

**HASTINGS ECONOMIC DEVELOPMENT
AND REDEVELOPMENT AUTHORITY**

RESOLUTION NO. 2021-15

RESOLUTION AMENDING RESOLUTION NO. 2021-10

Commissioner _____ introduced the following resolution and moved its adoption:

WHEREAS, by Resolution No. 2021-10, the Board of Commissioners (“Board”) of the Hastings Economic Development and Redevelopment Authority (the “HEDRA”) approved a Contract for Private Development (“Original Agreement”) between the HEDRA and Hastings AH I, LLLP;

WHEREAS, the parties have agreed to revise the Original Agreement to remove the requirement for a Minimum Assessment Agreement as provided in the revised Contract for Private Development between the HEDRA and Hastings AH I, LLLP, attached hereto (“Agreement”)

BE IT RESOLVED BY the Board of the HEDRA, that Resolution No. 2021-10 is amended as follows:

1. The attachment to Resolution No. 2020-10 is replaced with the Agreement attached hereto;
2. Except as amended by this Resolution all other terms and provisions of Resolution No. 2020-10 shall continue in force and effect;

Commissioner _____ seconded the resolution and upon being put to a vote it was adopted:

Ayes:
Nays:
Absent:

The resolution was duly adopted this 9th day of September 2021.

Dennis Peine, President

ATTEST:

Eric Maass, Secretary

CONTRACT
FOR
PRIVATE DEVELOPMENT

By and Between

**THE HASTINGS ECONOMIC DEVELOPMENT
AND REDEVELOPMENT AUTHORITY**

and

HASTINGS AH I, LLLP

DRAFTED BY:

Campbell Knutson

Professional Association

Grand Oak Office Center I

860 Blue Gentian Road, Suite 290

Eagan, Minnesota 55121

Telephone: (651) 452-5000

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I. DEFINITIONS	2
ARTICLE II. REPRESENTATIONS AND WARRANTIES.....	5
SECTION 2.1 REPRESENTATIONS AND WARRANTIES BY THE AUTHORITY	5
SECTION 2.2 REPRESENTATIONS AND WARRANTIES BY THE DEVELOPER.....	5
ARTICLE III. CONSTRUCTION OF MINIMUM IMPROVEMENTS.....	7
SECTION 3.1 CONSTRUCTION OF MINIMUM IMPROVEMENTS	7
SECTION 3.2 CONSTRUCTION PLANS	7
SECTION 3.3 COMMENCEMENT AND COMPLETION OF CONSTRUCTION.....	8
SECTION 3.4 CERTIFICATE OF COMPLETION	9
SECTION 3.5 AFFORDABILITY COVENANTS; QUALIFICATION OF THE TIF DISTRICT.....	10
SECTION 3.6 AFFORDABLE HOUSING REPORTING.....	11
SECTION 3.7 PROPERTY MANAGEMENT COVENANT	11
ARTICLE IV. INSURANCE	11
SECTION 4.1 INSURANCE.....	11
SECTION 4.2 SUBORDINATION.....	14
SECTION 4.3 CONDEMNATION	14
ARTICLE V. PROPERTY ACQUISITION; ISSUANCE OF TIF NOTE.....	15
SECTION 5.1 STATUS OF DEVELOPMENT PROPERTY	15
SECTION 5.2 ISSUANCE OF TIF NOTE	15
SECTION 5.3 DEVELOPER ACKNOWLEDGMENTS	17
SECTION 5.4 RECORDS	17
SECTION 5.5 BUSINESS SUBSIDY.....	17
SECTION 5.6 PAYMENT OF AUTHORITY COSTS	18
ARTICLE VI. USE OF TAX INCREMENT; TAXES.....	18
SECTION 6.1 USE OF TAX INCREMENT	18
SECTION 6.2 REIMBURSEMENT OF TAX INCREMENT.....	18
SECTION 6.3 REVIEW OF TAXES	19
SECTION 6.4 RIGHT TO COLLECT DELINQUENT TAXES.....	19
ARTICLE VII. OTHER FINANCING.....	19
SECTION 7.1 GENERALLY.....	19
SECTION 7.2 AUTHORITY'S OPTION TO CURE DEFAULT ON MORTGAGE	19
SECTION 7.3 MODIFICATION; SUBORDINATION	20

ARTICLE VIII. PROHIBITIONS AGAINST ASSIGNMENT AND TRANSFER, INDEMNIFICATION.....	20
SECTION 8.1 REPRESENTATION AS TO DEVELOPMENT.....	20
SECTION 8.2 PROHIBITION AGAINST TRANSFER OF DEVELOPMENT PROPERTY AND ASSIGNMENT OF AGREEMENT	20
SECTION 8.3 RELEASE AND INDEMNIFICATION COVENANTS	22
ARTICLE IX. EVENTS OF DEFAULT	22
SECTION 9.1 EVENTS OF DEFAULT DEFINED.....	22
SECTION 9.2 REMEDIES ON DEFAULT.....	23
SECTION 9.3 NO REMEDY EXCLUSIVE.....	24
SECTION 9.4 NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER.....	24
SECTION 9.5 ATTORNEY’S FEES	24
SECTION 9.6 RISK OF CERTAIN LOSSES; UNAVOIDABLE DELAY	25
SECTION 9.7 DEVELOPER REMEDIES ON AUTHORITY EVENTS OF DEFAULT.....	25
ARTICLE X. ADDITIONAL PROVISIONS.....	25
SECTION 10.1 RESTRICTIONS ON USE.....	25
SECTION 10.2 PROVISIONS NOT MERGED WITH DEED.....	25
SECTION 10.3 EQUAL EMPLOYMENT OPPORTUNITY.....	26
SECTION 10.4 CONFLICTS OF INTEREST.....	26
SECTION 10.5 WAIVER AND RELEASE BY DEVELOPER.....	26
SECTION 10.6 TITLES OF ARTICLES AND SECTIONS	26
SECTION 10.7 NOTICES AND DEMANDS	26
SECTION 10.8 DISCLAIMER OF RELATIONSHIP	27
SECTION 10.9 COVENANTS RUNNING WITH THE LAND.....	27
SECTION 10.10 COUNTERPARTS	28
SECTION 10.11 LAW GOVERNING.....	28
SECTION 10.12 RE-EXECUTION OF DOCUMENTS	28
SECTION 10.13 TERMINATION.....	28
SCHEDULE A.....	A-1
SCHEDULE B.....	B-1
SCHEDULE C.....	C-1
SCHEDULE D.....	D-1
SCHEDULE E.....	E-1

CONTRACT FOR PRIVATE REDEVELOPMENT

THIS AGREEMENT, made on or as of the ___ day of _____, 2021 (“Effective Date”) by and between the **HASTINGS ECONOMIC DEVELOPMENT AND REDEVELOPMENT AUTHORITY**, a public body corporate and politic under the laws of the State of Minnesota (the "Authority") and **HASTINGS AH I, LLLP**, a Minnesota limited liability limited partnership (the "Developer").

WITNESSETH:

WHEREAS, the Authority was created pursuant to Minnesota Statutes, Sections 469.090 through 469.1082, as amended, and was authorized to transact business and exercise its powers by a resolution of the City Council of the City of Hastings (“City”); and

WHEREAS, the Authority has determined that there is a need for the Authority to take certain actions it deems necessary in order to encourage, ensure and facilitate development and development by the private sector of underutilized, inappropriately used and unused land located within the corporate limits of the City which are necessary to provide additional employment opportunities for residents of the City, to provide affordable housing within the City, and to improve the tax based and to improve the general economy of the City; and

WHEREAS, in furtherance of these objectives the City and the Authority have established, pursuant to Minnesota Statutes, Sections 469.001 through 469.047, as amended, the Modified Development Plan (“Development Plan”) for the Vermillion Street Redevelopment Area (the “Project Area”) in the City to encourage and provide maximum opportunity for private development and development of certain property in the City which is not now in its highest and best use; and

WHEREAS, in furtherance of these objectives and in connection with the Project Area, the City and the Authority have also established Tax Increment Financing (Housing) District No. 8 (the “Tax Increment District”) pursuant to the authority granted in Minn, Stat. 469.174, et seq., as amended (the “Tax Increment Act”); and

WHEREAS, Developer is under contract to acquire certain property within the Tax Increment District and construct an apartment complex with approximately 90 units, with at least 40% or more of the unit made affordable to families at or below sixty percent (60%) of the area median income; and

WHEREAS, in order to make the Developer’s proposed development economically feasible for the Developer to construct, the Authority is prepared to reimburse the Developer for a portion of the land acquisition costs and certain site improvement costs related to the Minimum Improvements; and

WHEREAS, the Authority believes that the development of the TIF District pursuant to this Agreement, and fulfillment generally of this Agreement, are in the vital and best interests of the City and the health, safety and welfare of its residents and is in accord with the public purposes and provisions of the applicable state and local laws and requirements under which development in the Project Area has been undertaken and is being assisted.

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

ARTICLE I. DEFINITIONS

In this Agreement, unless a different meaning clearly appears from the context:

“Affiliate” means a corporation, partnership, association, limited liability company or similar entity organized under the laws of the United States of America or a state thereof which is directly controlled by or under common control with the Developer. For purposes of this definition, control means the power to direct management and policies through the ownership of at least a majority of its voting securities, or the right to designate or elect at least a majority of the members of its governing body by contract or otherwise;

"Agreement" [or "Contract"] means this Contract for Private Development by and between the Authority and the Developer, as the same may be from time to time modified, amended or supplemented.

"Articles and Sections" mentioned by number only are the respective Articles and Sections of this Agreement so numbered.

“Authority” means the Hastings Economic Development and Redevelopment Authority of the City.

“Authority Representative” means the Executive Director of the Authority.

“Authorizing Resolution” means the resolution of the Authority authorizing the issuance of the TIF Note and the approval of this Agreement.

“Available Tax Increment” means on such Payment Date, ninety percent (90%) of the Tax Increment attributable to the Development Property and paid to the City by the County in the six months preceding the Payment Date. Available Tax Increment will not include any Tax Increment if, as of any Payment Date, there is an uncured Event of Default under this Agreement.

“Board” means the Board of Commissioners of the Authority.

“Certificate of Completion” means a certification in the form of the certificate contained in Schedule D attached hereto and provided to the Developer pursuant to Section 3.4.

"City" means the City of Hastings, Minnesota.

“Construction Plans” means the plans, specifications, drawings and related documents on the construction work to be performed by the Developer on the Development Property, which Plans: (a) areas detailed as the plans, specifications, drawings, and related documents which are submitted to the City for issuance of a building permit for the Minimum Improvements; (b) shall include at least the following: (1) site plan; (2) foundation plan; (3) elevations and floor plans; (4) landscape plan; and, (5) such other plans or supplements to the foregoing plans as the City may reasonably request; and (c) shall be consistent with the Preliminary Plans approved by the City.

"County" means the Dakota County, Minnesota.

“Declaration” means the Declaration of Restrictive Covenants attached as Schedule C hereto.

"Developer" means Hastings AH I, LLLP, a Minnesota limited liability limited partnership, or any assigns that have received prior written approval from the Authority.

“Development District” means Vermillion Street Redevelopment Area in the City.

"Development Property" means the real property as legally described in Schedule A attached hereto.

"Event of Default" means an action by the Developer listed in Article IX of this Agreement.

“Material Change” means a change in Construction Plans that has a material adverse effect on the generation of tax increment or reduces the number of units of rental housing.

“Maturity Date” means the date that the TIF Note has been paid in full in accordance with its 15 year maturity, or terminated, whichever is earlier.

"Minimum Improvements" means the construction by the Developer on the Development Property of a multifamily rental housing facility, consisting of approximately 90 rental units, consisting of both one and two-bedroom units, and associated parking as specified in the Construction Plans to be approved by the Authority and to be completed in accordance with all applicable local, state and federal regulations governing such improvements.

“Mortgage” means any mortgage obtained by the Developer from a third party lender that is secured in whole or in part, with the Development Property and that is a permitted encumbrance pursuant to the provisions of Article VII of this Agreement.

“Party” [or “Parties”] means the Developer and the Authority.

“Project” means the Development Property and the completed Minimum Improvements thereon.

“Project Area” means the geographic area of the Development District.

“Qualified Costs” means the following categories of costs that may be reimbursed to the Developer by the Authority out of Tax Increment:

- (i) Cost of acquisition of the Development Property;
- (ii) Cost of site improvements and preparation of the Development Property;
- (iii) Utility costs to serve the Development Property;
- (iv) Insurance and payment or performance bond premiums; professional fees, including architectural and engineering fees and expenses; and
- (v) Such other costs as are incurred by the Developer and reasonably determined by the Authority to constitute Qualified Costs under the TIF Act.

“State” means the State of Minnesota.

“Tax Increment Act” or “TIF Act” mean Minnesota Statutes, Sections 469.174 through 469.1794 inclusive.

“Tax Increment District” or “TIF District” mean Tax Increment Financing (Housing) District No. 8.

“Termination Date” means the earlier of (i) the date the TIF District terminates by law, (ii) the date the final payment of principal and interest on the TIF Note has been paid in full or defeased or the TIF Note has been earlier terminated in accordance with its terms, (iii) the date this Agreement is terminated or rescinded in accordance with the terms hereunder, or (iv) when terminated at the request of the Developer.

“Tax Increment Note” or “TIF Note” means the Tax Increment Financing Revenue Note to be executed by the Authority and delivered to the Developer pursuant to Article V hereof, in the approximate principal amount of One Million Forty-Eight Thousand Nine Hundred Twelve and 20/100 Dollars (\$1,048,912.20), a copy of which is attached as Schedule B.

“TIF Note Payment Date” means each February 1 and August 1, commencing February 1, 2023, and thereafter to and including the Termination Date; provided, that if any such TIF Note Payment Date should not fall on a Business Day, the TIF Note Payment Date shall be the next succeeding Business Day.

“Unavoidable Delays” means delays outside the control of the Party claiming its occurrence which are the direct result of strikes, other labor troubles, unusually severe or

prolonged bad weather, Acts of God, fire or other casualty to the Minimum Improvements, litigation commenced by third parties which, by injunction or other similar judicial action, directly results in delays, or acts of any federal, state or local governmental unit (other than the Authority) which directly result in delays. Unavoidable delays shall not include delays in the Developer's obtaining permits or governmental approvals necessary directly to enable construction of the Minimum Improvements, if such delay is caused by the Developer.

ARTICLE II. REPRESENTATIONS AND WARRANTIES

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

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

(b) The Tax Increment District has been established as a housing district within the meaning of Minnesota Statutes, section 469.174, subd. 11.

(c) The Authority has created, adopted and approved the Tax increment District and Tax Increment Plan in accordance with the provisions of the Tax Increment Act.

(d) The development contemplated by this Agreement is conformance with the development objectives set forth in the Tax Increment Plan.

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

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

(a) The Developer is a Minnesota limited liability limited partnership organized and existing under the laws of the State of Minnesota, is authorized to transact business in this State, and has duly authorized the execution of this Agreement and the performance of its obligations under this Agreement. Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated by this Agreement, or the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with the terms of any indebtedness, agreement or instrument of whatever nature to which the Developer is now a party or by which it is bound.

(b) Subject to the conditions contained in Article III below, the Developer will construct and maintain the Minimum Improvements in accordance with the terms of this Agreement, the TIF Plan, and all applicable local, State and Federal laws and regulations

(including, but not limited to, the TIF Act, environmental, zoning, building code and public health laws and regulations).

(c) The construction of the Project to the size and scope contemplated by this Agreement would not have been undertaken by the Developer, and in the opinion of the Developer would not be economically feasible within the reasonably foreseeable future, without the assistance and benefit to the Developer provided in this Agreement.

(d) As of this date of execution of this Agreement, the Developer has received no notice or communication from any local, state or federal official that the anticipated activities of the Developer with respect to the Development Property may be or will be in violation of any environmental law or regulation

(e) There are no pending or threatened legal proceedings, of which the Developer has notice, contemplating the liquidation or dissolution of the Developer or threatening its existence, or seeking to restrain or enjoin the transactions contemplated by the Agreement, or questioning the authority of the Developer to execute and deliver this Agreement or the validity of this Agreement.

(f) Developer will use commercially reasonable efforts to obtain, in a timely manner, all required permits, licenses and approvals, and will meet, in a timely manner, 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.

(g) Developer shall pay the normal and customary City fees and expenses for the approval and construction of the Minimum Improvements including, but not limited to, building permit fees, sewer accessibility charges (SAC), water accessibility charges (WAC) and park dedication fees.

(h) The Developer will cooperate with the Authority, and the Authority will cooperate with the Developer with respect to any litigation commenced with respect to the Development Property or the Minimum Improvements.

(i) The financing arrangements which the Developer has obtained or will obtain to finance the acquisition of the Development Property and the construction of the Minimum Improvements, will be sufficient to enable the Developer to successfully complete the Minimum Improvements as contemplated by this Agreement. Developer shall provide a Financing Commitment to the Authority prior to the execution and recording of this Development Agreement.

(j) Whenever any Event of Default occurs and if the Authority shall employ attorneys or incur other expenses for the collection of payments due or to become due or for the enforcement of performance or observance of any obligation or agreement on the part of the Developer under this Agreement, the Developer 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 and paid for by the Authority.

(k) The Developer represents that, during the term of the Declaration, no more than twenty percent (20%) of the square footage of the Minimum Improvements will consist of commercial, retail or other nonresidential use. For purposes of this covenant, the underground parking, the common areas and amenity areas constructed for use by the tenants of the Minimum Improvements constitute residential uses.

(l) The Developer has made its own projections of Tax Increment and revenues to be generated from the Project and of the Developer's return on investment and the Developer has not relied on any assumptions, calculations, determinations or conclusions made by the Authority, its governing body members officers or agents, including the independent contractors, consultants and legal counsel, servants and employees thereof, with respect to the foregoing or in determining to proceed with the Project;

(m) The person or persons executing this Agreement and related agreements and documents on behalf of the Developer have the authority to do so and to bind the Developer by their actions.

ARTICLE III. CONSTRUCTION OF MINIMUM IMPROVEMENTS

Section 3.1. Construction of Minimum Improvements.

(a) The Developer agrees that it will construct the Minimum Improvements on the Development Property in accordance with the Construction Plans and will operate and maintain, preserve and keep the Minimum Improvements or cause the Minimum Improvements to be maintained, preserved and kept with the appurtenances and every part and parcel thereof in good repair and condition.

Section 3.2. Construction Plans.

(a) Before commencing construction of the Minimum Improvements, the Developer shall submit to the Authority the Construction Plans. The Construction Plans shall provide for construction of the Minimum Improvements and shall be in conformity with this Agreement, the TIF Plan, and all applicable State and local laws and regulations. The Authority shall approve the Construction Plans in writing (which shall be conclusively be deemed given upon issuance by the City of a building permit for the Minimum Improvements) if, in the reasonable discretion of the Authority: (i) the Construction Plans conform to the terms and conditions of this Agreement; (ii) the Construction Plans conform to the goals and objectives of the Development District Plan; (iii) the Construction Plans conform to all applicable federal, state and local law, ordinances, rules and

regulations; (iv) the Construction Plans are adequate to provide for the construction of the subject Minimum Improvements; (v) the Construction Plans do not provide for expenditures in excess of the funds which will be available to the Developer for the construction of the Minimum Improvements; and (vi) no Event of Default has occurred or is continuing after Developer's timeframe to cure has lapsed as outlined in Section 9.2. No approval by the Authority under this Section 3.2 shall relieve the Developer 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. No approval by the Authority shall constitute a waiver of an Event of Default. If approval of the Construction Plans is requested by the Developer in writing at the time of submission, such Construction Plans shall be deemed approved unless rejected in writing by the Authority, in whole or in part. Such rejections shall set forth in detail the reasons therefor based upon the criteria set forth in (i) through (vi) above, and shall be made within thirty (30) days after the date of receipt of final plans from the Developer. If the Authority fails to reject any Construction Plans submitted to the Authority within said thirty (30) day period, the Authority shall be deemed to have approved such plans. If the Authority rejects any Construction Plans in whole or in part, the Developer shall submit new or corrected Construction Plans within twenty (20) days after written notification to the Developer of the rejection. The provisions of this Section relating to approval, rejection and resubmission of corrected Construction Plans shall continue to apply until the Construction Plans have been approved by the Authority. The Authority's approval shall not be unreasonably withheld. Said approval shall constitute a conclusive determination that the approved Construction Plans and the Minimum Improvements if constructed pursuant thereto comply to the Authority's satisfaction with the provisions of this Agreement relating thereto.

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

(b) If the Developer desires to make any Material Change in any Construction Plans after their approval by the Authority, the Developer shall submit the proposed change to the Authority for its approval.

Section 3.3. Commencement and Completion of Construction. Subject to Unavoidable Delays, the Developer shall commence construction of the Minimum Improvements by December 31, 2021. Subject to Unavoidable Delays, the Developer shall substantially complete the construction of the Minimum Improvements by December 31, 2022.

All work with respect to the Minimum Improvements to be constructed or provided by the Developer on the Development Property shall be in conformity with the Construction Plans as submitted by the Developer and approved by the Authority. For purposes of this Agreement, construction shall be deemed to commence upon issuance of a building permit for construction of the Minimum Improvements.

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

Section 3.4. Certificate of Completion.

(a) Promptly after completion of the Minimum Improvements in accordance with those provisions of the Agreement relating solely to the obligations of the Developer to construct the Minimum Improvements (excluding the date for completion thereof), the Authority will furnish the Developer with a Certificate of Completion in the recordable form attached hereto as Schedule D. Such Certificate of Completion by the Authority shall be furnished to Developer within thirty (30) days after request by Developer, and shall be a conclusive determination of satisfaction and termination of the agreements and covenants in the Agreement and in the Deed with respect to the obligations of the Developer, and its successors and assigns, to construct the Minimum Improvements and the date for the completion thereof.

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

(c) If the Authority shall refuse or fail to provide the Certificate of Completion in accordance with the provisions of this Section 3.4 of this Agreement, the Authority shall, within thirty (30) days after written request by Developer for the Certificate of Completion, provide the Developer with a written statement, indicating in adequate detail in what respects the Developer

has failed to complete the Minimum Improvements in accordance with the provisions of the Agreement, or is otherwise in default, and what measures or acts will be necessary, in the opinion of the Authority, for the Developer to take or perform in order to obtain such Certificate of Completion.

(d) The construction of the Minimum Improvements shall be deemed to be completed when the Minimum Improvements are, as reasonably determined by the Authority, substantially completed in accordance with the Construction Plans and when a certificate of occupancy is issued.

(e) The Certificate of Completion issued for the Minimum Improvements shall conclusively satisfy and terminate the agreements and covenants of the Developer in this Agreement to construct the Minimum Improvements.

Section 3.5. Affordability Covenants; Qualification of the TIF District. Developer agrees that the Minimum Improvements are subject to the following affordability covenants:

(a) As of the date hereof, the Developer expects that the Minimum Improvements will include the mix of Rental Housing Units found in Schedule E attached hereto. The Developer will cause at least one forty percent (40%) of the Rental Housing Units in the Minimum Improvements to be available to families at or below sixty percent (60%) of the area median income, all as further described in the Declaration attached hereto as Schedule C. Notwithstanding anything to the contrary in the TIF Act, the restrictions will remain in effect for until the earlier of: (i) the twenty-five (25) year period described in the Declaration; or (ii) the Termination Date. On the date of execution of this Agreement, the Developer will deliver the executed Declaration to the Authority in recordable form.

(b) The Developer will promptly notify the Authority if at any time during the term of the Declaration the number of Rental Housing Units in the Minimum Improvements occupied by Qualifying Tenants (as defined in the Declaration) or held vacant and available for occupancy by Qualifying Tenants pursuant to the Declaration are fewer than the number required by the terms of the Declaration.

(c) The Authority and its representatives will have the right at all reasonable times during normal business hours while the covenants in this Section are in effect, after reasonable written notice to inspect, examine and copy all books and records of the Developer and its successors and assigns relating to the covenants described in this Section and in the Declaration.

(d) Pursuant to Section 3.6, the Developer must submit to the evidence of tenant incomes, showing that the Minimum Improvements meet the income requirements set forth in the Declaration. The Authority will review the submitted evidence related to the income restrictions required by Section 469.1761 of the TIF Act on an annual basis to determine that the TIF District remains a housing district under the TIF Act.

(e) If the Authority determines, based on the reports submitted by the Developer or if the Authority receives notice from the State Department of Revenue, the State Auditor, any Tax Official or any court of competent jurisdiction that the TIF District does not qualify as a "housing district" due to action or inaction of the Developer, this type of event will be deemed an Event of Default of the Developer under this Agreement; provided, however, that the Authority may not exercise any remedy under this Agreement so long as the determination is being contested and has not been finally adjudicated. In addition to any remedies available to the Authority under Article IX hereof, the Developer will indemnify, defend and hold harmless the Authority for any damages or costs resulting therefrom.

Section 3.6. Affordable Housing Reporting. At least annually, no later than April 1 of each year commencing on the April 1 first following the issuance of the Certificate of Completion for the Minimum Improvements, the Developer shall provide a report to the Authority evidencing that the Developer complied with the income affordability covenants set forth in Section 3.5 hereof during the previous calendar year. The income affordability reporting shall be on the form entitled "Tenant Income Certification" from the Minnesota Housing Finance Agency (MHFA HTC Form 14), or if unavailable, any similar form. The Authority may require the Developer to provide additional information reasonably necessary to assess the accuracy of such certification. The Developer shall send affordable housing reports to the Authority until the Declaration terminates.

Section 3.7. Property Management Covenant. The Developer shall cause its property manager to operate the Minimum Improvements in accordance with all applicable legal requirements.

ARTICLE IV INSURANCE

Section 4.1. Insurance.

(a) The Developer 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 non-reporting form on the so called "all risk" form of policy;

(ii) Comprehensive general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations, Broadening Endorsement including contractual 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) Worker's compensation insurance, with statutory coverage and employer's liability protection.

The policies of insurance required pursuant to clauses (i) and (ii) above shall be in form and content reasonably satisfactory to the Authority and shall be placed with financially sound and reputable insurers licensed to transact business in the State, the liability insurer to be rated A or better in Best's Insurance Guide. The policy of insurance delivered pursuant to clause (i) above shall contain provision that coverage afforded under the policies shall not be cancelled without at least thirty (30) days' advanced written notice to the Authority, or ten (10) days' notice for non-payment of premium.

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

(i) Insurance against loss and/or damage to the Minimum Improvements under a policy or policies covering such risks as are ordinarily insured against by similar businesses, including (without limiting the generality of the foregoing) fire, extended coverage, all risk vandalism and malicious mischief, boiler explosion, water damage, demolition cost, debris removal, and collapse in an amount not less than the full insurable replacement value of the Minimum Improvements. No policy of insurance shall be so written that the proceeds thereof will produce less than the minimum coverage required by the preceding sentence, by reason of co-insurance provisions or otherwise, without the prior consent thereto in writing by the Authority. The term "full insurable replacement value" shall mean the actual replacement cost of the Minimum Improvements (excluding foundation and excavation costs and costs of underground flues, pipes, drains and other uninsurable items) and equipment. All policies evidencing insurance required by this subparagraph (i) with respect to the Minimum Improvements shall be carried in the name of the Developer and shall contain standard clauses which provide for Net Proceeds of insurance resulting from claims per casualty thereunder to the Minimum Improvements which are equal to or less than \$100,000 for loss or damage covered thereby to be made payable directly to the Developer, and Net Proceeds from such claims in excess of \$100,000 to be made payable to a construction escrow account for the reconstruction of the Minimum Improvements. The Developer shall have the sole discretion to settle any insurance claims, provided, however, the Authority shall be entitled to receive copies of all information with regard to the insurance claim, notices of meetings, negotiations and proceedings with regard to the claim and the right to participate in any such meetings or hearings.

(ii) Comprehensive general public liability insurance, including personal injury liability (with employee exclusion deleted), and automobile insurance, including owned, non-owned and hired automobiles, against liability for injuries to persons and/or property, in the

minimum amount for each occurrence and for each year of \$2,000,000, for public liability and shall be endorsed to show the Authority as additional insured.

(iii) Such other insurance, including worker's compensation insurance respecting all employees of the Developer, in such amount as is customarily carried by like organizations engaged in like activities of comparable size and liability exposure; provided that the Developer may be self-insured with respect to all or any part of its liability for worker's compensation.

(c) All insurance required in Article IV of this Agreement shall be taken out and maintained in responsible insurance companies selected by the Developer which are authorized under the laws of the State to assume the risks covered thereby. The Developer will deposit annually with the Authority binders 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 IV of this Agreement each policy shall contain a provision that the insurer shall not cancel nor modify it without giving at least thirty (30) days' advanced written notice to the Developer and the Authority before the cancellation or modification becomes effective or ten (10) days' notice for non-payment of premium. Not less than fifteen (15) days prior to the expiration of any policy, the Developer 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 IV of this Agreement, or that there is no necessity therefor under the terms hereof. In lieu of separate policies, the Developer may maintain a single policy, blanket or umbrella policies, or a combination thereof, having the coverage required herein, in which event the Developer shall deposit with the Authority a certificate or certificates of the respective insurers as to the amount of coverage in force upon the Minimum Improvements.

(d) The Developer agrees to notify the Authority immediately in the case of damage exceeding \$250,000 in amount to, or destruction of, the Minimum Improvements or any portion thereof resulting from fire or other casualty. In the event that any such damage does not exceed \$250,000, the Developer will forthwith repair, reconstruct and restore the Minimum Improvements to substantially the same or an improved condition or value as it existed prior to the event causing such damage and, to the extent necessary to accomplish such repair, reconstruction and restoration, the Developer will apply the Net Proceeds of any insurance relating to such damage received by the Developer to the payment or reimbursement of the costs thereof. Net Proceeds of any insurance relating to such damage shall be paid directly to the Developer.

In the event the Minimum Improvements or any portion thereof is destroyed by fire or other casualty and the damage or destruction is estimated to equal or exceed \$250,000, then the Developer shall within two hundred ten (210) days after such damage or destruction, subject to Unavoidable Delays, and receipt of the proceeds of insurance relating to such damage or destruction, proceed forthwith to repair, reconstruct and restore the damaged Minimum Improvements to substantially the same condition or utility value as it existed prior to the event causing such damage or destruction and, to the extent necessary to accomplish such repair,

reconstruction and restoration, the Developer will apply the Net Proceeds of any insurance relating to such damage or destruction received by the Developer to the payment or reimbursement of the costs thereof. Any Net Proceeds remaining after completion of construction shall be disbursed to the Developer.

(e) The Developer shall use commercially reasonable efforts to complete the repair, reconstruction and restoration of the Project, whether or not the proceeds of insurance received by the Developer for such purposes are sufficient to pay for the same. Any proceeds remaining after completion of the repair, reconstruction, and restoration of the Project shall be the sole property of the Developer.

(f) The foregoing notwithstanding, if the Developer is diligently restoring the Project, said two hundred ten (210) day period shall be extended so long as Developer continues to use all commercially reasonable efforts to complete the restoration.

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

Section 4.2. Subordination. Notwithstanding anything to the contrary herein, the rights of the Authority with respect to the receipt and application of any insurance proceeds shall, in all respects, be subordinate and subject to the rights of any Holder under a Mortgage allowed pursuant to Article VII of this Agreement.

Section 4.3. Condemnation.

(a) In the event that title to and possession of the Development Property, or any part thereof shall be taken in condemnation or by exercise of the power of eminent domain by any governmental body or other person the Developer shall, with reasonable promptness notify the Authority as to the nature and extent of such taking. The Developer shall use its sole discretion to settle any condemnation claims; provided, however, the Authority shall be entitled to receive copies of all notices of meetings, negotiations and proceedings with regards to such claim and to participate in any such meetings or hearings unless the Authority is the condemning authority.

(b) In the event of a substantial taking of the Development Property or of the Minimum Improvements which materially interferes with the Developer's ability to continue to operate its business from the Development Property, the Developer may terminate this Agreement upon written notice to the Authority, retain the Net Proceeds of any condemnation award and be relieved of any and all further liability under this Agreement.

(c) In the event a condemnation or taking does not involve a substantial portion of the Development Property or the Minimum Improvements to the extent that it materially interferes with the Developer's ability to continue to operate its business from the Development Property, then the Developer shall proceed to forthwith repair, reconstruct and restore the Development Property and the Minimum Improvements to the extent possible. The Net proceeds of the condemnation award shall be applied by the Developer as provided in subparagraphs (d) - (g) of

Section 4.1 for insurance proceeds, to the extent such provisions are applicable. Any Net Proceeds from condemnation remaining after completion of such repairs, construction and restoration shall be remitted to the Developer.

**ARTICLE V.
PROPERTY ACQUISITION; ISSUANCE OF TIF NOTE**

Section 5.1 Status of Development Property. The Development Property consists of the parcel legally described in Schedule A hereof. As of the date of this Development Agreement, the Developer is under contract to acquire the Development Property. The Developer acknowledges that the Authority has no obligation to acquire any of the Development Property.

Section 5.2 Issuance of TIF Note.

(a) In order to make construction of the Minimum Improvements financially feasible, the Authority will reimburse the Developer for a portion of the Qualified Costs incurred by the Developer in accordance with this section. The parties agree that the completion of construction of Minimum Improvements on the Development Property by the Developer is essential to the successful completion of the Project. The construction costs of the Minimum Improvements are estimated to be at least \$14,544,000. The Developer shall pay the cost of the Minimum Improvements.

(b) The Authority shall issue and the Developer shall purchase the TIF Note in the maximum principal amount of One Million Forty-Eight Thousand Nine Hundred Twelve and 20/100 Dollars (\$1,048,912.20). The TIF Note will be issued as reimbursement of the Qualified Costs, and will be secured solely by Available Tax Increment. The TIF Note shall be dated, issued and delivered to the Developer by the Authority upon satisfaction of the following:

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

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

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

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

The terms of the TIF Note will be substantially those set forth in the form of the Note shown in Schedule B, and the Note will be subject to all terms of the Authorizing Resolution, which is incorporated herein by reference.

(c) All Minimum Improvements must be completed no later than the date that is less than five (5) years after April 6, 2021, the date of certification of the TIF District by the County (the "Five Year Date") and complies with the so-called five-year rule under Section 469.1763, subd. 3 of the Act. If the Minimum Improvements are not completed, the maximum amount of the TIF Note shall not exceed the Qualified Costs that are completed as of the Five Year Date.

(d) The amounts of the TIF Note and the interest thereon payable by the Authority to the Developer shall be solely pursuant to the formula set forth in the TIF Note, and shall be payable solely from the Available Tax Increments, as defined in the TIF Note.

(e) The payment dates of the TIF Note shall be the TIF Note Payment Dates. On each TIF Note Payment Date and subject to the provisions of the Note, the Authority shall pay Developer Available Tax Increments generated by the Project and received by the Authority during the preceding six months (or, with respect to the first TIF Note Payment Date, in the period commencing on the date of issuance of the TIF Note through the day prior to the first TIF Note Payment Date). All such payments shall be applied first to the payment of accrued interest and then to the payment of the principal of the Note.

(f) The TIF Note shall be a special and limited obligation of the Authority and not a general obligation of the Authority and only Net Tax Increments shall be used to pay on the TIF Note. The payment amounts due thereon shall be payable solely from Tax Increments from the Tax Increment District which are paid to the Authority and which the Authority is entitled to retain pursuant to the Tax Increment Act.

(g) The Authority's obligation to make payments on the TIF Note on any TIF Note Payment Date or any date thereafter shall be conditioned upon the requirement that (i) there shall not at that time be an Event of Default that has occurred and is continuing under this Agreement, (ii) this Agreement shall not have been rescinded and (iii) the Developer has paid its property taxes and the Authority has received from the County the Tax Increments generated by the Project.

(h) The TIF Note shall be governed by and payable pursuant to the additional terms thereof, as set forth in the Authorizing Resolution. In the event of any conflict between the terms of the TIF Note and the terms of this Section 5.2, the terms of the TIF Note shall govern. The issuance of the TIF Note pursuant and subject to the terms of this Agreement, and the taking by the Authority of such additional actions as counsel for the Authority may require in connection therewith, are hereby authorized and approved by the Authority.

(i) The Developer acknowledges that the Authority has made no warranties or representations to the Developer as to the amounts of Tax Increment that will be generated or that the "Available Tax Increment," as defined in the TIF Note, will be sufficient to pay the TIF

Note or interest payable thereon in whole or in part. Nor is the Authority warranting that it will have throughout the term of this Agreement and the TIF Note the continuing legal ability under State law to apply Tax Increment to the payment of the TIF Note, which continued legal ability is a condition precedent to the Authority's obligations under the TIF Note.

(j) The estimate of Qualified Costs eligible for Tax Increment is based on budget estimates submitted by the Developer. The Developer understands and acknowledges that if the Qualified Costs exceed the Tax Increment, the Developer will only be reimbursed for Qualified Costs in the principal amount of the TIF Note.

Section 5.3. Developer Acknowledgments. The Developer understands and acknowledges the following:

(a) The Authority makes no representations or warranties regarding the amount of the Tax Increment that will be available, or that revenues pledged to repayment of the TIF Note will be sufficient to pay all or any of the amounts payable on the TIF Note. The Authority additionally makes no representations as to the sufficiency of the Development Property (including soil conditions or the presence of hazardous substances on the Development Property) for the Project. Any estimates of Tax Increment available prepared by the Authority, or the Authority's independent municipal advisor, consultants, agents, employees or officers in connection with the TIF District or this Agreement are for the sole benefit of the Authority, and are not intended as representations on which the Developer or any purchaser of the TIF Note may rely. The Developer further understands and acknowledges that no assistance is being provided by the Authority under this Agreement except through the issuance of the TIF Note, and the Developer has no claim against any funds of the Authority except as set forth in the Authorizing Resolution and the TIF Note.

Section 5.4. Records. The Authority and its representatives shall have the right at all reasonable times after reasonable notice to inspect, examine, and copy all books and records of Developer relating to the Minimum Improvements. Developer shall also use its best efforts to cause the contractor or contractors, all sub-contractors and their agents and lenders to make their books and records relating to the Project available to Authority, upon reasonable notice, for inspection, examination and audit. Such records shall be kept and maintained by Developer until the Termination Date.

Section 5.5. Business Subsidy. The parties agree and understand that the financial assistance described in this Agreement does not constitute a business subsidy within the meaning of the Business Subsidy Act, because the assistance is for housing, an enumerated exception under Section 116J.993, subdivision 3(7) of the Business Subsidy Act. The Developer releases and waives any claim against the Authority and its governing body members, officers, agents, servants and employees thereof arising from application of the Business Subsidy Act to this Agreement, including without limitation any claim that the Authority failed to comply with the Business Subsidy Act with respect to this Agreement.

Section 5.6. Payment of Authority Costs. The Developer agrees that it will pay, within thirty (30) days after written notice from the Authority, the reasonable costs of consultants and attorneys retained by the Authority in connection with the creation of the TIF District and the negotiation in preparation of this Agreement and other incidental agreements and documents related to the development contemplated hereunder (the “Authority Costs”). The Authority will provide written reports describing the costs accrued under this Section upon request from the Developer, but not more often than intervals of forty-five (45) days. Notwithstanding the foregoing, any Authority Costs incurred by the Authority after the receipt by the Authority of the first payment of Tax Increment by the County will be paid by the Authority, and the Developer will have no obligation to pay any Authority Costs incurred after such date. The sum of \$15,000.00 which was deposited by the Developer upon filling its application for tax increment financing with the Authority, will be credited to the Developer’s obligation under this Section. Upon termination of this Agreement in accordance with its terms, the Developer remains obligated under this Section for costs incurred through the effective date of termination. Authority Costs do not include any payments for City and Authority staff costs and expenses.

ARTICLE VI USE OF TAX INCREMENT; TAXES

Section 6.1 Use of Tax Increment. Except with respect to its obligations to the Developer under this Agreement in connection with Tax Increment, the Authority shall be free to use any Tax Increment it receives from the TIF District for any purpose for which such Tax Increment may lawfully be used under the TIF Act and pursuant to other general provisions of State law, and the Authority shall have no obligations to the Developer with respect to the use of such Tax Increment.

Section 6.2. Reimbursement of Tax Increment. Section 469.176, subdivision 4d of the TIF Act limits the use of Tax Increment in housing district to specific permitted uses. Section 469.1771, subd. 3 of the TIF Act requires the Authority to pay the County for Tax Increment distributed to the Authority and used to assist a project which does not qualify for tax increment assistance. If the Authority is required to pay Tax Increment to the County or any other governmental entity pursuant to Section 469.1771 of the TIF Act, or any other provision of the TIF Act, by reason of any Developer act or omission that is substantially inconsistent with or contrary to the terms of this Agreement, the Developer agrees, for itself and its successors and assigns, to reimburse a similar amount to the Authority within sixty (60) days’ written notice from the Authority. This obligation to reimburse Tax Increment to the Authority shall run with the Development Property, and each subdivided part thereof, and shall bind the Developer and its successors and assigns. The Authority is authorized to undertake all necessary legal action to recover said amounts described in this Section from the Developer. Any sum owed under this Section but not reimbursed by the Developer or its successors and assigns shall remain a lien against the Development Property and the Minimum Improvements, or any part thereof, until paid.

Section 6.3. Review of Taxes.

(a) The Developer agrees that prior to the Termination Date, it will not cause a reduction in the real property taxes paid in respect of the Development Property through: (A) willful destruction of the Development Property or any part thereof; or (B) willful refusal to reconstruct damaged or destroyed property pursuant to Section 4.1 of this Agreement, except as provided in Sections 4.1(d)-(g). The Developer also agrees that it will not, prior to the Termination Date, seek exemption from property tax for the Development Property or any portion thereof or transfer or permit the transfer of the Development Property to any entity that is exempt from real property taxes and state law (other than any portion thereof dedicated or conveyed to the City in accordance with platting of the Development Property), or apply for a deferral of property tax on the Development Property pursuant to any law.

Section 6.4. Right to Collect Delinquent Taxes. The Developer acknowledges that the Authority is providing substantial aid and assistance in furtherance of the completion of the Minimum Improvements through issuance of the TIF Note. The Developer understands that the Tax Increment pledged to payment of the TIF Note is derived from real estate taxes on the Development Property and the Minimum Improvements, which taxes must be promptly, timely and fully paid. To that end, the Developer agrees for itself, its successors and assigns, in addition to the obligation pursuant to State Statute to pay real estate taxes, that it is also obligated by reason of this Agreement, through the Termination Date, to pay before delinquency all ad valorem taxes and special assessments levied on the Development Property and the Minimum Improvements. The Developer acknowledges that this obligation creates a contractual right on behalf of the Authority to sue the Developer or its successors and assigns to collect delinquent real estate taxes, and any penalty or interest thereon, and to pay over the same as a tax payment to the County. In any such suit, the Authority shall also be entitled to recover from the Developer the Authority's costs, expenses and reasonably attorney fees. Nothing in this Section shall prevent the Developer from contesting the amount of real estate taxes (whether because of valuation, classification or otherwise) in accordance with state law.

ARTICLE VII OTHER FINANCING

Section 7.1. Generally. Upon execution of this Agreement, the Developer shall submit to the Authority or provide access thereto for review by Authority staff, consultants and agents, evidence reasonably satisfactory to the Authority that Developer has available funds, or commitments to obtain funds, whether in the nature of mortgage financing, equity, grants, loans, or other sources sufficient for paying the cost of developing the Minimum Improvements, provided that any lender or grantor commitments shall be subject only to such conditions as are normal and customary in the commercial lending industry.

Section 7.2. Authority's Option to Cure Default on Mortgage. In the event that any portion of the Developer's funds is provided through mortgage financing, and there occurs a default under any Mortgage reviewed by the Authority pursuant to Article VII of this

Agreement, the Developer shall cause the Authority to receive copies of any notice of default received by the Developer from the holder of such Mortgage. Thereafter, the Authority shall have the right, but not the obligation, to cure any such default on behalf of the Developer within such cure periods as are available to the Developer under the Mortgage documents, to the extent the Mortgage documents permit the Authority to cure such default.

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

ARTICLE VIII PROHIBITIONS AGAINST ASSIGNMENT AND TRANSFER, INDEMNIFICATION

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

Section 8.2. Prohibition Against Transfer of Development Property and Assignment of Agreement. Also, for the foregoing reasons the Developer represents and agrees that prior to the Termination Date:

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

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

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

(ii) Any proposed transferee, by instrument in writing satisfactory to the Authority and in form recordable in the public land records of the County, shall, for itself and its successors and assigns, and expressly for the benefit of the Authority, have expressly assumed all of the obligations of the Developer under this Agreement as to the portion of the Development Property to be transferred and agreed to be subject to all the conditions and restrictions to which the Developer is subject as to such portion; provided, however, that the fact that any transferee of, or any other successor in interest whatsoever to, the Development 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 Development Property, the Minimum Improvements or any part thereof or the construction of the Minimum Improvements; it being the intent of the parties as expressed in this Agreement that (to the fullest extent permitted at law and in equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement) no transfer of, or change with respect to, ownership in the Development 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 Development Property that the Authority would have had, had there been no such transfer or change. In the absence of specific written agreement by the Authority to the contrary, no such transfer or approval by the Authority thereof shall be deemed to relieve the Developer, or any other party bound in any way by this Agreement or otherwise with respect to the Development Property, from any of its obligations with respect thereto.

(iii) Any and all instruments and other legal documents involved in effecting the transfer of any interest in this Agreement or the Development Property governed by this Article, shall be in a form reasonably satisfactory to the Authority, other than amendments to the Partnership Agreement for the sole purpose of effecting the transfers referenced in Section 8.2(a)(iv) and 8.2(a)(v) hereof. In the event the foregoing conditions are satisfied the Developer shall be released from its obligation under this Agreement, as to the portion of the Development Property that is transferred, assigned, or otherwise conveyed.

Section 8.3. Release and Indemnification Covenants.

(a) The Developer releases from and covenants and agrees that the Authority and the governing body members, officers, agents, servants and employees thereof (collectively, the “Indemnified Parties”) shall not be liable for and agrees to indemnify and hold harmless the Authority and the governing body members, officers, agents, servants and employees thereof 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 Development Property or the Minimum Improvements.

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

(c) The Indemnified Parties shall not be liable for any damage or injury to the persons or property of the company or its officers, agents, servants or employees or any other person who may be about the Development Property or Minimum Improvements due to any act of negligence of any person other than the Indemnified parties.

(d) None of the Indemnified Parties shall be liable to the Developer or to any third party for any consequential or other damages that may arise out of delays of any kind relating to activities undertaken pursuant to this Agreement, including but not limited to delays due to environmental conditions, court challenges or elements outside the control of the Authority.

(e) 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.

(f) Notwithstanding anything else contained in the foregoing to the contrary, none of the foregoing indemnifications of the Authority shall include or be deemed to include any matter which arises out of or is due to the responsibility or obligation of the Authority under this Agreement.

(g) Nothing in this Section is intended to waive any municipal liability limitations contained in Minnesota Statutes, particularly Chapter 466.

ARTICLE IX EVENTS OF DEFAULT

Section 9.1. Events of Default Defined. The following shall be "Events of Default" under this Agreement and the term "Event of Default" shall mean, whenever it is used in this

Agreement (unless the context otherwise provides), any one or more of the following events and the passing of any applicable cure period:

(a) Failure by the Developer to pay when due any payments required to be paid under this Agreement or to pay when due ad valorem taxes on the Development Property.

(b) The Developer:

(i) files any petition in bankruptcy or for any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the United States Bankruptcy Act or under any similar federal or State law;

(ii) the Developer institutes voluntary proceedings in bankruptcy, (ii) involuntary proceedings in bankruptcy shall be instituted against the Developer that are not discharged within one hundred twenty (120) days thereafter, (iii) any proceedings shall be instituted by or against the Developer under any Law relating to insolvency or bankruptcy reorganization, and in the case of an involuntary proceeding, that is not discharged within one hundred twenty (120) days after filing, (iv) a trustee or receiver shall be appointed for the Developer by any court of competent jurisdiction, or (v) the Developer shall make a general assignment for the benefit of its creditors;

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

(iv) is adjudicated as bankrupt or insolvent.

(c) Prior to the Maturity Date, the Developer appeals or challenges the Minimum Market Value of the Development Property or the Minimum Improvements under this Agreement, except as otherwise permitted in Article VI hereof.

(d) The Developer fails to comply with the requirements of the Declaration.

(e) Subject to Unavoidable Delays, failure by the Developer to commence, diligently pursue and complete construction of the Minimum Improvements, or portions thereof, pursuant to the terms, conditions and limitations of this Agreement.

(f) Failure by Developer to observe or perform any other covenant, condition, obligation or agreement on its part to be observed or performed hereunder.

(g) If any warranty or representation by the Developer in this Agreement is untrue in any material respect.

Section 9.2. Remedies on Default. Whenever any Event of Default by Developer referred to in Section 9.1 of this Agreement occurs, the Authority may take any one or more of the following actions and unless otherwise provided such actions may be taken only after providing thirty (30) days written notice to the Developer of the Event of Default and the Event

of Default has not been cured within said thirty (30) days or, if the Event of Default is by its nature incurable within thirty (30) days, the Developer does not provide assurances to the Authority reasonably satisfactory to the Authority that the Event of Default will be cured and will be cured as soon as reasonably possible:

(a) Suspend its performance under the Agreement and the TIF Note until it receives assurances from the Developer, deemed adequate by the Authority, that the Developer will cure its default and continue its performance under the Agreement. This suspension shall not, however, extend the time period during the Developer must complete the Minimum Improvements;

(b) Cancel and rescind this Agreement and the TIF Note;

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

Notwithstanding anything to the contrary set forth in this Agreement the lenders providing construction or permanent financing for the Project, the General Partner and any limited partner of the Developer shall have the right, but not the obligation, to cure an Event of Default during the cure period provided for the Developer.

Section 9.3. No Remedy Exclusive. No remedy 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 Developer 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 IX or as otherwise provided in this Agreement.

Section 9.4. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

Section 9.5. Attorney's Fees. Whenever any Event of Default occurs and either the Authority or the Developer shall employ attorneys or incur other expenses for the collection of payments due or to become due or for the enforcement of performance or observance of any obligation or agreement on the part of the Developer or the Authority under this Agreement, the Developer and the Authority agree that it shall, within thirty (30) days of written demand by the other party pay to the other party the reasonable fees of such attorneys and such other expenses

so incurred by such party; provided, that the Developer or the Authority shall only be obligated to make such reimbursement if the other party prevails in such collection or enforcement action.

Section 9.6. Risk of Certain Losses; Unavoidable Delay. The non-occurrence of any condition under this Agreement shall not give rise to any right otherwise provided in this Agreement when such failure or non-occurrence is due to the occurrence of an Unavoidable Delay event and without the fault of the Party claiming an extension of time to perform or excuse from performance. Without limitation of and in addition to the foregoing, if a Party hereto shall be delayed or hindered or prevented from the performance of any obligation required under this Agreement by reason of an Unavoidable Delay event, then the performance of such obligation shall be excused for the period of delay and the period for performance of any such act shall be extended for a period equivalent to the period of such delay. An extension of time for any such cause, if any, shall be limited to the period of delay due to such cause, which period shall be deemed to commence from the time of the commencement of the cause; provided, however, that if notice by the Party claiming such extension is sent to the other Party more than thirty (30) days after the commencement of the cause, the period shall be deemed to commence thirty (30) days prior to the giving of such notice. The Party claiming an Unavoidable Delay event shall remedy the Unavoidable Delay event with all reasonable dispatch and shall make commercially reasonable efforts to avoid the adverse impacts thereof and to resolve the event or occurrence once it has occurred in order to resume performance. As soon as the Party claiming an Unavoidable Delay event is able to resume performance of all or a portion of its obligations excused as a result of the occurrence of Unavoidable Delay, such Party shall give prompt notice thereof to the other Party. Times of performance under this Agreement also may be extended as mutually agreed upon in writing by the parties. However, failure to agree to a proposed extension of time for performance shall not be deemed grounds for delay or failure to timely cure an Event of Default under this Agreement.

Section 9.7. Developer Remedies on Authority Events of Default. Whenever any Event of Default occurs by the Authority, Developer may take whatever action at law or in equity may appear necessary or desirable to enforce performance and observance of any obligation, agreement, or covenant of the Authority under this Agreement, including an action for specific performance.

ARTICLE X. ADDITIONAL PROVISIONS

Section 10.1. Restrictions on Use. The Developer agrees for itself and its successors and assigns and every successor in interest to the Development Property, or any part thereof, that the Developer and such successors and assigns shall devote Development Property to, and only to, and in accordance with, the uses specified in the City Code.

Section 10.2. 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 Development Property and any such deed shall not be deemed to affect or impair the provisions and covenants of this Agreement.

Section 10.3. Equal Employment Opportunity. The Developer, for itself and its successors and assigns, agrees that during the construction of the Minimum Improvements provided for in this Agreement it will comply with all applicable federal, state and local equal employment and nondiscrimination laws and regulations.

Section 10.4. Conflicts of Interest. No member of the governing body or other official of the Authority shall have any financial interest, direct or indirect, in this Agreement, the Project or any contract, agreement or other transaction contemplated to occur or be undertaken thereunder or with respect thereto, nor shall any such member of the governing body or other official participate in any decision relating to the Agreement which affects his personal interest or the interest 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 Developer or any successors in interest, in the event of any default or breach by the Authority or for any amount that may become due to the Developer or successor or on any obligations under the terms of the Agreement.

Section 10.5. Waiver and Release by Developer. The Developer hereby waives, releases and forever discharges the Authority from any claim for costs incurred in preliminary plans, specifications, professional fees or legal fees in connection with the Project.

Section 10.6. 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 10.7. Notices and Demands. Except as otherwise expressly provided in this Agreement, a notice, demand or other communication under the Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested or delivered personally; and

- (a) In the case of the Developer, is addressed or delivered personally to:

Hastings AH I, LLLP
579 Selby Avenue
Saint Paul, MN 55102
Attn.: Patrick Ostrom
Email: postrom@reeapartments.com

With a copy to:

Winthrop & Weinstine, P.A.
225 South Sixth Street, Suite 3500
Minneapolis, MN 55402
Attn: Jeffrey S. Drennan
Email: jdrennan@winthrop.com

With a copy to:

Stratford _____ Investors Limited Partnership
c/o Stratford Capital Group LLC
100 Corporate Place, Suite 404
Peabody, Massachusetts 01960
Attn: Asset Management

With a copy to:

DLA Piper LLP (US)
444 W. Lake Street, Suite 900
Chicago, Illinois 60606
Attn: Gregory R.A. Dahlgren

(b) In the case of the Authority, is addressed or delivered personally to:

Hastings Economic Development and
Redevelopment Authority
101 4th St.
Hastings, Minnesota, 55033
Attn: Executive Director

With a copy to:

Andrea McDowell Poehler
CAMPBELL KNUTSON
Professional Association
Grand Oak Office Center I
860 Blue Gentian Road, Suite 290
Eagan, Minnesota 55121
Telephone: (651) 452-5000

(c) Either Party may, upon written notice to the other Party, change the address to which such notices and demands are made.

Section 10.8. Disclaimer of Relationship. The Developer acknowledges that nothing contained in this Agreement nor any act by the Authority or the Developer shall be deemed or construed by the Developer or any third person to create any relationship of third-party beneficiary, principal and agent, limited or general partner or joint venture between the Authority and the Developer.

Section 10.9. Covenants Running with the Land. The terms and provisions of this Agreement shall be deemed to be covenants running with the Development Property and shall be

binding upon any successors or assigns of the Developer and any future owners or encumbrancers of the Development Property.

Section 10.10. Counterparts. This Agreement is executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 10.11. Law Governing. This Agreement will be governed and construed in accordance with the laws of Minnesota.

Section 10.12 Re-execution of Documents. The Authority and the Developer agree to re-execute any documents that may be necessary to correct an error or to enable said document to be filed of record.

Section 10.13. Termination. This Agreement shall terminate upon the Termination Date, except that termination of the Agreement does not terminate, limit or affect the rights of any party that arise before the Termination Date.

*[Remainder of page intentionally left blank]
[Signature pages to follow]*

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

**HASTINGS ECONOMIC DEVELOPMENT
AND REDEVELOPMENT AUTHORITY**

By: _____
Dennis Peine, Its President

By: _____
Eric Maass, Its Secretary

STATE OF MINNESOTA)
)ss.
COUNTY OF DAKOTA)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by Dennis Peine and Eric Maass, respectively, the President and Secretary, of the Hastings Economic Development and Redevelopment Authority, a public body corporate and politic organized and existing under the Constitution and laws of the State of Minnesota, on its behalf.

Notary Public

HASTINGS AH I, LLLP

By: Hastings AH I, LLC
Its: General Partner

By: _____
Name: William R. Bisanz
Its: President

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by William R. Bisanz, the President of Hastings AH I, LLC, a Minnesota limited liability company, the general partner of Hastings AH I, LLLP, a Minnesota limited liability limited partnership, on its behalf.

Notary Public

DRAFTED BY:
Campbell Knutson
Professional Association
Grand Oak Office Center I
860 Blue Gentian Road, Suite 290
Eagan, Minnesota 55121
Telephone: (651) 452-5000

SCHEDULE A

Description of Development Property

Lot 1, Block 1, Schoolhouse Square 4th Addition, Dakota County, Minnesota, according to the recorded plat thereof.

SCHEDULE B
FORM OF TIF NOTE

No. R-1

\$1,048,912.20

UNITED STATES OF AMERICA
STATE OF MINNESOTA
DAKOTA COUNTY
HASTINGS ECONOMIC DEVELOPMENT AND
REDEVELOPMENT AUTHORITY

TAX INCREMENT REVENUE NOTE

The Hastings Economic Development and Redevelopment Authority, Minnesota (the “Authority”), hereby acknowledges itself to be indebted and, for value received, hereby promises to pay the amounts hereinafter described (the “Payment Amounts”) to Hastings AH I, LLLP, a Minnesota limited liability limited partnership, or registered assigns (the “Owner”), or its registered assigns (the “Registered Owner”), but only in the manner, at the times, from the sources of revenue, and to the extent hereinafter provided.

The principal amount of this Note shall equal from time to time the principal amount stated above as reduced to the extent that such principal installments shall have been paid in whole or in part pursuant to the terms hereof; provided that the sum of the principal amount listed above shall in no event exceed One Million Forty-Eight Thousand Nine Hundred Twelve and 20/100 Dollars (\$1,048,912.20) as provided in that certain Contract for Private Redevelopment, dated as of _____, 2021, as the same may be amended from time to time (“Development Agreement”), by and between the Authority and the Owner. This Note shall be deemed validly issued and the unpaid principal amount hereof shall bear interest from the date that the Owner has submitted to the Authority and the Authority has determined that the requirements for issuance of the TIF Note have been met in compliance with the terms of the Development Agreement at the simple non-compounded rate of Five and 00/100 percent (5.0%) per annum. Interest shall be computed on the basis of a 360-day year consisting of twelve (12) 30-day months. The Note shall mature upon the earlier of fifteen (15) years from the date hereof, or termination in accordance with the terms of the Development Agreement. All capitalized but undefined terms herein shall be defined as in the Development Agreement.

The amounts due under this Note shall be payable on each February 1 and August 1, commencing on February 1, 2023 and thereafter to and including the Termination Date, or, if the first payment date should not be on a Business Day, the payment shall be made on the next succeeding Business Day (the “Payment Dates”). On each Payment Date the Authority shall pay by check or draft mailed to the person that was the Registered Owner of this Note at the close of the last business

day of the Authority preceding such Payment Date (or, with respect to the first Payment Date, in the period commencing on the date of issuance of this Note through the day that is prior to the first Payment Date). All payments made by the Authority under this Note shall be applied to accrued interest and then to principal. This Note is pre-payable by the Authority, without penalty, in whole or in part, on any date.

The Payment Amounts due hereon shall be payable solely from Available Tax Increment derived from the Development Property within the Tax Increment Financing District No. 8 (the "TIF District"), which is paid to the Authority and which the Authority is entitled to retain pursuant to the provisions of Minnesota Statutes, Sections 459.174 through 469.1794, as the same may be amended or supplemented from time to time (the "TIF Act"). This Note shall terminate and be of no further force and effect following the Termination Date.

Any estimates of Tax Increment prepared by the Authority or its municipal advisors in connection with the TIF District or the Agreement are for the benefit of the Authority, and are not intended as representations on which the Owner or Developer may rely.

THE AUTHORITY MAKES NO REPRESENTATION OR WARRANTY THAT THE AVAILABLE TAX INCREMENT WILL BE SUFFICIENT TO PAY THE PRINCIPAL OF THIS NOTE. If the event Tax Increment is not sufficient, the Authority is not responsible to further fund or reimburse the Developer (or its assigns or creditors) for any such shortfall. The Authority is not responsible to fund or reimburse any obligation of the Developer (or its assigns or creditors) unless expressly stated in this Agreement.

Subject to the terms of the Development Agreement, the Authority's payment obligations hereunder shall be further conditioned on the fact that no Event of Default under the Development Agreement shall have occurred and be continuing at the time payment is otherwise due hereunder, but such unpaid amounts shall become payable if said Event of Default shall thereafter have been cured; and further, if pursuant to the occurrence of an Event of Default under the Development Agreement the Authority elects, subject to the provisions of Section 9.2 of the Development Agreement, to cancel and rescind the Development Agreement, the Authority shall have no further debt or obligation under this Note whatsoever. Reference is hereby made to all of the provisions of the Development Agreement, including without limitation Section 5.2 thereof, for a fuller statement of the rights and obligations of the Authority to pay the principal of this Note, and said provisions are hereby incorporated into this Note as though set out in full herein.

This Note is a special, limited revenue obligation and not a general obligation of the Authority and is payable by the Authority only from the source and subject to the qualifications stated or referenced herein. This Note is not a general obligation of the Authority, and neither the full faith and credit nor the taxing powers of the Authority are pledged to the payment of the principal of this Note and no property or other asset of the Authority, save and except the above referenced Tax Increment, is or shall be a source of payment of the Authority's obligations.

This Note is issued by the Authority in aid of financing a project pursuant to and in full conformity with the Constitution and laws of the State of Minnesota, including the TIF Act.

This Note may be assigned only with the consent of the Authority, which the Authority shall grant if the terms and conditions in the Development Agreement regarding transfer are satisfied. In order to assign this Note, the assignee shall surrender the same to the Authority either in exchange for a new fully registered note or for transfer of this Note on the registration records for the Note maintained by the Authority. Each permitted assignee shall take this Note subject to the foregoing conditions and subject to all provisions stated or referenced herein.

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 authority limitation thereon.

IN WITNESS WHEREOF, the Hastings Economic Development and Redevelopment Authority has caused this Note to be executed by the manual signatures of its President and Secretary of the Authority and has caused this Note to be issued dated _____, 20__.

Dennis Peine, President

Eric Maass, Secretary

**DO NOT EXECUTE UNTIL EVIDENCE OF QUALIFIED COSTS ARE GIVEN TO THE
AUTHORITY – REFER TO SECTION 5.2 OF THE DEVELOPMENT AGREEMENT**

CERTIFICATION OF REGISTRATION

It is hereby certified that the foregoing Note, as originally issued on _____, 20__, was on said date registered in the name of Hastings AH I, LLLP., a Minnesota limited liability limited partnership, and that at the request of the Registered Owner of this Note, the undersigned has this day registered 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 AND ADDRESS OF
REGISTERED OWNER

DATE OF
REGISTRATION

SIGNATURE OF
EXECUTIVE DIRECTOR

Hastings AH I, LLLP

_____, 20__

_____, 20__

SCHEDULE C

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS (this “Declaration”) dated as of _____, 20___, by **HASTINGS AH I, LLLP**, a Minnesota limited liability limited partnership (the “Developer”), in favor of the **HASTINGS ECONOMIC DEVELOPMENT AND REDEVELOPMENT AUTHORITY**, a public body corporate and politic under the State of Minnesota (the “Authority”).

RECITALS

WHEREAS, the Authority entered into that certain Contract for Private Redevelopment, dated _____, 20___ (the “Contract”), between the Authority and the Developer; and

WHEREAS, pursuant to the Contract, the Developer is obligated to cause construction of approximately 90 housing units of rental housing (the “Project”) on the property described in Exhibit A attached hereto (the “Property”), and to cause compliance with certain affordability covenants described in Section 3.5 of the Contract; and

WHEREAS, in consideration of the requirements of Tax Increment Financing District No. 8, Section 3.5 of the Contract requires that the Developer cause to be executed an instrument in recordable form substantially reflecting the covenants set forth in Section 3.5 of the Contract; and

WHEREAS, the Developer intends, declares, and covenants that the restrictive covenants set forth herein shall be and are covenants running with the Property during the Qualified Project Period (as defined herein) and binding upon all subsequent owners of the Property for such period, and are not merely personal covenants of the Developer; and

WHEREAS, capitalized terms in this Declaration have the meaning provided in the Contract unless otherwise defined herein.

NOW, THEREFORE, in consideration of the promises and covenants hereinafter set forth, and of other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Developer agrees as follows:

1. Term of Restrictions.

(a) **Occupancy Restrictions.** The term of the Occupancy Restrictions set forth in Section 3 hereof shall commence on the date the Project receives a certificate of occupancy. The period from Commencement to termination is the “Qualified Project Period.”

(b) **Termination of Declaration.** This Declaration shall automatically terminate upon the date that is twenty-five (25) years after the commencement of the Qualified Project Period.

(c) Removal from Real Estate Records. Upon termination of this Declaration, the Authority shall, upon request by the Developer or its assigns, file any document appropriate to remove this

Declaration from the real estate records of Dakota County, Minnesota.

2. Project Restrictions.

(a) The Developer represents, warrants, and covenants that:

(i) All leases of units to Qualifying Tenants (as defined in Section 3(a)(i) hereof) shall contain clauses, among others, wherein each individual lessee:

(1) Certifies the accuracy of the statements made in its application and Eligibility Certification (as defined in Section 3(a)(ii) hereof); and

(2) Agrees that the family income at the time the lease is executed shall be deemed a substantial and material obligation of the lessee's tenancy, that the lessee will comply promptly with all requests for income and other information relevant to determining Qualifying Tenant status from the Developer or the Authority, and that the lessee's failure or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of the lessee's tenancy.

(ii) The Developer shall permit during normal business hours and upon reasonable notice, any duly authorized representative of the Authority to inspect the books and records of the Developer pertaining to the income of Qualifying Tenants residing in the Project.

3. Occupancy Restrictions.

(a) Tenant Income Provisions. The Developer represents, warrants, and covenants that:

(i) Qualifying Tenants. From the commencement of the Qualified Project Period, forty percent (40%) of the rental housing units in the Project ("Rental Housing Units") shall be occupied (or treated as occupied as provided herein) or held vacant and available for occupancy by Qualifying Tenants. Qualifying Tenants shall mean those persons and families who shall be determined from time to time by the Developer to have combined adjusted income that does not exceed sixty percent (60%) of the Minneapolis-St. Paul metropolitan statistical area (the "Metro Area") median income for the applicable calendar year adjusted for family size. For purposes of this definition, the occupants of a residential unit shall not be deemed to be Qualifying Tenants if all the occupants of such residential unit at any time are "students," as defined in Section 151(c)(4) of the Internal Revenue Code of 1986, as amended (the "Code"), not entitled to an exemption under the Code. The determination of whether an individual or family are Qualifying Tenants shall be made at the time the tenancy commences and on an ongoing basis thereafter, determined annually. If during their tenancy a Qualifying Tenant's income exceeds one hundred forty percent (140%) of the maximum income qualifying as low or moderate income for a family of its size, the next available unit (determined in accordance with the Code and applicable regulations) (the "Next Available

Unit Rule”) must be leased to a Qualifying Tenant or held vacant and available for occupancy by a Qualifying Tenant. If the Next Available Unit Rule is violated, the Next Available Unit will not continue to be treated as a Qualifying Unit. The annual recertification and Next Available Unit Rule requirements of this paragraph shall not apply to a given year if, during such year, no residential unit in the Project is occupied by a new resident whose income exceeds the applicable income limit for Qualifying Tenants.

(ii) Certification of Tenant Eligibility. As a condition to initial and continuing occupancy, each person who is intended to be a Qualifying Tenant shall be required annually to sign and deliver to the Developer a Certification of Tenant Eligibility substantially in the form attached as Exhibit B hereto, or in such other form as may be approved by the Authority (the “Eligibility Certification”), in which the prospective Qualifying Tenant certifies that he or she is a Qualifying Tenant. In addition, such person shall be required to provide whatever other information, documents, or certifications are deemed necessary by the Authority to substantiate the Eligibility Certification, on an ongoing annual basis, and to verify that such tenant continues to be a Qualifying Tenant within the meaning of Section 3(a)(i) hereof. Eligibility Certifications will be maintained on file by the Developer with respect to each Qualifying Tenant who resides in a Project unit or resided therein during the immediately preceding calendar year.

(iii) Lease. The form of lease to be utilized by the Developer in renting any Rental Housing Units in the Project to any person who is intended to be a Qualifying Tenant shall provide for termination of the lease and consent by such person to immediate eviction for failure to qualify as a Qualifying Tenant as a result of any material misrepresentation made by such person with respect to the Eligibility Certification.

(iv) Annual Report. The Developer covenants and agrees that during the Qualified Project Period, it will prepare and submit to the Authority on or before April 1 of each year, a certificate substantially in the form of Exhibit C hereto, executed by the Developer, (a) identifying the tenancies and the dates of occupancy (or vacancy) for all Qualifying Tenants in the Project, including the percentage of the Rental Housing Units which were occupied by Qualifying Tenants (or held vacant and available for occupancy by Qualifying Tenants) at all times during the year preceding the date of such certificate; (b) describing all transfers or other changes in ownership of the Project or any interest therein; and (c) stating, that to the best knowledge of the person executing such certificate after due inquiry, all such units were rented or available for rental on a continuous basis during such year to members of the general public and that the Developer was not otherwise in default under this Declaration during such year.

(v) Notice of Non-Compliance. The Developer will promptly notify the Authority if at any time during the term of this Declaration the number of Rental Housing Units required to be occupied by Qualifying Tenants are not occupied by or are not available for occupancy by Qualifying Tenants as required by the terms of this Declaration.

4. Notice of Sale. In consideration for the tax increment assistance provided for the Project, the Developer agrees to provide the Authority with at least thirty (30) days' notice of any proposed sale of the Minimum Improvements.

5. Transfer Restrictions. The Developer covenants and agrees that the Developer will cause or require as a condition precedent to any conveyance, transfer, assignment, or any other disposition of the Project prior to the termination of the Occupancy Restrictions provided herein (the "Transfer") that the transferee of the Project pursuant to the Transfer assume in writing, in a form acceptable to the Authority, all duties and obligations of the Developer under this Declaration, including this Section 5, in the event of a subsequent Transfer by the transferee prior to expiration of the Occupancy Restrictions provided herein (the "Assumption Agreement"). The Developer shall deliver the Assumption Agreement to the Authority prior to the Transfer.

6. Enforcement.

(a) The Developer shall permit, during normal business hours and upon reasonable notice, any duly authorized representative of the Authority to inspect any books and records of the Developer regarding the Project with respect to the incomes of Qualifying Tenants.

(b) The Developer shall submit any other information, documents or certifications requested by the Authority, which the Authority deems reasonably necessary to substantial continuing compliance with the provisions specified in this Declaration.

(c) The Developer acknowledges that the primary purpose for requiring compliance by the Developer with the restrictions provided in this Declaration is to ensure compliance of the property with the housing affordability covenants set forth in Section 3.5 of the Contract, and by reason thereof, the Developer, in consideration for conveyance of the Property by the Authority under the Contract that makes possible the construction of the Project on the Property and the requirements of Tax Increment Financing District No. 8, hereby agrees and consents that the Authority shall be entitled, upon any breach of the provisions of this Declaration, and in addition to all other remedies provided by law or in equity, to enforce specific performance by the Developer of its obligations under this Declaration in a state court of competent jurisdiction. The Developer hereby further specifically acknowledges that the Authority cannot be adequately compensated by monetary damages in the event of any default hereunder.

(d) The Developer understands and acknowledges that, in addition to any remedy set forth herein for failure to comply with the restrictions set forth in this Declaration, the Authority may exercise any remedy available to it under Article IX of the Contract.

7. Indemnification. The Developer hereby indemnifies, and agrees to defend and hold harmless, the Authority from and against all liabilities, losses, damages, costs, expenses (including attorneys' fees and expenses), causes of action, suits, allegations, claims, demands, and judgments of any nature arising from the consequences of a legal or administrative proceeding or action brought against them, or any of them, on account of any failure by the Developer to comply with the terms of this Declaration, or on account of any representation or warranty of the Developer contained herein being untrue.

8. Agent of the Authority. The Authority shall have the right to appoint an agent to carry out any of its duties and obligations hereunder, and shall inform the Developer of any such agency appointment by written notice.

9. Severability. The invalidity of any clause, part or provision of this Declaration shall not affect the validity of the remaining portions thereof.

10. Notices. All notices to be given pursuant to this Declaration must be in writing and shall be deemed given when mailed by certified or registered mail, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate in writing. The Developer and the Authority may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, or other communications shall be sent. The initial addresses for notices and other communications are as follows:

DEVELOPER: Hastings AH I, LLLP
579 Selby Avenue
Saint Paul, MN 55102
Attn.: Patrick Ostrom
Email: postrom@reeapartments.com

AUTHORITY: Hastings Economic Development and
Redevelopment Authority
101 4th St.
Hastings, Minnesota, 55033
Attn: Executive Director

11. Governing Law. This Declaration shall be governed by the laws of the State of Minnesota and, where applicable, the laws of the United States of America.

12. Attorneys' Fees. Whenever any Event of Default occurs and if the Authority employs attorneys or incurs other expenses for the collection of payments due or to become due or for the enforcement of performance or observance of any obligation or agreement on the part of the Developer under this Agreement, and the Authority prevails in the action, the Developer agrees that it will, within thirty days of written demand by the Authority, pay to the Authority the reasonable fees of the attorneys and the other expenses so incurred and paid for by the Authority.

13. Declaration Binding. This Declaration and the covenants contained herein shall run with the real property comprising the Project and shall bind the Developer and its successors and assigns and all subsequent owners of the Project or any interest therein, and the benefits shall inure to the Authority and its successors and assigns for the term of this Declaration as provided in Section 1(b) hereof.

[Signature on the Next Pages

IN WITNESS WHEREOF, the Developer has caused this Declaration of Restrictive Covenants to be signed by its respective duly authorized representatives, as of the day and year first written above.

HASTINGS AH I, LLLP

By: Hastings AH I, LLC
Its: General Partner

By: _____
Name: William R. Bisanz
Its: President

STATE OF MINNESOTA)
)ss.
COUNTY OF DAKOTA)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by William R. Bisanz, the President of Hastings AH I, LLC, a Minnesota limited liability company, the general partner of Hastings AH I, LLLP, a Minnesota limited liability limited partnership, on its behalf.

Notary Public

DRAFTED BY:
Campbell Knutson
Professional Association
Grand Oak Office Center I
860 Blue Gentian Road, Suite 290
Eagan, Minnesota 55121
Telephone: (651) 452-5000

**EXHIBIT A
TO DECLARATION OF RESTRICTIVE COVENANTS**

Legal Description

Lot 1, Block 1, Schoolhouse Square 4th Addition, Dakota County, Minnesota, according to the recorded plat thereof.

**EXHIBIT B
TO DECLARATION OF RESTRICTIVE COVENANTS**

Certification of Tenant Eligibility

Project: _____

Developer: Hastings AH I, LLLP

Unit Type: _____ 1 BR _____ 2 BR

1. I/We, the undersigned, being first duly sworn, state that I/we have read and answered fully, frankly and personally each of the following questions for all persons (including minors) who are to occupy the unit in the above apartment development for which application is made, all of whom are listed below:

Name of Members of the Household	Relationship To Head of Household	Age	Place of Employment
_____	_____	___	_____
_____	_____	___	_____
_____	_____	___	_____
_____	_____	___	_____
_____	_____	___	_____

Income Computation

2. The anticipated income of all the above persons during the 12-month period beginning this date,

(a) including all wages and salaries, overtime pay, commissions, fees, tips and bonuses before payroll deductions; net income from the operation of a business or profession or from the rental of real or personal property (without deducting expenditures for business expansion or amortization of capital indebtedness); interest and dividends; the full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts; payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay; the maximum amount of public assistance available to the above persons; periodic and determinable allowances, such as alimony and child support payments and regular contributions and gifts received from persons not residing in the dwelling; and all regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is the head of the household or spouse; but

(b) excluding casual, sporadic or irregular gifts; amounts which are specifically for or in reimbursement of medical expenses; lump sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workmen's compensation), capital gains and settlement for personal or property losses; amounts of educational scholarships paid directly to the student or the educational institution, and amounts paid by the government to a veteran for use in meeting the costs of tuition, fees, books and equipment, but in either case only to the extent used for such purposes; special pay to a serviceman head of a family who is away from home and exposed to hostile fire; relocation payments under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; foster child care payments; the value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1964 which is in excess of the amount actually charged for the allotments; and payments received pursuant to participation in ACTION volunteer programs, is as follows: \$_____.

3. If any of the persons described above (or whose income or contributions was included in item 2) has any savings, bonds, equity in real property or other form of capital investment, provide:

(a) the total value of all such assets owned by all such persons: \$_____;

(b) the amount of income expected to be derived from such assets in the 12 month period commencing this date: \$_____; and

(c) the amount of such income which is included in income listed in item 2: \$_____.

4. (a) Will all of the persons listed in item 1 above be or have they been full-time students during five calendar months of this calendar year at an educational institution (other than a correspondence school) with regular faculty and students?

Yes _____

No _____

(b) Is any such person (other than nonresident aliens) married and eligible to file a joint federal income tax return?

Yes _____

No _____

THE UNDERSIGNED HEREBY CERTIFY THAT THE INFORMATION SET FORTH ABOVE IS TRUE AND CORRECT. THE UNDERSIGNED ACKNOWLEDGE THAT THE LEASE FOR THE UNIT TO BE OCCUPIED BY THE UNDERSIGNED WILL BE CANCELLED UPON 10 DAYS WRITTEN NOTICE IF ANY OF THE INFORMATION ABOVE IS NOT TRUE AND CORRECT.

Head of Household

Spouse

FOR COMPLETION BY OWNER
(OR ITS MANAGER) ONLY

1. Calculation of Eligible Tenant Income:

(a) Enter amount entered for entire household in 2 above: \$_____

(b) If the amount entered in 3(a) above is greater than \$5,000, enter the greater of (i) the amount entered in 3(b) less the amount entered in 3(c) or (ii) 10% of the amount entered in 3(a): \$_____

(c) TOTAL ELIGIBLE INCOME (Line 1(a) plus Line 1(b)): \$_____

2. The amount entered in 1(c) is less than or equal to _____ 60% of median income for the area in which the Project is located, as defined in the Declaration. 60% is necessary for status as a "Qualifying Tenant" under Section 3(a) of the Declaration.

3. Number of apartment unit assigned: _____.

4. This apartment unit was _____ was not _____ last occupied for a period of at least 31 consecutive days by persons whose aggregate anticipated annual income as certified in the above manner upon their initial occupancy of the apartment unit was less than or equal to 60% of Median Income in the area.

5. Check as applicable: _____ Applicant qualifies as a Qualifying Tenant (tenants of at least ___ units must meet), or _____ Applicant otherwise qualifies to rent a unit.

THE UNDERSIGNED HEREBY CERTIFIES THAT HE/SHE HAS NO KNOWLEDGE OF ANY FACTS THAT WOULD CAUSE HIM/HER TO BELIEVE THAT ANY OF THE INFORMATION PROVIDED BY THE TENANT MAY BE UNTRUE OR INCORRECT.

HASTINGS AH I, LLLP

By: _____

Name: _____

Its: _____

**EXHIBIT C
TO DECLARATION OF RESTRICTIVE COVENANTS**

Certificate of
Continuing Program Compliance

Date: _____, _____.

The following information with respect to the Project located at _____, Hastings, Minnesota (the "Project"), is being provided by Hastings AH I, LLLP (the "Developer") to the Housing and Economic Development and Redevelopment Authority (the "Authority"), pursuant to that certain Declaration of Restrictive Covenants, dated _____, 20__ (the "Declaration"), with respect to the Project:

(A) The total number of residential units which are available for occupancy is ___. The total number of such units occupied is _____.

(B) The following residential units (identified by unit number) have been designated for occupancy by "Qualifying Tenants," as such term is defined in the Declaration (for a total of ___ units):

1 BR Units:

2 BR Units:

(C) The following residential units which are included in (B) above, have been redesignated as units for Qualifying Tenants since _____, 20__, the date on which the last "Certificate of Continuing Program Compliance" was filed with the Authority by the Developer:

Unit Number	Previous Designation of Unit (if any)	Replacing Unit Number
_____	_____	_____
_____	_____	_____

(D) The following residential units are considered to be occupied by Qualifying Tenants based on the information set forth below:

	Unit Number	Name of Tenant	Number of Persons Residing in the Unit	Number of Bedrooms	Total Adjusted Income	Date of Initial Occupancy
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						
21						
22						
23						
24						
25						
26						
27						
28						
29						
30						
31						
32						
33						
34						
35						
36						

(E) The Developer has obtained a "Certification of Tenant Eligibility," in the form provided as Exhibit B to the Declaration, from each Tenant named in (D) above, and each such Certificate is being maintained by the Developer in its records with respect to the Project. Attached hereto is the most recent "Certification of Tenant Eligibility" for each Tenant named in (D) above who signed such a Certification since _____, _____, the date on which the last "Certificate of Continuing Program Compliance" was filed with the Authority by the Developer.

(F) In renting the residential units in the Project, the Developer has not given preference to any particular group or class of persons (except for persons who qualify as Qualifying Tenants); and none of the units listed in (D) above have been rented for occupancy entirely by students, no one of which is entitled to file a joint return for federal income tax purposes. All of the residential units in the Project have been rented pursuant to a written lease.

(G) The information provided in this "Certificate of Continuing Program Compliance" is accurate and complete, and the Developer has no actual knowledge that any of the information provided herein, or in any "Certification of Tenant Eligibility" obtained from the Tenants named herein, is inaccurate or incomplete in any respect.

(H) The Project is in continuing compliance with the Declaration.

(I) The Developer certifies that as of the date hereof at least _____ of the residential dwelling units in the Project are occupied or held open for occupancy by Qualifying Tenants, as defined and provided in the Declaration.

IN WITNESS WHEREOF, I have hereunto affixed my signature, on behalf of the Developer, on _____, 20____

HASTINGS AH I, LLLP

By: _____
Name: _____
Its: _____

SCHEDULE D

Certificate of Completion

WHEREAS, the Hastings Economic Development and Redevelopment Authority, a public body corporate and politic under the State of Minnesota (the "Authority") and Hastings AH I, LLLP, a Minnesota limited liability limited partnership (the "Developer"), entered into that certain Contract for Private Redevelopment by and between the Authority and Developer, dated __ day of _____, 202_, and recorded in the office of the County Recorder in Dakota County, Minnesota, as Document No. _____, ("Development Agreement") for the land legally described as follows:

Lot 1, Block 1, Schoolhouse Square 4th Addition, Dakota County, Minnesota, according to the recorded plat thereof ("Property");

WHEREAS, the Development Contract contains certain covenants and restrictions concerning completion of construction of certain Minimum Improvements as further defined in the Development Contract;

WHEREAS, the Developer has completed construction of the Minimum Improvements required under the Development Agreement in a manner deemed sufficient by the Authority to permit the execution and recording of this certification;

NOW, THEREFORE, this is to certify that construction of the Minimum Improvements specified to be done and made by the Developer pursuant to Article III of the Development Agreement have been completed and the above covenants and conditions in the Development Agreement have been performed by the Developer, and this Certificate of Completion is intended to be conclusive determination of the satisfactory termination of the covenants and conditions of Article III of the Development Agreement related to completion of the Minimum Improvements, but any other covenants in the Development Agreement shall remain in full force and effect until the Termination date (as such term is defined in the Development Agreement).

Dated: _____, 20_____.

HASTINGS ECONOMIC DEVELOPMENT AND REDEVELOPMENT AUTHORITY

By: _____
_____, President

And: _____
_____, Secretary

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this _____ day of _____, 20__, before me, a Notary Public within and for said County the foregoing instrument was acknowledged by _____ and _____ the President and Secretary of the Hastings Economic Development and Redevelopment Authority, a public body corporate and politic organized and existing under the Constitution and laws of the State of Minnesota, on its behalf.

Notary Public

DRAFTED BY:
Campbell Knutson
Professional Association
Grand Oak Office Center I
860 Blue Gentian Road, Suite 290
Eagan, Minnesota 55121
Telephone: (651) 452-5000

SCHEDULE E

RENTAL HOUSING UNITS BY UNIT TYPE

<u>Unit Type</u>	<u>Number of Units in Minimum Improvements</u>
One Bedroom	___ units
Two Bedroom	___ units