans which are approved no later than the Date of Closing of the Redevelopment Property. Receipt of written approval by the Authority of the Construction Plans shall constitute a conclusive determination that the Construction Plans (and the Minimum Improvements, if constructed in accordance with said plans) comply with the provisions of this Agreement relating thereto. The Construction Plans shall not be rejected due to any objection which could have been raised upon review of the Preliminary Plans and corrected more economically at that time, unless said objection relates to compliance with local, state and federal laws and regulations (including, but not limited to, environmental, zoning, building code and public health laws and regulations).

(c) If the Redeveloper desires to make any material change in the Preliminary Plans or Construction Plans after their approval by the Authority, then the Redeveloper shall submit the proposed change to the Authority for its approval. If the Preliminary Plans or Construction Plans, as modified by the proposed change, conform to the requirements of this Section 4.2 of this Agreement with respect to such previously approved Construction Plans, the Authority shall approve the proposed change and notify the Redeveloper in writing of its approval. Such change in the Preliminary Plans or Construction Plans shall, in any event, be deemed approved by the Authority unless rejected, in whole or part, by written notice by the Authority to the Redeveloper, setting forth in detail the reasons therefore. Such rejection shall be made within twenty (20) days after receipt of the written request for approval of such change.

Section 4.3. Completion of Construction.

(a) Subject to Unavoidable Delays and Section 3.2(b), the Redeveloper shall have completed the construction of ~~all Phases~~ a Phase of the Minimum Improvements and received ~~the Certificates~~ a Certificate of Occupancy ~~on or before December 31, 2020~~ within eighteen (18) months of the Closing Date of such Phase.

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.

(b) The Redeveloper agrees for itself, its successors and assigns, and every successor in interest to the Redevelopment Property, or any part thereof, and the Redevelopment Property Deed shall reference the covenants contained in this Section 4.3 and Section 7.3 of this Agreement, that the Redeveloper, and its successors and assigns, shall promptly begin and diligently prosecute to completion the redevelopment of the Redevelopment Property through the construction of the Minimum Improvements thereon, and that such construction shall in any event be completed within the periods specified in this Section 4.3.

Section 4.4. Certificate of Completion.

(a) Promptly after verification of the completion of [a Phase of](#) the Minimum Improvements in accordance with the provisions of this Agreement relating to the obligations of the Redeveloper to construct such improvements (including the date for completion thereof), the Authority will furnish the Redeveloper with a Certificate of Completion [for that Phase](#) in recordable form. The Certificate of Completion shall be a conclusive determination and conclusive evidence of the satisfaction and termination of the agreements and covenants in this Agreement and in the Redevelopment Property Deed with respect to the obligations of the Redeveloper and its successors and assigns, to construct [such Phase of](#) the Minimum Improvements and the date for the completion thereof. The Redeveloper shall, at its sole cost and expense, record the Certificate of Completion in the property records of and for the County.

(b) If the Authority shall refuse or fail to provide the Certificate of Completion in accordance with the provisions of this Section 4.4 the Authority shall, within twenty (20) 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, and what measures or acts will be necessary, in the opinion of the Authority, for the Redeveloper to take or perform in order to obtain a Certificate of Completion.

(c) The construction [of a Phase](#) of the Minimum Improvements shall be eligible for review for the issuance of a Certificate of Completion by the Authority when the City has issued a Certificate of Occupancy for a Phase of the Minimum Improvements and the completion of the Site Improvements.

ARTICLE V
Real Property Taxes, Insurance and Tax Increment

Section 5.1. Real Property Taxes. Prior to the Termination Date, the Redeveloper shall pay when due, prior to the attachment of penalty, all real property taxes payable with respect to the Redevelopment Property in the years subsequent to the delivery of the Redevelopment Property Deed.

Section 5.2. Insurance.

(a) The Redeveloper will provide and maintain at all times during the process of constructing the Minimum Improvements and, from time to time at the request of the Authority, furnish the Authority with proof of payment of premiums on:

(i) builder's risk insurance, written on the so-called "Builder's Risk -- Completed Value Basis," in an amount equal to one hundred percent (100%) of the insurable value of the Minimum Improvements at the date of completion, 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 reasonably satisfactory to the Authority;

(ii) comprehensive general liability insurance together with an Owner's Contractor's Policy with limits against bodily injury and property damage of not less than \$2,000,000 for each occurrence (to accomplish the above-required limits, an umbrella excess liability policy may be used); and

(iii) workers' compensation insurance, with statutory coverage.

(b) All insurance required in Article V of this Agreement shall be taken out and maintained in responsible insurance companies selected by the Redeveloper which are authorized under the laws of the State to assume the risks covered thereby. The Redeveloper will deposit annually with the Authority policies evidencing all such insurance, or a certificate or certificates or binders of the respective insurers stating that such insurance is in force and effect. Unless otherwise provided in this Article V of this Agreement the Redeveloper will use commercially reasonable efforts to require that such policy contain a provision that the insurer shall not cancel nor modify it without giving written notice to the Redeveloper and the Authority at least thirty (30) days before the cancellation or modification becomes effective. Not less than fifteen (15) days prior to the expiration of any policy, the Redeveloper shall furnish the Authority evidence satisfactory to the Authority that the policy has been renewed or replaced by another policy conforming to the provisions of this Article V of this Agreement, or that there is no necessity therefor under the terms hereof. 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.

(c) The Redeveloper shall, from time to time, provide the Authority with evidence satisfactory to the Authority that Redeveloper's contractors are maintaining workers compensation insurance with statutory coverage.

Section 5.3. Tax Increment Certification.

(a) Pursuant to the Plan, the Authority has pledged and shall appropriate the Available Tax Increment to the payment of the principal of and interest on the Notes, said payment to be made in accordance with the terms and provisions as stated in the Notes.

(b) Because the Tax Increment District contains a number of parcels, the Parties agree that the Authority, in consultation with the Redeveloper, shall calculate the Available Tax Increment and allocate it to the Notes.

ARTICLE VI
Representation as to Redevelopment; Prohibitions Against
Assignment and Transfer; Indemnification

Section 6.1. 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 redevelopment of the Redevelopment Property and not for speculation in land holding. The Redeveloper further recognizes that, in view of: (a) the importance of the redevelopment of the Redevelopment Property to the general welfare of the Authority; (b) the substantial financing and other public aids that have been made available by the City for the purpose of making such redevelopment possible; and (c) the fact that any act or transaction involving or resulting in a significant change in the identity of the parties in control of the Redeveloper or the degree of their control is for practical purposes a transfer or disposition of the property then owned by the Redeveloper, the qualifications and identity of the Redeveloper are of particular concern to the Authority. The Redeveloper further recognizes that it is because of such qualifications and identity that the Authority is entering into this Agreement with the Redeveloper, and, in so doing, is further willing to accept and rely on the obligations of the Redeveloper for the faithful performance of all undertakings and covenants hereby by it to be performed.

Section 6.2. Prohibition Against Transfer of Property and Assignment of Agreement. Prior to the earlier of the issuance of the Certificate of Completion or the Termination Date, the Redeveloper represents and agrees:

(a) That except for the purpose of obtaining financing necessary in the manner authorized by this Agreement to enable the Redeveloper or any successor in interest to the Redevelopment Property, or any part thereof, to perform its obligations with respect to making the Minimum Improvements 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, without the prior written approval of the Authority unless the original Redeveloper remains liable and bound by this Redevelopment Agreement in which event the Authority's approval is not required. Any such transfer shall be subject to the provisions of this Agreement. Notwithstanding the foregoing, the Redeveloper may transfer the Redevelopment Property to any corporation, partnership, or limited liability company which is formed to facilitate the sale of low income housing tax credits for the Redevelopment Property in which the interest of the Redeveloper or a related entity is at least 0.01% (an "Affiliate"). Any Affiliate shall be subject to the provisions of this Agreement, and the original Redeveloper entity shall remain liable and bound hereby.

(b) In the event the Redeveloper, upon transfer or assignment of the Redevelopment Property or any portion thereof, seeks to be released from its obligations under this Agreement, 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.

(ii) Any proposed transferee, by instrument in writing satisfactory to the Authority and in form recordable among the land records, 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 and agreed to be subject to all of the conditions and restrictions to which the Redeveloper is subject; 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 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 Minimum Improvements 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 construction of the Minimum Improvements, 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 VI, shall be in a form reasonably satisfactory to the Authority.

In the event the foregoing conditions are met to the satisfaction of the Authority, in its reasonable discretion, then 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 6.3. Release and Indemnification Covenants.

(a) The Redeveloper covenants and agrees that the City and the Authority and the governing body members, officers, agents, servants and employees thereof (collectively "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 Minimum Improvements, and any claim, demand, suit, action or other proceeding whatsoever by any third party arising or purportedly arising therefrom, except for any loss resulting from negligent, willful or wanton misconduct of the City or the Authority or the Indemnified Parties, and provided that the claim therefore is based upon the acts of Redeveloper or of others acting on the behalf or under the direction or control of Redeveloper.

(b) Except for any negligent or willful misrepresentation or any negligent, willful or wanton misconduct of the Indemnified Parties, the Redeveloper agrees to defend the Indemnified Parties, now or forever, against any claim, demand, suit, action or other proceeding whatsoever by any person or entity arising or purportedly arising from this Agreement or the transactions contemplated hereby or the acquisition, construction, installation, ownership, and operation of the Minimum Improvements, except for the use of eminent domain if exercised by the Authority to acquire the Redevelopment Property, and provided that the claim therefore is based upon the acts of Redeveloper or of others acting on the behalf or under the direction or control of Redeveloper.

(c) The City and the Authority and the governing body members, officers, agents, servants and employees thereof 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 on or about the Redevelopment Property or Minimum Improvements due to any act of negligence of any person, other than the negligence and misconduct of City or Authority employees or those employed or engaged by the City or Authority.

(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 the Authority and not of any governing body member, officer, agent, servant or employee of the Authority in the individual capacity thereof.

(e) Nothing in this section or this Agreement is intended to waive any municipal liability limitations contained in Minnesota Statutes, particularly Chapter 466.

Section 6.4. Assignment of Note. The Redeveloper may assign and pledge a Note to a lender to be held by that lender to secure any construction or permanent loan and may transfer a Note to any entity controlling, controlled by or under common control with the Redeveloper. Otherwise, no Note shall be assignable nor transferable without the prior written consent of the Authority; provided, however, that such consent shall not be unreasonably withheld or delayed if: (a) the assignee or transferee delivers to the Authority a written instrument acknowledging the limited nature of the Authority's payment obligations under a Note, and (b) the assignee or transferee executes and delivers to the

Authority a certificate, in form and substance satisfactory to the Authority, pursuant to which, among other things, such assignee or transferee represents that (i) the Note is being acquired for investment for such assignee's or transferee's own account, not as a nominee or agent, and not with a view to the resale or distribution of any part thereof, (ii) the assignee or transferee has no present intention of selling, granting any participation in, or otherwise distributing the same, (iii) the assignee or transferee is an "accredited investor" within the meaning of Rule 501 of Regulation D under the Securities Act of 1933, as amended, (iv) the assignee or transferee, either alone or with such assignee's or transferee's representatives, has knowledge and experience in financial and business matters and is capable of evaluating the merits and risks of the prospective investment in the Note and the assignee or transferee is able to bear the economic consequences thereof, (v) in making its decision to acquire the Note, the assignee or transferee has relied upon independent investigations and, to the extent believed by such assignee or transferee to be appropriate, the assignee's or transferee's representatives, including its own professional, tax and other advisors, and has not relied upon any representation or warranty from the Authority or the County, or any of their officers, employees, agents, affiliates or representatives with respect to the value of the Note, (vi) neither the Authority nor the County has made any warranty, acknowledgment or covenant, in writing or otherwise, to the assignee or transferee regarding the tax consequences, if any, of the acquisition and investment in the Note, (vii) the assignee or transferee or its representatives have been given a full opportunity to examine all documents and to ask questions of, and to receive answers from, the Authority and its representatives concerning the terms of the Note and such other information as the assignee or transferee desires in order to evaluate the acquisition of and investment in the Note, and all such questions have been answered to the full satisfaction of the assignee or transferee, (viii) the assignee or transferee has evaluated the merits and risks of investment in the Note and has determined that the Note is a suitable investment for the assignee or transferee in light of such party's overall financial condition and prospects, (ix) the Note will be characterized as a "restricted security" under the federal securities laws because the Note is being acquired in a transaction not involving a public offering and that under such laws and applicable regulations such security may not be resold without registration under the Securities Act of 1933, as amended, except in certain limited circumstances, and (x) no market for the Note exists or is intended to be developed.

ARTICLE VII
Events of Default

Section 7.1. Events of Default Defined. Subject to Unavoidable Delays and applicable cure periods, 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 (unless the context otherwise provides), any one or more of the following events:

(a) Failure by the Redeveloper to pay when due all real property taxes assessed against the Redevelopment Property.

(b) Failure of the Redeveloper to submit satisfactory Construction Plans in accordance with this Agreement.

(c) Failure by the Redeveloper to commence or complete construction of the Minimum Improvements pursuant to the terms, conditions and limitations of this Agreement.

(d) Failure by the Redeveloper to substantially observe or perform any covenant, condition, obligation or agreement on its part to be observed or performed hereunder.

(e) If 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 Code or under any similar federal or state law; or

(ii) make an assignment for the 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; or if a petition or answer proposing the adjudication of the Redeveloper as a bankrupt or its reorganization under any present or future federal bankruptcy act or any similar federal or State law shall be filed in any court and such petition or answer shall not be discharged or denied within ninety (90) days after the filing thereof; or a receiver, trustee or liquidator of the Redeveloper or of the Redevelopment Property, or part thereof shall be appointed in any proceeding brought against the Redeveloper and shall not be discharged within ninety (90) days after such appointment, or if the Redeveloper shall consent to or acquiesce in such appointment.

Section 7.2. Remedies on Default. Whenever any Event of Default referred to in Section 7.1. of this Agreement occurs, the Authority may take any one or more of the following actions after providing thirty (30) days’ written notice to the Redeveloper of the occurrence of the Event of Default, but such action by the Authority may be taken only if the Event of Default has not been cured by Redeveloper within said thirty (30) day period,

or, if the Event of Default is by its nature incurable within said thirty (30) day period, the Redeveloper fails to commence such cure within said thirty (30) day period and fails to provide the Authority with written assurances, deemed satisfactory in the reasonable discretion of the Authority, that the Event of Default will be cured to completion as soon as reasonably possible, whereupon the Authority may:

(a) Suspend its performance under this Agreement until it receives assurances from the Redeveloper, deemed adequate by the Authority, that the Redeveloper will cure its default and continue its performance under this Agreement;

(b) Terminate this Agreement;

(c) Withhold a Certificate of Completion; and/or

(d) Take whatever action, including legal, equitable or administrative action, which may appear necessary to the Authority, including any actions to collect any payments due under this Agreement, or to enforce performance and observance of any obligation, agreement, or covenant of the Redeveloper under this Agreement.

Section 7.3. Revesting Title in Authority Upon Happening of Event Subsequent to Conveyance to Redeveloper. In the event that subsequent to conveyance of the Redevelopment Property to the Redeveloper and prior to either the receipt by the Redeveloper of the earlier of (i) Certificate of Completion or (ii) the Termination Date:

(a) Subject to Unavoidable Delays, the Redeveloper fails to carry out its obligations with respect to the construction of the Minimum Improvements (including the nature and the date for the commencement and completion thereof), or abandons or substantially suspends construction work, and any such failure, abandonment, or suspension shall not be cured, ended, remedied or assurances reasonably satisfactory to the Authority made within ninety (90) days after written demand from the Authority to the Redeveloper to do so; or

(b) The Redeveloper fails to pay real estate taxes or assessments on the Redevelopment Property or any part thereof when due, or creates, suffers, assumes, or agrees to any encumbrance or lien on the Redevelopment Property which is unauthorized by this Agreement or shall suffer any levy or attachment to be made, or any materialmen's or mechanics' lien, or any other unauthorized encumbrance or lien to attach, and such taxes or assessments shall not have been paid, or the encumbrance or lien removed or discharged or provision reasonably satisfactory to the Authority made for such payment, removal, or discharge, within ninety (90) days after written demand by the Authority to do so; provided, that if the Redeveloper shall first notify the Authority of its intention to do so, it may in good faith contest any mechanics' or other lien filed or established and in such event the Authority shall permit such mechanics' or other lien to remain undischarged and unsatisfied during the period of such contest and any appeal, but only if the Redeveloper provides the Authority with a bank letter of credit or other security in the amount of the lien, in a form reasonably satisfactory to the Authority pursuant to which the bank or other

obligor will pay to the Authority the amount of any lien in the event that the lien is finally determined to be valid. During the course of such contest the Redeveloper shall keep the Authority informed respecting the status of such defense; or

(c) There is, in violation of this Agreement, any transfer of the Redevelopment Property or any part thereof, or any change in the ownership or distribution thereof of the Redeveloper, or with respect to the identity of the parties in control of the Redeveloper or the degree thereof, and such violation shall not be cured within ninety (90) days after written demand by the Authority to the Redeveloper;

Then the Authority shall have the right to re-enter and take possession of the Redevelopment Property and to terminate (and revert in the Authority) the estate conveyed by the Redevelopment Property Deed to the Redeveloper, it being the intent of this provision, together with other provisions of the Agreement, that the conveyance of the Redevelopment Property to the Redeveloper shall be made upon, and that the Redevelopment Property Deed shall contain a condition subsequent to the effect that in the event of any default on the part of the Redeveloper, and failure on the part of the Redeveloper to remedy, end, or abrogate such default within the time period and in the manner stated in such subdivisions, the Authority at its option may declare a termination in favor of the Authority of the title, and of all the rights and interests in and to the Redevelopment Property conveyed to the Redeveloper, and that such title and all rights and interests of the Redeveloper, and any assigns or successors in interest to and in the Redevelopment Property, shall revert to the Authority, but only if the default of the Agreement has not been cured within the time periods provided herein.

Notwithstanding anything to the contrary contained in this Section 7.3 of this Agreement, the Authority shall have no right to re-enter or retake title to and possession of any part of the Redevelopment Property for which a Certificate of Completion has been issued or if the Termination Date occurs.

Section 7.4. Resale of Reacquired Property; Disposition of Proceeds. Upon the revesting in the Authority of title to the Redevelopment Property or any part thereof as provided in Section 7.3, the Authority shall have no further responsibility to the Redeveloper hereunder with respect to the Redevelopment Property and may sell or otherwise devote the Redevelopment Property to such other uses as the Authority shall in its sole discretion determine, without reimbursement of any sums paid by the Redeveloper to the Authority under this Agreement, and without reimbursement of any sum or costs incurred by Redeveloper with respect to improvements on such revested Redevelopment Property.

Section 7.5. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Authority or Redeveloper 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. In order to entitle the Authority or the Redeveloper 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 VII.

Section 7.6. 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 7.7. Agreement to Pay Attorney's Fees and Expenses. Whenever any Event of Default occurs and the Authority shall employ attorneys or incur other expenses, such reasonable fees and expenses shall be paid in accordance with Section 2.2(g) of this Agreement.

Section 7.8. Acquisition and Development Financing. The Authority recognizes that the Redeveloper will obtain financing from a commercial lender (the "Lender") from time to time for the costs associated with the Site Improvements and the Minimum Improvements (collectively referred to as the "Development Loan") and, that in order to do so, the Lender may require a mortgage on the Redevelopment Property which is prior to the rights of the Authority under this Agreement and that the Authority will have to subordinate such rights (including, without limitation, the reverter rights in Section 7.3.). The Authority will consent to a Development Loan and the subordination of its rights so long as the terms of such Development Loan are materially consistent with this Agreement, and agrees that the Lender of a Development Loan shall have the right, at its option, to cure or remedy any breach or default of the Redeveloper, including any breach or default with respect to construction of the Site Improvements and the Minimum Improvements or payment of the Site Costs, provided the Lender has first expressly assumed the obligations owed by the Redeveloper to the Authority by written agreement reasonably satisfactory to the Authority, and agrees to complete in the manner provided in the Agreement, the Site Improvements and the Minimum Improvements subject to the lien of such mortgage. Upon written request of the Lender sent to the Authority in the manner required by Section 8.5 herein, the Authority will agree to notify the Lender of any default of the Redeveloper under the terms of this Agreement at the address of the Lender set forth in such written notice. Upon written request of the Authority, the Lender will agree to notify the Authority, at the notice address set forth herein, of any default of the Redeveloper under the terms of the Development Loan. To the extent agreed to by the Lender, the Authority shall have the right, at its option, to cure or remedy any breach or default with respect to a Development Loan and shall have redemption rights in the event of foreclosure of a Development Loan.

Additional conditions for the Authority subordinating its interests in this Agreement and approving a mortgage on a Redevelopment Property for a Development Loan include the following:

(a) All of the Development Loan proceeds will be used solely for the design and preparation of the Redevelopment Property, construction of the Minimum Improvements,

the acquisition of the Redevelopment Property and costs of the Site Improvements, and financing;

(b) Any Development Loan proceeds will be disbursed by a title company pursuant to a Development Loan disbursing agreement or similar agreement among the Redeveloper, the Lender and the title company will oversee the payment for all work on the Redevelopment Property which may give rise to mechanics' liens;

(c) The Authority shall have the right to review any Development Loan documents and the right to comment on the applicable provisions of such documents in order to reasonably satisfy itself that sufficient funds are or will be available to complete construction of the Minimum Improvements and to ensure that such Development Loan documents are consistent with the terms and requirements of this Agreement.

(d) Upon Redeveloper's performing the above conditions, the Authority agrees that at the time of the closing of the Development Loan, it will enter into a subordination agreement consistent with and in accordance with this Section 7.8 in form and content reasonably acceptable to the Authority and the Lender.

ARTICLE VIII
Additional Provisions

Section 8.1. Conflict of Interest; Authority Representatives Not Individually Liable. 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 the Agreement which affects his personal interests or the interests of any corporation, partnership, or association in which he is, directly or indirectly, interested. No member, official, or employee of 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 which may become due to the Redeveloper or successor or on any obligations under the terms of this Agreement, except in the case of willful misconduct.

Section 8.2. 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 that it will comply with all applicable equal employment opportunity and non-discrimination laws, ordinances and regulations.

Section 8.3. Prevailing Wage. For the construction of the Minimum Improvements the Redeveloper will pay wages in accordance with the prevailing wage rate as that term is defined in Minnesota Statutes, Section 177.42, Subdivision 6 and in the City Resolution No. 25-2090. The City's Public Works Department shall be responsible for monitoring Redeveloper's compliance with this requirement.

Section 8.4. Option. On or within sixty (60) days following the Phase 1 Date of Closing, the Redeveloper shall notify the Authority of the Redeveloper's intent to purchase the Phase 2 Redevelopment Property (the "Option") to construct the Phase 2 Minimum Improvements. If the Redeveloper does not exercise the Option within the sixty (60) days noted above, then the Option shall be deemed null and void. The Phase 2 closing shall occur within thirty (30) days after notice of the exercise of the Option has been delivered to the Authority.

Section 8.5. 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 8.6. 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 8.7. 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, transmitted by facsimile, delivered by a recognized overnight courier or delivered personally; and

(a) in the case of the Redeveloper, is addressed to or delivered personally to the Redeveloper at Sherman Associates Development LLC, ATTN: Legal Department, 233 Park Avenue, Suite 201, Minneapolis, Minnesota, 55415;

(b) in the case of the Authority, is addressed to or delivered personally to the Housing and Redevelopment Authority in and for the City of Fridley at ~~6431~~[7071](tel:64317071) University Avenue N.E., Fridley, Minnesota, 55432, Attention: City Manager; or at such other address with respect to either party as that party may, from time to time, designate in writing and forward to the other as provided in this Section.

Section 8.8. Counterparts. This agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

ARTICLE IX
Termination of Agreement

Section 9.1. Termination. This Agreement shall terminate upon the discharge of all of the Authority's and Redeveloper's respective obligations hereunder including the issuance of a Certificate of Completion for the Minimum Improvements, but no such termination shall terminate any indemnification or other rights or remedies arising hereunder due to any Event of Default which occurred and was continuing prior to such termination.

Section 9.2. Estoppel Certificate. Each party, respectively, agrees that at any time and from time to time within ten (10) business days after receipt of a written request by the other party, to execute, acknowledge and deliver to such party a statement in writing certifying: (a) that this Agreement is unmodified and in full force and effect or, if there have been modifications, that the same are in full force and effect as modified and identifying the modifications; (b) that no party is in default under any provisions of this Agreement or, if there has been a default, the nature of such default; (c) that all work to be performed, under this Agreement or any related agreement has been performed or, if not so performed, specifying the work to be performed; and (d) as to any other matter that the requesting party or a prospective mortgagee or other lender shall reasonably request. It is intended that any such statement may be relied upon by any person, prospective mortgagee of, or assignee of any mortgage, upon such interest. Any such statement on behalf of the Authority may be executed by the Executive Director without Authority Board approval.

[The remainder of this page is intentionally blank]

IN WITNESS WHEREOF, the Authority has caused this Agreement to be duly executed in its name and behalf and the Redeveloper has caused this Agreement to be duly executed on or as of the date first above written.

Dated: _____, ~~2018~~2019

HOUSING AND REDEVELOPMENT
AUTHORITY IN AND FOR THE CITY
OF FRIDLEY, MINNESOTA

By _____
Its Chairperson

By _____
Its Executive Director

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

On this _____ day of _____, ~~2018~~2019 before me, a notary public, personally appeared _____ and _____, to me personally known who by me duly sworn, did say that they are the Chairperson and Executive Director of the Housing and Redevelopment Authority in and for the City of Fridley, Minnesota, a political subdivision of the State of Minnesota, and acknowledged the foregoing instrument on behalf of said Authority.

Notary Public

Dated: _____, ~~2018~~2019

SHERMAN ASSOCIATES DEVELOPMENT LLC

By _____

By _____

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

On this _____ day of _____, ~~2018~~2019 before me, a notary public, personally appeared _____ and _____, the _____ and _____, respectively, of Sherman Associates Development LLC, a Minnesota limited liability company, and acknowledged the foregoing instrument on behalf of said company.

Notary Public

Redeveloper Signature Page ~~--~~ Restated Contract for Private Redevelopment

SCHEDULE A

DESCRIPTION OF REDEVELOPMENT PROPERTY

Lot 1, Lot 1A, Lot 2, Lot 2A and Lot 3, Fridley Northstar Station East, Anoka County, Minnesota.

The above Lots will be replatted, which replatted legal descriptions will be utilized for the development of the Phase 1A, Phase 1B and Phase 2 Minimum Improvements and are referenced in this Agreement as the Phase 1A Redevelopment Property, the Phase 1B Redevelopment Property, and the Phase 2 Redevelopment Property.

SCHEDULE B

DEED

THIS INDENTURE, made this _____ day of _____, ~~2018~~2019 between the Housing and Redevelopment Authority in and for the City of Fridley, Minnesota, a political subdivision of the State of Minnesota (the “Grantor”), and Sherman Associates Development LLC, a limited liability company organized under the laws of the State of Minnesota (the “Grantee”).

WITNESSETH, that Grantor, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration the receipt whereof is hereby acknowledged, does hereby convey and quit claim to the Grantee, its successors and assigns forever, all the tract or parcel of land lying and being in the County of Anoka and State of Minnesota described as follows:

together with all hereditament and appurtenances belonging thereto, Grantor covenants and represents that:

Grantee has committed to construct certain improvements and Grantor has a right of re-entry in accordance with Sections 4.3 and 7.3 respectively of the Restated Contract for Private Redevelopment By and Between the Housing and Redevelopment Authority in and for the City of Fridley, Minnesota and Sherman Associates Development LLC, dated ~~May 3, 2018~~, _____, 2019. The completion of the improvements and the release of the right of re-entry shall be evidenced by the recording of the Certificate of Completion and Release of Forfeiture attached as Exhibit 1 to this deed.

The Grantor certifies that the Grantor does not know of any wells on described real property.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Grantor has caused this deed to be duly executed in its behalf by its Chairperson and its Executive Director the day and year written above.

HOUSING AND REDEVELOPMENT
AUTHORITY IN AND FOR THE CITY
OF FRIDLEY, MINNESOTA

By _____
Its Chairperson

And by _____
Its Executive Director

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

On this _____ day of _____, ~~2018~~2019 before me, a notary public within and for Anoka County, personally appeared _____ and _____ to me personally known who by me duly sworn, did say that they are the Chairperson and Executive Director of the Housing and Redevelopment Authority in and for the City of Fridley, Minnesota, a political subdivision of the State of Minnesota, and acknowledged the foregoing instrument on behalf of said Authority.

Notary Public

This instrument was drafted by:

EXHIBIT 1

CERTIFICATE OF COMPLETION AND RELEASE OF FORFEITURE

WHEREAS, the Housing and Redevelopment Authority in and for the City of Fridley, Minnesota, a political subdivision of the State of Minnesota (the "Grantor"), by a Deed recorded in the Office of the County Recorder or the Registrar of Titles in and for the County of Anoka and State of Minnesota, as Deed Document Number(s) _____ and _____, respectively, has conveyed to Sherman Associates Development LLC, a limited liability company organized under the laws of the State of Minnesota (the "Grantee"), the following described land in County of Anoka and State of Minnesota, to-wit:

WHEREAS, said Deed contained certain covenants and restrictions, the breach of which by Grantee, its successors and assigns, would result in a forfeiture and right of re-entry by Grantor, its successors and assigns, said covenants and restrictions being set forth in said Deed; and

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

NOW, THEREFORE, this is to certify that all building construction and other physical improvements specified to be done and made by the Grantee have been completed and the above covenants and conditions in said Deed have been performed by the Grantee therein and that the provisions for forfeiture of title and right to re-entry for breach of condition subsequent by the Grantor therein is hereby released absolutely and forever insofar as it applies to the land described herein, and the County Recorder or the Registrar of Titles in and for the County of [RamseyAnoka](#) and State of Minnesota is hereby authorized to accept for recording and to record this instrument, and the filing of this instrument shall be a conclusive determination of the satisfactory termination of the covenants and conditions referred to in said Deed, the breach of which would result in a forfeiture and right of re-entry.

[SIGNATURES ON FOLLOWING PAGE]

Dated: _____, ~~2018~~2019

HOUSING AND REDEVELOPMENT
AUTHORITY IN AND FOR THE CITY
OF FRIDLEY, MINNESOTA

By _____
Its Chairperson

And by _____
Its Executive Director

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

On this _____ day of _____, ~~2018~~2019 before me, a notary public within _____ and _____ for _____ Anoka County, _____ personally appeared _____ and _____ to me personally known who by me duly sworn, did say that they are the Chairperson and Executive Director of the Housing and Redevelopment Authority in and for the City of Fridley, Minnesota, a political subdivision of the State of Minnesota, and acknowledged the foregoing instrument on behalf of said Authority.

Notary Public

SCHEDULE C

ENVIRONMENTAL REPORTS

1. ~~1.~~ Soil Screening Work Plan
Fridley Station Site
6050 Main Street NE
Fridley, MN 55432
By: Pinnacle Engineering
Dated: July 5, 2016

2. ~~2.~~ Table 1
Soil Analytical Results
Fridley Station Site
Fridley, MN [55432](#)
Stockpile Samples: 05/30/2016
Surface Soil Samples: 08/22/2016

SCHEDULE D

CERTIFICATE OF COMPLETION AND RELEASE OF FORFEITURE

WHEREAS, the Housing and Redevelopment Authority in and for the City of Fridley, Minnesota, a political subdivision of the State of Minnesota (the "Grantor"), by a Deed recorded in the Office of the County Recorder or the Registrar of Titles in and for the County of Anoka and State of Minnesota, as Deed Document Number(s) _____ and _____, respectively, has conveyed to Sherman Associates Development LLC, a limited liability company organized under the laws of the State of Minnesota (the "Grantee"), the following described land in County of Anoka and State of Minnesota, to-wit:

WHEREAS, said Deed contained certain covenants and restrictions, the breach of which by Grantee, its successors and assigns, would result in a forfeiture and right of re-entry by Grantor, its successors and assigns, said covenants and restrictions being set forth in said Deed; and

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

NOW, THEREFORE, this is to certify that all building construction and other physical improvements specified to be done and made by the Grantee have been completed and the above covenants and conditions in said Deed have been performed by the Grantee therein and that the provisions for forfeiture of title and right to re-entry for breach of condition subsequent by the Grantor therein is hereby released absolutely and forever insofar as it applies to the land described herein, and the County Recorder or the Registrar of Titles in and for the County of Anoka and State of Minnesota is hereby authorized to accept for recording and to record this instrument, and the filing of this instrument shall be a conclusive determination of the satisfactory termination of the covenants and conditions of the contract referred to in said Deed, the breach of which would result in a forfeiture and right of re-entry.

[SIGNATURES ON FOLLOWING PAGE]

Dated: _____, ~~2018~~2019

HOUSING AND REDEVELOPMENT
AUTHORITY IN AND FOR THE CITY
OF FRIDLEY, MINNESOTA

By _____
Its Chairperson

And by _____
Its Executive Director

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

On this _____ day of _____, ~~2018~~2019 before me, a notary public within and for Anoka County, personally appeared _____ and _____ to me personally known who by me duly sworn, did say that they are the Chairperson and Executive Director of the Housing and Redevelopment Authority in and for the City of Fridley, Minnesota, a political subdivision of the State of Minnesota, and acknowledged the foregoing instrument on behalf of said Authority.

Notary Public

SCHEDULE F

SITE IMPROVEMENTS

1. Infiltration Ponds as shown on the Master Plan sufficient to accommodate a full buildout of the Master Plan. The Infiltration Ponds will be part of the storm water management plan to be approved by the City.

2. 80 parking stalls to accommodate parking including ingress, egress, a drop off area, sidewalks, and signage for the Northstar Fridley Commuter Rail Station in accordance with the First Amendment to Ground Lease to be executed by the Authority and the Metropolitan Council.

3. Open space, park amenities and a Tot Lot as shown on the Master Plan.

SCHEDULE G

Declaration of Restrictive Covenants and Prohibition Against Tax Exemption

This Declaration is made and executed as of the ____ day of _____, 20__ by the Housing and Redevelopment Authority in and for the City of Fridley, Minnesota, a political subdivision of the State of Minnesota (“Declarant”).

RECITALS

A. Declarant is fee owner of the premises located in the County of Anoka, State of Minnesota described on Exhibit A attached hereto (the “Property”).

B. The Property is in a tax increment financing district and the Declarant will use the tax increment generated from improvements to the Property to reimburse itself for the costs of acquiring and preparing the Property for redevelopment.

NOW, THEREFORE, in consideration of the foregoing, Declarant, for itself and its successors and assigns, does hereby declare that the Property shall be owned, used, occupied, sold and conveyed subject to the following covenants and restrictions:

1. No part of the Property shall become tax exempt from the levy of ad valorem property taxes, or any statutorily authorized alternative, until December 31, 2042.

2. The covenants and restrictions herein contained shall run with the title to the Property and shall be binding upon all present and future owners and occupants of the Property; provided, however, that the covenants and restrictions herein contained shall inure only to the benefit of the Authority and may be released or waived in whole or in part at any time, and from time to time, by the sole act of the Authority, and variances may be granted to the covenants and restrictions herein contained by the sole act of the Authority. These covenants and restrictions shall be enforceable only by the Authority, and only the Authority shall have the right to sue for and obtain an injunction, prohibitive or mandatory, to prevent the breach of the covenants and restrictions herein contained, or to enforce the performance or observance thereof.

3. The covenants and restrictions herein contained shall remain in effect until December 31, 2042 and thereafter shall be null and void.

4. If any one or more of the covenants or restrictions contained in this Declaration are held to be invalid or unenforceable, the same shall in no way affect any of the other provisions of this Declaration, which shall remain in full force and effect.

[SIGNATURES ON FOLLOWING PAGE]

HOUSING AND REDEVELOPMENT
 AUTHORITY IN AND FOR THE CITY
 OF FRIDLEY, MINNESOTA

By _____
 Its Chairperson

And by _____
 Its Executive Director

STATE OF MINNESOTA)
) ss.
 COUNTY OF ANOKA)

On this _____ day of _____, ~~2018~~2019 before me, a notary public within and for Anoka County, personally appeared _____ and _____ to me personally known who by me duly sworn, did say that they are the Chairperson and Executive Director of the Housing and Redevelopment Authority in and for the City of Fridley, Minnesota, a political subdivision of the State of Minnesota, and acknowledged the foregoing instrument on behalf of said Authority.

 Notary Public

EXHIBIT A
LEGAL DESCRIPTION

SCHEDULE H

NOTE

US \$ _____

Fridley, Minnesota
_____, 20__

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ANOKA
HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE
CITY OF FRIDLEY, MINNESOTA

LIMITED REVENUE TAX INCREMENT NOTE
[NAME OF PHASE]

The Housing and Redevelopment Authority in and for the City of Fridley, Minnesota (the "Authority"), hereby acknowledges itself to be indebted and, for value received, promises to pay to the order of _____, a limited liability company (the "Owner"), solely from the Available Tax Increment, to the extent and in the manner hereinafter defined, the principal amount of this Note, being _____ (\$ _____) (the "Principal Amount"), together with interest of five percent (5.00%) commencing from the date of issuance of the Note and payable on the dates described below (the "Scheduled Payment Dates") and in the amounts as hereinafter defined (the "Scheduled Payments").

The Scheduled Payment Dates are August 1, 2021, and on the 1st day of February and August thereafter until and including February 1, 2043, unless earlier paid, in accordance with the terms of this Note.

Upon 30 days' prior written notice from the Authority to the Owner, the Principal Amount is subject to prepayment at the option of the Authority in whole or in part at any time.

Any payments on this Note shall be applied first to accrued interest and the balance to the reduction of principal.

Each payment on this Note is payable in any coin or currency of the United States of America which on the date of such payment is legal tender for public and private debts and shall be made by check or draft made payable to the Owner and mailed to the Owner at its postal address within the United States which shall be designated from time to time by the Owner.

The Note is a special and limited obligation and not a general obligation of the Authority, which has been issued by the Authority pursuant to and in full conformity with the Constitution and laws of the State of Minnesota, including Minnesota Statutes, Section 469.178, subdivision 4, to aid in financing a project, as therein defined, of the Authority

consisting generally of defraying certain public redevelopment costs incurred and to be incurred by the Authority within and for the benefit of its Redevelopment Project No. 1.

THE NOTE IS NOT A GENERAL OBLIGATION OF THE AUTHORITY, THE CITY OF FRIDLEY (THE "CITY") OR THE STATE OF MINNESOTA (THE "STATE"), AND NEITHER THE AUTHORITY, THE CITY, THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF SHALL BE LIABLE ON THE NOTE, NOR SHALL THE NOTE BE PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN AVAILABLE TAX INCREMENT AS ALLOCATED BY SECTION 3.4 OF THE AGREEMENT, AS DEFINED BELOW.

The Scheduled Payment of this Note due on any Scheduled Payment Date is payable solely from and only to the extent that the Authority shall have received as of such Scheduled Payment Date the Available Tax Increment which is defined in the Restated Contract for Private Redevelopment By and Between the Authority and the Owner dated as of ~~May 3, 2018~~, 2019 (the "Agreement") as ~~allocated~~determined by Section 3.4 and Section 5.3 of the Agreement. Defined terms, not otherwise defined in the Note, shall have the meaning assigned to them in the Agreement.

The Authority shall pay on each Scheduled Payment Date to the Owner the Available Tax Increment. On February 1, 2043, the maturity date of this Note, any unpaid portion shall be deemed to have been paid in full.

This Note shall not be payable from or constitute a charge upon any funds of the Authority, and the Authority shall not be subject to any liability hereon or be deemed to have obligated itself to pay hereon from any funds except the Available Tax Increments, and then only to the extent and in the manner herein specified.

The Owner shall never have or be deemed to have the right to compel any exercise of any taxing power of the Authority or of any other public body, and neither the Authority nor any director, commissioner, council member, board member, officer, employee or agent of the Authority, nor any person executing or registering this Note shall be liable personally hereon by reason of the issuance or registration hereof or otherwise.

The Authority makes no representation or covenant, express or implied, that the revenues described herein will be sufficient to pay, in whole or in part, the amounts which are or may otherwise become due and payable hereunder.

The Authority's payment obligations hereunder shall be further conditioned on the fact that there shall not at the time have occurred and be continuing an Event of Default under the Agreement, and, further, if pursuant to the occurrence of an Event of Default under the Agreement the Authority elects to terminate the Agreement, the Authority shall have no further debt or obligation under this Note whatsoever. Reference is hereby made to the provisions of the Agreement for a fuller statement of the obligations of the Redeveloper and of the rights of the Authority thereunder, and said provisions are hereby incorporated by reference into this Note to the same extent as though set out in full herein.

The execution and delivery of this Note by the Authority, and the acceptance thereof by the Redeveloper, as the initial Registered Owner hereof, shall conclusively establish this Note as the "Note" (and shall conclusively constitute discharge of the Authority's obligation to issue and deliver the same to the Redeveloper) under the Agreement.

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 have happened, and to be performed precedent to and in the issuance of this Note have been done, have happened, and have been performed in regular and due form, time, and manner as required by law; and that this Note, together with all other indebtedness of the Authority outstanding on the date hereof and on the date of its actual issuance and delivery, does not cause the indebtedness of the Authority to exceed any constitutional or statutory limitation thereon.

IN WITNESS WHEREOF, the Board of Commissioners of the Housing and Redevelopment Authority in and for the City of Fridley, Minnesota, by its Commission Members, has caused this Note to be executed by the manual signatures of the President and the Treasurer of the Authority and has caused this Note to be dated _____, ~~2018-2019~~.

By _____
Its Chairperson

By _____
Its ~~Treasurer~~ Executive Director

ATTEST: _____

Secretary

CERTIFICATE OF REGISTRATION

It is hereby certified that the foregoing Note, as originally issued as of the _____ day of _____, 20__, was on said date registered in the name of the Housing and Redevelopment Authority in and for the City of Fridley, Minnesota, a public body corporate and politic and that, at the request of said Registered Owner of this Note, the undersigned has this day registered this Note as to principal and interest on the Note in the name of such Registered Owner, as indicated in the registration blank below, on the books kept by the undersigned for such purposes.

Name of
Registered Owner
Director

Date of
Registration

Signature of
~~Secretary~~Executive

_____, 20__

SCHEDULE I
PROMISSORY NOTE
(AUTHORITY LOAN)

\$600,000

Fridley, Minnesota

Dated:

1. **FOR VALUE RECEIVED.**

LLC, a Minnesota limited liability company ("MAKER") promises to pay to the order of the Housing and Redevelopment Authority in and for the City of Fridley, Minnesota, a political subdivision of the State of Minnesota ("AUTHORITY"), at its office at 7071 University Avenue N.E., Fridley, Minnesota 55432, or at any other place that the holder of this Note subsequently designates, in writing, the principal sum of Six Hundred Thousand and 00/100 Dollars (\$600,000), or such lesser amount as the AUTHORITY actually advances to MAKER in accordance with the terms of that certain Loan Agreement between MAKER and the AUTHORITY bearing even date herewith, as the same may hereafter be amended from time to time (the "AGREEMENT") together with interest on the unpaid principal balance, at the rate set forth in paragraph 2, below.

2. The rate of interest accruing hereunder shall be simple and equal to two percent (2.0%) per annum. Interest hereunder shall be computed on the basis of actual dates elapsed in a year of 365 days and begin accruing from the above date.

3. Annual payments shall begin two (2) years after the above date and on the same date of each year thereafter, and payments received shall first be applied to interest and the balance to principal. Notwithstanding anything in this Note to the contrary, payments due under this Note and any prepayments made by MAKER shall be payable only from twenty-five percent (25%) of the Net Cash Flow, defined as follows: The sum of (1) all cash receipts of MAKER from rents, lease payments, and other sources, including rental subsidy payments, but **excluding** (a) tenant security deposits, (b) proceeds from capital transactions-any transaction out of the course of the MAKER's normal business which is capital in nature, including without limitation, the disposition, whether by sale, casualty, condemnation, refinancing or distribution; (2) the net proceeds of any insurance, other than fire and extended coverage and title insurance, to the extent not used for rebuilding the Development; LESS: the sum of (1) all cash expenditures, and all expenses unpaid but properly accrued, which have been incurred in the MAKER's operation of the Development including the Management Fee, Deferred Developer Fee, and those seasonal expenses (such as utilities) that may be reasonably expected to be accrued on an uneven basis; (2) All payments on account of any loans made to MAKER; (3) any deposits made to capital, operating or other cash reserves required of MAKER. In the event the Net Cash Flow is not available in any year to make the payment, the payment shall carry forward to the next year and shall not be subject to any default or other penalty.

The full amount of unpaid principal and accrued interest, if any, on the NOTE shall be due and payable, if not sooner paid, on or before seventeen (17) years from the above date.

4. MAKER shall have the right to fully or partially prepay this NOTE at any time without penalty. Any partial prepayment shall be applied first to any unpaid, accrued interest with the balance to principal.

5. This NOTE is issued under the terms and provisions of the AGREEMENT as the same may be amended from time to time. The holder of this NOTE is entitled to all of the

benefits provided in the AGREEMENT, or referenced in the AGREEMENT, to which AGREEMENT reference is made for statement of the terms and conditions under which the indebtedness evidenced hereby was incurred and the EVENT(s) OF DEFAULT under which the due date of this NOTE may be accelerated. The provisions of the AGREEMENT are incorporated by reference herein with the same force and effect as are fully set forth herein.

6. MAKER waives presentment for payment, notice of nonpayment protest and notice of protest hereon and agrees to pay all costs of collection, including but not limited to, reasonable attorneys' fees, whether or not suit is commenced.

7. No delay on the part of the holder of this NOTE in the exercise of any power or right under this NOTE or under the AGREEMENT or any other instrument executed in connection therewith shall operate as a waiver thereof, nor shall a single or partial exercise of any power or right preclude other or further exercise thereof or exercise of any other power or right.

8. This NOTE shall be governed by, interpreted, construed and enforced in accordance with the laws of the State of Minnesota. The undersigned hereby consents to the jurisdiction of the State and Federal Courts located in the State of Minnesota in connection with any controversy related to this NOTE, waives any argument that venue in such forum is not convenient and agrees that any litigation instigated by MAKER against the AUTHORITY in connection with this NOTE, the AGREEMENT, or any document or instrument accruing payment of this NOTE shall be venued in the District Court of Anoka County, Minnesota, Tenth Judicial District.

9. Neither the MAKER, nor any partner, officer, director, shareholder, employee or agent of the MAKER, shall have any personal liability for the MAKER's obligations hereunder, it being recognized by AUTHORITY that the obligations of the MAKER hereunder are nonrecourse obligations and that the remedies of AUTHORITY are limited to the security provided in connection with this Note.

10. Unless otherwise defined herein, capitalized terms shall have the meaning assigned to them under and pursuant to the terms of the AGREEMENT.

LLC,
A Minnesota limited liability company

By: _____
George E. Sherman, President

SCHEDULE J
LOAN AGREEMENT
(AUTHORITY LOAN)

THIS AGREEMENT is effective as of the _____ day of _____, 2019, between _____, whose address is 233 Park Avenue South, Suite 201, Minneapolis, MN 55415 ("Borrower"), and the Housing and Redevelopment Authority in and for the City of Fridley, Minnesota, a political subdivision of the State of Minnesota, whose address is 7071 University Avenue N.E., Fridley, Minnesota, 55432 ("Lender").

WHEREAS, Borrower has applied to Lender for a loan in the amount of \$600,000.00 (the "Loan") to aid Borrower in the construction and permanent financing of a housing development for persons and families of low and moderate income (the "Development"), located in Anoka County, Minnesota on real property legally described in **Exhibit A** attached hereto and made a part hereof (the "Real Property"); and

WHEREAS, Lender is prepared to make the Loan available to Borrower on the basis of the conditions set forth herein.

NOW, THEREFORE, the parties agree as follows:

1. **The Advances.** Lender agrees, on the terms and subject to the conditions set forth herein and in the Mortgage (as defined herein), to advance to Borrower the proceeds of the Loan. The obligation of Borrower to repay the Loan shall be evidenced by the Note (as defined herein) and the Mortgage.

2. **Conditions Precedent to Any Advance.** Advances of the Loan by Lender pursuant to this Agreement ("Advances") are conditioned upon the delivery to Lender of the following:

(a) Note dated of even date herewith, duly executed by Borrower in favor of Lender, evidencing the Loan, which document is incorporated herein by reference as if it were attached hereto as a separate exhibit (the "Note").

(b) Combination Mortgage, Security Agreement, and Fixture Financing Statement dated of even date herewith, duly executed by Borrower in favor of Lender, granting Lender a lien on the Real Property and the Development as security for payment of the Note, which document is incorporated herein by reference as if it were attached hereto as a separate exhibit (the "Mortgage").

(c) Any and all other documents and agreements that Lender deems necessary to establish the obligation to repay the Loan and to secure such repayment.

(d) A title commitment, in form and substance satisfactory to Lender in its sole discretion, issued by the Title Company at Borrower's expense, constituting a commitment by the Title Company to issue a mortgagee's title policy in favor of Lender, as holder of the Mortgage, in not less than the principal amount of the total disbursements made from the Loan that are outstanding at any given time, and that will be free from exceptions for mechanics' and materialmen's liens, any survey exception, and any other exceptions not previously approved by Lender, and will insure the Mortgage to be a valid lien on the Real Property subject only to such prior liens and encumbrances as are approved by Lender;

(e) Evidence satisfactory to Lender in its sole discretion that: (i) the Development and the contemplated use thereof are permitted by and comply with all applicable use or other

restrictions and requirements in prior conveyances, zoning ordinances, or regulations, and have been duly approved by the municipal or other governmental authorities having jurisdiction, (ii) all required building permits and other permits have been obtained as required, and (iii) no environmental impact statement is required under Minnesota Statutes, Chapter 116D, or the rules and regulations promulgated thereunder;

(f) Evidence satisfactory to Lender that all insurance required under the Mortgage is in full force and effect.

3. Representations and Warranties. Borrower represents and warrants as follows:

(a) Borrower is a duly constituted entity in good standing and authorized to do business in the State of Minnesota, with authority to own and operate the Development and to execute all of the documents referred to herein.

(b) The execution of this Agreement, the Note, the Mortgage, and any other document referred to herein to which Borrower is a signatory are within the powers of Borrower and do not violate any of Borrower's organizational documents.

(c) The Note, when duly executed and delivered for value, will constitute the legal, valid and binding obligations of Borrower enforceable in accordance with its terms.

(d) This Agreement, the Mortgage, and any other document referred to herein to which Borrower is a signatory are the legal, valid and binding obligations of Borrower enforceable against Borrower in accordance with their respective terms.

(e) The Development will be constructed entirely on the Real Property, will not encroach upon any set-backs imposed by applicable zoning ordinances, and will not encroach upon or overhang any easement or right-of-way of land not constituting part of the Real Property. The Development, both during construction and at the time of completion, and the contemplated use thereof, will not violate any applicable zoning or use statute, ordinance, building code, rule or regulation, or any covenant or agreement of record. Borrower agrees that it will furnish from time to time such satisfactory evidence with respect to the representations and warranties contained herein as may be required by Lender.

4. Events of Default. The following shall constitute Events of Default hereunder:

(a) Borrower shall fail to pay, when due, interest or principal on the Note.

(b) Borrower shall be in default under or in breach of any of the terms of the Mortgage, and such default or breach shall not be cured or waived by Lender within the period or periods of grace, if any, applicable thereto.

(c) Borrower shall fail to duly observe or perform any of the other terms, conditions, covenants, or agreements required to be observed or performed by Borrower hereunder.

(d) Any representation or warranty made by Borrower herein or in order to induce Lender to make any Advance hereunder shall prove to have been untrue in any material respect or materially misleading as of the time that such representation or warranty was made.

(e) Borrower shall (i) make an assignment for the benefit of its creditors, (ii) shall be dissolved, (iii) shall commit an act of bankruptcy under the United States Bankruptcy Act (as now or hereafter amended), (iv) admit in writing its inability to pay its debts as they become due, (v) file a petition in bankruptcy, (vi) become or be adjudicated a bankrupt or insolvent, however defined, (vii) file a petition seeking any reorganization, dissolution, liquidation, arrangement, composition, readjustment or similar relief under any present or future

bankruptcy or insolvency statute, law or regulation, (viii) file an answer admitting to or not contesting the material allegations of a petition filed against it in such proceedings, (ix) fail, within 30 days after the filing of such a petition against it, to have the same dismissed or vacated, (x) seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of a material part of its properties, or (xi) shall not, within 30 days after the appointment (without its consent or acquiescence) of a trustee, receiver or liquidator of any material part of its properties, have such appointment vacated.

5. **Rights and Remedies.** Upon the occurrence of an Event of Default, and at any time thereafter until such Event of Default is cured to the satisfaction of Lender, Lender may, in its sole discretion, exercise any and all of the following rights and remedies and any other rights and remedies available to it:

(a) Lender may, by notice in writing to Borrower, refrain from making Advances hereunder (but Lender may make Advances after the occurrence of an Event of Default without thereby waiving its rights and remedies hereunder).

(b) Lender may, by written notice to Borrower, declare immediately due and payable all unpaid principal and accrued interest on the Note, together with all other sums payable hereunder, and the same shall thereupon be immediately due and payable without presentment or other demand, protest, notice of dishonor or any other notice of any kind, all of which are hereby expressly waived.

(c) Lender shall have the right, in addition to any other rights provided by law, to enforce its rights and remedies under the Mortgage.

(d) Lender may enter upon the Real Property and take possession thereof, together with the Development then in the course of construction, and proceed either in its own name or in the name of Borrower, as the attorney-in-fact of Borrower (which authority is coupled with an interest and is irrevocable by Borrower), to complete or cause to be completed the Development, at the cost and expense of Borrower. If Lender elects to complete or cause to be completed the Development, (i) it may do so according to the drawings and specifications prepared for the Development or according to such changes, alterations, or modifications in and to the drawings and specifications as Lender may deem appropriate, and (ii) it may enforce or cancel all contracts let by Borrower relating to construction of the Development, and/or let other contracts that in Lender's sole judgment may seem advisable; and Borrower shall forthwith turn over and duly assign to Lender, as Lender may from time to time require, contracts relating to the construction of the Development, the drawings and specifications, blueprints, shop drawings, bonds, building permits, bills and statements of accounts pertaining to the Development, whether paid or not, and any other instruments or records in the possession of Borrower pertaining to the Development. Lender shall not be obligated or liable in any way to complete the Development or to pay for the costs of construction thereof beyond the amount of the Loan.

6. **Indemnification by Borrower.** Borrower shall bear all loss, expense (including reasonable attorney's fees) and damage in connection with, and agrees to indemnify and hold harmless Lender, its agents, servants, and/or employees from, all claims, demands and judgments made or recovered against Lender, its agents, servants, and/or employees, because of bodily injuries, including death at any time resulting therefrom, and/or because of damages to property of Lender or others (including loss of use) from any cause whatsoever, arising out of, incidental to, or in connection with the construction or rehabilitation of the Development, whether or not due to any act of omission or commission, including negligence of Borrower, or any

contractor or its or their employees, servants, or agents, and whether or not due to any act of omission or commission (excluding, however, negligence or breach of statutory duty) of Lender, its employees, servants, or agents. Borrower's liability hereunder shall not be limited to the extent of insurance carried by or provided by Borrower, or subject to any exclusions from coverage in any insurance policy. The obligation of Borrower under this Section 8 shall survive the payment of the Loan.

7. **Addresses for Notices.** All notices to be given by either party to the other hereunder shall be in writing and deemed to have been given when delivered personally, or when deposited in the United States Mail, registered or certified postage prepaid, addressed as follows:

To Borrower at: 233 Park Avenue South, Suite 201
Minneapolis, MN 55415
Attention: Legal Department

To Lender at: Housing & Redevelopment Authority
City of Fridley
7071 University Avenue NE
Fridley, MN 55432

or addressed to any such party at such other address as such party shall hereafter furnish in writing to the other party. Any notice delivered personally to Borrower shall be delivered to a general partner or member of Borrower, and any notice delivered personally to Lender shall be delivered to an officer of Lender.

8. **Time of Essence.** Time is of the essence in the performance of this Agreement.

9. **Binding Effect and Assignment.** This Agreement shall be binding upon and inure to the benefit of Borrower and Lender, and their respective successors and assigns, except that Borrower may not transfer or assign its rights hereunder without the prior written consent of Lender.

10. **Waivers.** No waiver by Lender of any default hereunder shall operate as a waiver of any other default, or of the same default on a future occasion. No delay on the part of Lender in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy preclude other or further exercise thereof or the exercise of any other right or remedy.

11. **Lender's Remedies Cumulative.** The rights and remedies specified herein are cumulative and not exclusive of any rights or remedies that Lender would otherwise have.

12. **Governing Law and Entire Agreement.** This Agreement shall be governed by the laws of the State of Minnesota. This Agreement contains the entire agreement of the parties on the matters covered herein. No other agreement, statement, or promise made by any party, or by any employee, officer, or agent of any party that is not in writing and signed by all the parties to this Agreement shall be binding.

13. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, and such counterparts shall together constitute one and the same instrument.

(THE REMAINING PORTION OF THIS PAGE IS INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first above written.

LENDER:

HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF FRIDLEY

By: _____

By: _____

BORROWER:

By: _____ LLC

a Minnesota limited liability company

By: _____

George E. Sherman,

President

EXHIBIT A

Legal Description

4834-9729-7250, v. [34](#)

Document comparison by Workshare 9.5 on Thursday, March 28, 2019 1:31:30 PM

Input:	
Document 1 ID	netdocuments://4834-9729-7250/3
Description	Contract for Private Redevelopment [RESTATED] (Fridley Commuter Rail Project)
Document 2 ID	netdocuments://4834-9729-7250/4
Description	Contract for Private Redevelopment [RESTATED] (Fridley Commuter Rail Project)
Rendering set	Standard

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
<u>Moved to</u>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	142
Deletions	40
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	182



ACTION ITEM
HOUSING & REDEVELOPMENT AUTHORITY
APRIL 4, 2019

DATE: March 27, 2019

TO: Wally Wysopal, City Manager

FROM: Paul Bolin, Assistant Executive HRA Director

SUBJECT: Public Hearing – Land Sale – NS Rail Redevelopment

Staff and Sherman Associates have worked through a maze of issues over the past two years, trying to move this project forward. The project now has the preliminary approvals it needs, from Metro Transit and the Anoka County Regional Rail Authority, to move forward with purchasing the property and starting construction this summer.

In order to sell any property, the Authority is required to hold a public hearing and adopt a resolution authorizing the sale of the property.

RECOMMENDATION

Staff recommends the Authority hold a public hearing and then adopt the attached resolution authorizing the sale of the Northstar Rail property, to Sherman Associates, as described in the development agreement.

**HOUSING AND REDEVELOPMENT AUTHORITY
IN AND FOR THE CITY OF FRIDLEY
COUNTY OF ANOKA
STATE OF MINNESOTA**

HRA RESOLUTION NO. 2019-__

**A RESOLUTION AUTHORIZING THE SALE OF PROPERTY BY THE HOUSING
AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF FRIDLEY,
MINNESOTA**

BE IT RESOLVED by the Board of Commissioners (the "Commissioners") of the Housing and Redevelopment Authority in and for the City of Fridley, Minnesota (the "Authority") as follows:

Section 1. Recitals.

- 1.01. It has been proposed that the Authority sell certain property (the "Property") described below:

Legal Description:	Street Address
Lots 1, 1A, 2, 2A & 3, Fridley Northstar Station East	6050 Main Street NE

Section 2. Findings.

- 2.01. The Authority hereby finds that it has approved and adopted a development program known as the Modified Redevelopment Plan for its Redevelopment Project No. 1 (the "Redevelopment Program") pursuant to Minnesota Statutes, Section 469.001 et seq.
- 2.02. The Authority hereby finds that it has approved and adopted a redevelopment agreement with Sherman Associates to construct multi-family housing on the property surrounding the Northstar Rail Station
- 2.03. The Authority hereby finds that it has performed all actions required by Minnesota Statutes for the sale of the Property.
- 2.04. The Authority hereby finds that the sale of the Property promotes the objectives as outlined in its Redevelopment Program and the Plan.

-

Section 3. Approval of the Sale.

3.01 The sale of the Property is hereby approved.

Section 4. Authorization for Execution and Delivery.

4.01. The Chairman, the Executive Director and Assistant Executive Director are hereby authorized to execute and deliver any documents necessary to effect the sale of the Property.

PASSED AND ADOPTED BY THE HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF FRIDLEY, MINNESOTA, THIS 4th DAY OF APRIL, 2019.

WILLIAM B. HOLM - CHAIRPERSON

ATTEST:

WALTER T. WYSOPAL, EXECUTIVE DIRECTOR



ACTION ITEM

HRA MEETING OF APRIL 4, 2019

To: Wally Wysopal, Executive Director of HRA
From: Paul Bolin, Assistant Executive Director
Date: March 29, 2019
Re: Amendment to Redevelopment Contract – Fridley Investments LLC – 6431 University

The development contract with Fridley Investments, has a property closing date of May 1, 2019. As we continue to work with Steve Dunbar and his group, it has become apparent that additional time is needed for due diligence by the development group.

Steve Dunbar has asked that the contract be amended to move the closing date back. While Steve Dunbar and his group are working towards a June closing, we thought it best to amend the contract to allow for closing as late as August 1, 2019.

We are simply changing the date in Section 3.1(d):

The Closing shall occur on or before ~~May 1, 2019~~ August 1, 2019 unless an earlier date is mutually agreeable.

Staff Recommendation:

Staff recommends the Authority approve a motion to amend the existing development contract to accommodate moving the closing date. Attorney Casserly will provide a resolution prior to next week's meeting.



AGENDA ITEM
HOUSING & REDEVELOPMENT AUTHORITY
APRIL 4, 2019

DATE: March 27, 2019

TO: Wally Wysopal, City Manager

FROM: Paul Bolin, Assistant Executive HRA Director

SUBJECT: Public Hearing – Land Sale – 6431 University Avenue

As mentioned at last month's meeting, there were some minor changes likely to be made to the development contract. Due to those changes, we asked that the Authority postpone the public hearing on the land sale until April 4th.

A public hearing and resolution authorizing the sale of property are required whenever the Authority sells property. This action will allow the transfer of ownership to proceed when both parties are ready to close on the property.

RECOMMENDATION

Staff recommends the Authority hold a public hearing and then adopt the attached resolution authorizing the sale of the former City Hall property, to Fridley Investments, LLC, as described in the development agreement.

**HOUSING AND REDEVELOPMENT AUTHORITY
IN AND FOR THE CITY OF FRIDLEY
COUNTY OF ANOKA
STATE OF MINNESOTA**

HRA RESOLUTION NO. 2019-__

**A RESOLUTION AUTHORIZING THE SALE OF PROPERTY BY THE HOUSING
AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF FRIDLEY,
MINNESOTA**

BE IT RESOLVED by the Board of Commissioners (the "Commissioners") of the Housing and Redevelopment Authority in and for the City of Fridley, Minnesota (the "Authority") as follows:

Section 1. Recitals.

- 1.01. It has been proposed that the Authority sell certain property (the "Property") described below:

Legal Description:
See Attached

Street Address
6431 University Ave. NE

Section 2. Findings.

- 2.01. The Authority hereby finds that it has approved and adopted a development program known as the Modified Redevelopment Plan for its Redevelopment Project No. 1 (the "Redevelopment Program") pursuant to Minnesota Statutes, Section 469.001 et seq.
- 2.02. The Authority hereby finds that it has approved and adopted a redevelopment agreement with Fridley Investments, LLC to construct senior housing on the former Municipal Center property.
- 2.03. The Authority hereby finds that it has performed all actions required by Minnesota Statutes for the sale of the Property.
- 2.04. The Authority hereby finds that the sale of the Property promotes the objectives as outlined in its Redevelopment Program and the Plan.

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Section 3. Approval of the Sale.

3.01 The sale of the Property is hereby approved.

Section 4. Authorization for Execution and Delivery.

4.01. The Chairman, the Executive Director and Assistant Executive Director are hereby authorized to execute and deliver any documents necessary to effect the sale of the Property.

PASSED AND ADOPTED BY THE HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF FRIDLEY, MINNESOTA, THIS 4th DAY OF APRIL, 2019.

WILLIAM B. HOLM - CHAIRPERSON

ATTEST:

WALTER T. WYSOPAL, EXECUTIVE DIRECTOR

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DESCRIPTION OF REDEVELOPMENT PROPERTY

Lot 6, except the North 21 feet of the East 79 feet, Lots 7,8,,9,10,11,12,13,15 and 16, all in Block 1, Fridley Plaza Center, Anoka County, Minnesota

and

Lot 2, Block 2, Fridley Plaza Center, Anoka County, Minnesota

and

North 21 feet of the East 79 feet of Lot 6, Block 1, Fridley Plaza Center, Anoka County, Minnesota

Abstract Property

**Fridley HRA
Housing Program Summary
Cover Page
April 4, 2019 HRA Meeting**

Report

Description

Loan Summary Report

Loan application activity (e.g. mailed out, in process, closed loans) for year-to-date.

Also shows the number of field appointments scheduled and completed for the Remodeling Advisor Services administered by Center for Energy and Environment.

Home Energy Squad

E-mail detailing recent activity and year to date.

At the time of printing this packet, Staff had not received the monthly reports from CEE. They will be provided at next week's meeting.