

**CONTRACT**  
**FOR**  
**PRIVATE REDEVELOPMENT**

**By and Between**

**THE HASTINGS ECONOMIC DEVELOPMENT  
AND REDEVELOPMENT AUTHORITY**

**and**

**LAKE ISABELLE FLATS, LLC**

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

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## **CONTRACT FOR PRIVATE REDEVELOPMENT**

**THIS AGREEMENT**, made on or as of the \_\_\_ day of \_\_\_\_\_, 2022 (“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 **LAKE ISABELLE FLATS, LLC**, a South Dakota limited liability company (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 finds there to exist within Development District No.1 buildings that have a blighting influence on surrounding properties and are structurally substandard due to their poor physical condition or functional obsolescence and which, because of those conditions, threaten the health, safety and welfare of the community; and

**WHEREAS**, the Authority finds that it is in the public interest, helpful for the tax base and beneficial for the health, safety, and welfare of the community as a whole to remove vacant, underutilized obsolete, and structurally substandard buildings and to replace them with new market-rate housing; and

**WHEREAS**, the Authority finds that, due to market conditions that exist today and are likely to persist for the foreseeable future, the private sector alone is not able to accomplish redevelopment of the type needed within Development District No.1, and, therefore, such will not occur without public intervention; and

**WHEREAS**, the Authority has determined that there is a need to take certain actions designed to encourage, ensure and facilitate development and redevelopment of under-utilized and unused land located within the corporate limits of the City to provide additional employment opportunities for residents of the City and the surrounding area, and improve the tax base, thereby enabling better utilization of existing public facilities and provide needed public services, and improve the general economy of the City, the County and the State; 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 Redevelopment Plan for Development District No. 1 (“Development Plan”) for the Hastings Downtown Redevelopment Area (the “Project Area”) in the City to encourage and

provide maximum opportunity for private redevelopment 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 (Redevelopment) District No. 9 (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 properties within the Tax Increment District from the Authority and another property owner following removal of the substandard structures and poor soils located on the properties and will construct an approximate 89-unit rental multi-family housing facility, consisting of studio, one-bedroom, and two-bedroom units, with 65 in-building parking stalls and 44 surface stalls (“Project”); and

**WHEREAS**, the Project, inclusive of the higher level of density, is possible only with the construction of the enclosed parking, which will not occur solely through private investment within the reasonably foreseeable future; 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:

“**Administrative Costs**” means the administrative expenses incurred by the Authority as defined in section 469.174, subd. 14 of the TIF Act.

“**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 Redevelopment 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.

**"Assessment Agreement"** means the agreement, substantially in the form of the agreement contained in Schedule D attached to and made a part of this Agreement, among the Developer, the Authority, and the Dakota County Assessor to be entered into pursuant to Section 6.5 of this Agreement, establishing a Minimum Market Value of the Development Property and the Minimum Improvements.

**"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 Redevelopment 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 C 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 Redevelopment 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.

**"Developer"** means Lake Isabelle Flats, LLC, a South Dakota limited liability company, or any assigns that have received prior written approval from the Authority.

**"Development District"** means Development District No.1 (Hastings Downtown Redevelopment Area) in the City.

**"Economic Development Authorities Act" or "EDA Act"** means Minnesota Statutes, sections 469.090 through 469.108, as amended.

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

**"Final Payment Date"** means the earliest of (i) February 1, 2045; or (ii) the date on which the principal and interest on the Note has been paid in full; or (iii) any earlier date this Agreement or the Note is terminated or cancelled in accordance with the terms hereof.

**"Housing and Redevelopment Authorities Act" or "HRA Act"** means Minnesota Statutes, sections 469.001 through 469.047, as amended.

**"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 terms, or terminated, whichever is earlier.

**"Minimum Improvements"** means the construction by the Developer on the Redevelopment Property of a multifamily rental housing facility, consisting of approximately 89 rental units, consisting of studio, one and two-bedroom units, and 65 in-building and 44 surface parking stalls 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 Redevelopment 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 Redevelopment 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 Redevelopment Property;
- (ii) Cost of site improvements and preparation of the Redevelopment Property;
- (iii) Insurance and payment or performance bond premiums; professional fees, including architectural and engineering fees and expenses; and
- (iv) Such other costs as are incurred by the Developer and reasonably determined by the Authority to constitute Qualified Costs under the TIF Act.

**“Redevelopment Property”** means the real property as legally described in Schedule A attached hereto.

**“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 (Redevelopment) District No. 9.

**“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 maximum principal amount of One Million Nine Hundred Thirteen Thousand Six Hundred Ninety-Three and No/100 Dollars (\$1,913,693.00), a copy of which is attached as Schedule B.

**“TIF Note Payment Date”** means each August 1 and February 1, commencing August 1, 2025, and thereafter to and including the Final Payment 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. The Authority is an economic development authority duly organized and existing under the EDA Act and has the powers of a housing and redevelopment authority under the HRA Act. 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 South Dakota limited liability company organized and existing under the laws of the State of South Dakota, is authorized to transact business in the State of Minnesota, 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) The Developer agrees to acquire the Redevelopment Property in fee title and plat the Redevelopment Property.

(c) 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).

(d) 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.

(e) 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 Redevelopment Property may be or will be in violation of any environmental law or regulation

(f) 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.

(g) 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.

(h) 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.

(i) 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 Redevelopment Property or the Minimum Improvements.

(j) The financing arrangements which the Developer has obtained or will obtain to finance the acquisition of the Redevelopment 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.

(k) 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.

(l) 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.

(m) 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;

(n) 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 Redevelopment 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 June 15, 2022. Subject to Unavoidable Delays, the Developer shall substantially complete the construction of the Minimum Improvements by December 31, 2023. All work with respect to the Minimum Improvements to be constructed or provided by the Developer on the Redevelopment 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 Redevelopment 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 Redevelopment Property through the construction of the Minimum Improvements thereon, and that such construction shall in any event be commenced and completed within the period specified in this Section. After the date of this Agreement and until the Minimum Improvements have been fully constructed, the 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 C. 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 C, 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.

## **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 Redevelopment 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 Redevelopment Property or of the Minimum Improvements which materially interferes with the Developer's ability to continue to operate its business from the Redevelopment 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 Redevelopment 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 Redevelopment Property, then the Developer shall proceed to forthwith repair, reconstruct and restore the Redevelopment 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 Acquisition of Redevelopment Property.** The Redevelopment Property consists of the parcel legally described in Schedule A hereof. As of the date of this Redevelopment Agreement, the Developer is under contract to acquire the Redevelopment Property. The Developer agrees to acquire the Redevelopment Property in fee and plat the Redevelopment Property no later than June 15, 2022. The Developer acknowledges that the Authority has no obligation to acquire any of the Redevelopment Property and makes no representations to the Developer regarding the suitability of the Redevelopment Property or the Minimum Improvements for the use and purpose intended by the Developer. The failure of the Developer to close on the purchase of the Redevelopment Property by June 15, 2022 shall result in this Agreement being canceled and terminated and of no further force and/or effect without

any action by any party hereto, and neither party shall have any liability to the other in connection with such termination or cancellation except the Developer's obligation to reimburse the Authority in accordance with Section 5.6 of this Agreement.

### **Section 5.2 Issuance of Pay-As-You-go 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 Redevelopment Property by the Developer is essential to the successful completion of the Project. The cost for the acquisition of the Redevelopment Property and construction of the Minimum Improvements is estimated to be at least \$18,000,000. The Developer shall pay all of the foregoing costs.

(b) The Authority shall issue and the Developer shall purchase the TIF Note in the maximum principal amount of One Million Nine Hundred Thirteen Thousand Six Hundred Ninety-Three and No/100 Dollars (\$1,913,693.00) with a Maximum Term of 20 years. 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 acquired the Redevelopment Property in fee;
- (ii) the Developer has constructed the Minimum Improvements and the Authority has issued the Certificate of Completion;
- (iii) 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 invoices and lien waivers or other comparable evidence for costs of allowable Qualified Costs;
- (iv) the Developer has reimbursed the Authority for all of its administrative costs incurred in conjunction with the processing of Developer's request as set forth in Section 5.6 hereof;
- (v) there has been no Event of Default on the part of the Developer which has not been cured;
- (vi) the Developer has submitted and obtained Authority approval of financing in accordance with Section 7.1; and
- (vii) 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 conditions for delivery of the TIF Note must be met by no later than the date which is five (5) years after the date of certification of the TIF District by the County and complies with the so-called five-year rule under Section 469.1763, subdivision 3(c) of the TIF Act. If the conditions for delivery of the TIF Note are not satisfied by the date described in this paragraph, the Authority has no further obligations under this Section.

(d) 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 Redevelopment Property (including soil conditions or the presence of hazardous substances on the Redevelopment 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 administrative 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 “Administrative 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 Administrative 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 Administrative 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 4j of the TIF Act limits the use of Tax Increment in a redevelopment 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 Redevelopment 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 Redevelopment 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 Redevelopment Property through: (A) willful destruction of the Redevelopment Property or any part thereof; or (B) willful refusal to reconstruct damaged or destroyed property pursuant to Section 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 Redevelopment Property to any entity that is exempt from real property taxes and state law (other than any portion thereof dedicated or conveyed to the City in accordance with platting of the Development Property), or apply for a deferral of property tax on the Redevelopment 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 Redevelopment 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 Redevelopment 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, but subject always to the requirements and restrictions of the Assessment Agreement) in accordance with state law.

### **Section 6.5. Assessment Agreement.**

(a) Upon execution of this Agreement, the Developer shall, with the Authority, execute an Assessment Agreement pursuant to Minnesota Statutes, Section 469.177, subdivision 8, specifying an assessor's minimum market value (the "Market Value") for the Development Property and the Minimum Improvements constructed thereon. The amount of the minimum Market Value shall be \$17,800,000 as of January 2, 2024, and each January 2 thereafter, notwithstanding the status of construction by such dates.

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

(c) Nothing in this Agreement or in the Assessment Agreement shall limit the right of the Developer, or its successors and assigns, to bring a tax petition challenging a Market Value determination that exceeds the established minimum Market Value for the Development Property or the Minimum Improvements; provided that if the Developer brings such a challenge, the Developer must inform the Authority of such tax petition in writing. During the pendency of such challenge, the Authority will pay principal of and interest on the TIF Note only to the extent of the Available Tax Increment attributable to the greater of the minimum Market Value of the Development Property and the Minimum Improvements established in the Assessment Agreement or the amount in excess of such minimum Market Value uncontested by the Developer; provided that if the Developer fails to notify the Authority of the tax petition, the Authority shall have the right to withhold all payments of principal of and interest on the TIF Note until the Developer's challenge is resolved. Upon resolution of Developer's tax petition, any Available Tax Increment deferred and withheld under this Section shall be paid, without interest thereon, to the extent payable under the assessor's final determination of Market Value.

## **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 Redevelopment Property and not for speculation in land holding.

**Section 8.2. Prohibition Against Transfer of Redevelopment 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 Redevelopment Property, or any part thereof, to perform its obligations with respect to undertaking the development contemplated under this Agreement, and any other purpose authorized by this Agreement, the 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 Redevelopment Property or any part thereof or any interest therein, or any contract or agreement to do any of the same, to any person or entity whether or not related in any way to the Developer (collectively, a “Transfer”), without the prior written approval of the Authority unless the Developer remains liable and bound by this Agreement in which event the Authority’s approval is not required. In the absence of a 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 the respect to the construction of the Minimum Improvements from any of its obligations with respect thereto.

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

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

(ii) Any proposed transferee, by instrument in writing satisfactory to the Authority and in form recordable in the public land records of the County, shall, for itself and its successors and assigns, and expressly for the benefit of the Authority, have expressly assumed all of the obligations of the Developer under this Agreement as to the portion of the Redevelopment Property to be transferred and agreed to be subject to all the conditions and restrictions to which the 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 Redevelopment Property, or any part thereof, shall not, for whatever reason, have



assumed such obligations or so agreed, and shall not (unless and only to the extent otherwise specifically provided in this Agreement or agreed to in writing by the Authority) deprive the Authority of any rights or remedies or controls with respect to the Redevelopment Property, the Minimum Improvements or any part thereof or the construction of the Minimum Improvements; it being the intent of the parties as expressed in this Agreement that (to the fullest extent permitted at law and in equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement) no transfer of, or change with respect to, ownership in the Redevelopment Property or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, shall operate, legally, or practically, to deprive or limit the Authority of or with respect to any rights or remedies on controls provided in or resulting from this Agreement with respect to the Redevelopment Property that the Authority would have had, had there been no such transfer or change. In the absence of specific written agreement by the Authority to the contrary, no such transfer or approval by the Authority thereof shall be deemed to relieve the 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 Redevelopment Property governed by this Article, shall be in a form reasonably satisfactory to the Authority.

(c) Any notice of rejection from the Authority shall contain detailed reasons for the rejection. The Authority's approval of any transfer shall not be unreasonably withheld. 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 Minimum Improvements or the Redevelopment Property that is transferred, assigned or otherwise conveyed.

(d) After the Minimum Improvements have been completed and a Certificate of Occupancy has been issued by the Authority, the Developer may transfer or assign any portion of the Redevelopment Property or the Developer's interest in this Agreement without the prior written consent of the Authority, provided that until the occurrence of the Termination Date, the transferee or assignee is bound by all the Developer's obligations hereunder. Prior to any such transfer or assignment, the Developer shall submit to the Authority written evidence of any such transfer or assignment, including the transferee or assignee's express assumption of the Developer's obligations under this Agreement. If the Developer fails to provide such evidence of transfer and assumption, the Developer shall remain bound by all of its obligations under this Agreement.

**Section 8.3. Affiliate.** The prohibitions of this Article do not apply to any transfer of the Project to an affiliate of the Developer.

#### **Section 8.4. 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 Redevelopment 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 Redevelopment 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 of the Developer to acquire the Redevelopment Property in accordance with Article V of this Agreement;

(b) Failure of the Developer to seek approvals or permits from the City and other entities necessary in order to construct Minimum Improvements;

(c) 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 Redevelopment Property.

(d) If the Developer shall file a petition in bankruptcy, or makes an assignment for the benefit of its creditors or consent to the appointment of a receiver;

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

(f) 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.

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

(h) 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.

**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.

## **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 Redevelopment Property, or any part thereof, that the Developer and such successors and assigns shall devote Redevelopment 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 Redevelopment 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:

Lake Isabelle Flats, LLC  
PO Box 89624  
Sioux Falls, SD 57109  
Attn.: Nathan Stencil  
Email: nstencil@stencil-group.com

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

Hastings Economic Development and  
Redevelopment Authority  
101 4<sup>th</sup> 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 Authority intends to record this Agreement among the land records of Dakota County, Minnesota and the Developer agrees to pay for the cost of recording of the Agreement. The terms and provisions of this Agreement shall be deemed to be covenants running with the Redevelopment Property and shall be binding upon any successors or assigns of the Developer and any future owners or encumbrancers of the Redevelopment Property.

**Section 10.10. Amendment.** This Agreement may be amended only by the written agreement of the parties.

**Section 10.11. Counterparts.** This Agreement is executed in any number of counterparts, each of which shall constitute one and the same instrument.

**Section 10.12. Governing Law; Venue.** This Agreement will be governed and construed in accordance with the laws of Minnesota. Any dispute arising from this Agreement

shall be heard in the State or federal courts of Minnesota, and all parties waive any objection to the jurisdiction thereof, whether based on convenience or otherwise.

**Section 10.13. 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 10.14. 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: \_\_\_\_\_  
Bruce Goblirsch, Its President

By: \_\_\_\_\_  
Eric Maass, Its Secretary

STATE OF MINNESOTA    )  
  )ss.  
COUNTY OF DAKOTA    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Bruce Goblirsch 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





## **SCHEDULE A**

### **Description of Redevelopment Property**

Lots 1,2,3,7, and 8, Block 17, TOWN OF HASTINGS, Dakota County, Minnesota, according to the recorded plat thereof;

AND

The 20.00 foot wide alley dedicated in Block 17, TOWN OF HASTINGS, Dakota County, Minnesota, lying east of the northerly extension of the west line of Lot 7, said Block 17 and west of a line drawn from the southeast corner of Lot 1 to the northeast corner of Lot 8, said Block 17.

[TO BE REPLACED WITH THE LEGAL DESCRIPTION FOR THE PROPERTY WHEN PLATTED AS LOT 1, BLOCK 1, STENCIL ADDITION]

**SCHEDULE B**  
**FORM OF TIF NOTE**

No. R-1

\$1,913,693.00

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 Lake Isabelle Flats, LLC, a South Dakota limited liability company, 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 Nine Hundred Thirteen Thousand Six Hundred Ninety-Three and No/100 Dollars (\$1,913,693.00) as provided in that certain Contract for Private Redevelopment, dated as of \_\_\_\_\_, 2022, 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 twenty (20) 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 August 1 and February 1, commencing on August 1, 2025 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 Redevelopment Property within the Tax Increment Financing District No. 9 (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\_\_.

\_\_\_\_\_, President

\_\_\_\_\_, 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 Lake Isabelle Flats, LLC, a South Dakota limited liability company, 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

Lake Isabelle Flats, LLC

\_\_\_\_\_, 20\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_, 20\_\_

\_\_\_\_\_

## SCHEDULE C

### 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 Lake Isabelle Flats, LLC, a South Dakota limited liability company (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, Stencil Addition, Dakota County, Minnesota, according to the recorded plat thereof;

**WHEREAS**, the Development Agreement 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).

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

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 D**

**ASSESSMENT AGREEMENT**

**And**

**ASSESSOR' S CERTIFICATION**

**By and Between**

**HASTINGS ECONOMIC DEVELOPMENT AND REDEVELOPMENT AUTHORITY,**

**And**

**LAKE ISABELLE FLATS, LLC**

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

**THIS AGREEMENT**, dated as of this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between the **HASTINGS ECONOMIC DEVELOPMENT AND REDEVELOPMENT AUTHORITY**, a public body corporate and politic and political subdivision of the State of Minnesota (the "Authority") and **LAKE ISABELLE FLATS, LLC**, a South Dakota limited liability company (the "Developer").

**WITNESSETH**, that

**WHEREAS**, on or before the date hereof the Authority and Developer have entered into an Contract for Private Development (the "Development Agreement") regarding certain real property located in the City of Hastings and legally described in Schedule A hereto ("Development Property"); and

**WHEREAS**, pursuant to the Development Agreement, the Authority is to provide tax increment financing assistance to the Developer, derived from the Development Property located within the Authority's Modified Redevelopment Plan for Development District No. 1 Tax Increment Financing (Redevelopment) and District No. 9 (the "TIF District")

**WHEREAS**, pursuant to the Development Agreement, the Developer is obligated to acquire the Development Property and to construct certain improvements thereon, including an approximate 89-unit rental multi-family housing facility, consisting of studio, one-bedroom, and two-bedroom units, with 65 in-building parking stalls and 44 surface stalls; and

**WHEREAS**, the Authority and Developer desire to establish a minimum market value for said land and the improvements to be constructed thereon, pursuant to Minnesota Statutes. Section 469.177, Subdivision 8;

**WHEREAS**, the Authority and the County Assessor for the County of Dakota have reviewed the preliminary plans and specifications for the improvements which it is contemplated will be erected;

**WHEREAS**, Developer and the Authority request that the Assessor provide a certification substantially in the form attached hereto as Exhibit B.

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

1. The minimum market value which shall be assessed for the land described in Schedule A, with the improvements constructed thereon shall be Seventeen Million Eight Hundred Thousand Dollars (\$17,800,000.00) on January 2, 2024, and each year thereafter (the "Minimum Assessed Value"). On each tax assessment date thereafter until the termination date stated in paragraph 2 below, the minimum market value for such land and improvements shall be equal to the minimum market value established for the previous year. The minimum market values established pursuant to this Agreement shall not be affected by incomplete construction or damage or destruction of the Minimum Improvements to be constructed pursuant to the Development Agreement.

2. The minimum market value herein established shall be of no further force and effect and this Agreement shall terminate on the earlier of the following: (i) the date of receipt by the Authority of the final payment from County of Tax Increment from the TIF District; or (ii) the date when the TIF Note and any interfund loans attributable to the TIF District have been fully paid or defeased in accordance with their terms. The events referred to in this paragraph shall be evidenced by a certificate or affidavit in recordable form executed by the Authority.

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

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

5. This Agreement and the Minimum Assessed Value (or such higher Assessed Value determined by the Assessor in accordance with Section 7 below) shall continue in full force and effect until the earlier of (i) the TIF District is decertified, defeased or terminated in accordance with its terms; or (ii) the date of full and final payment of the TIF Notes issued under the terms of the Contract) (the "Termination Date"). Upon the earlier of such dates, this Agreement shall automatically terminate and the market values of the Development Property and associated Improvements for ad valorem tax purposes shall be based on the then Assessed Value of the same. The Authority shall duly execute and record a release of this Agreement upon the written request and sole expense of the Developer or the then holder of fee title to the Development Property or any applicable Lot.

6. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties, or any future owners of the Development Property.

7. Nothing herein shall limit the discretion of the County Assessor or any other public official or body having the duty to determine the market value of the Development Property for ad valorem tax purposes to assign to the Development Property a market value in excess of the minimum market value specified in this Agreement.

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

**HASTINGS ECONOMIC DEVELOPMENT  
AND REDEVELOPMENT AUTHORITY**

By: \_\_\_\_\_  
Bruce Goblirsch, President

(SEAL)

By: \_\_\_\_\_  
Eric Maass, Secretary

STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF DAKOTA    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Bruce Goblirsch and by Eric Maass, the President and Secretary respectively of the Hastings Economic Development and Redevelopment Authority, a public body corporate and politic and political subdivision of the State of Minnesota, on its behalf.

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

**LAKE ISABELLE FLATS, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: Chief Manager

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

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2022,  
by \_\_\_\_\_, the Chief Manager of Lake Isabelle Flats, LLC, a South Dakota limited liability  
company, 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 ASSESSMENT AGREEMENT**

**Legal Description of Land**

Lot 1, Block 1, Stencil Addition, Dakota County, Minnesota, according to the recorded plat thereof

**EXHIBIT B  
TO ASSESSMENT AGREEMENT**

CERTIFICATION BY COUNTY ASSESSOR

The undersigned, having reviewed the plans and specifications for the improvements to be constructed and the market value assigned to the land upon which the improvements are to be constructed, and being of the opinion that the minimum market value contained in the foregoing Agreement appears reasonable, hereby certifies as follows: The undersigned assessor, being legally responsible for the assessment of the above described property, certifies that the \$17,800,000 market value effective on January 2, 2024 assigned to the land and improvements are reasonable.

\_\_\_\_\_  
County Assessor for the  
County of Dakota

STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF DAKOTA    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, the County Assessor for the County of Dakota.

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