

ASSIGNMENT AND ASSUMPTION OF CONTRACT FOR PRIVATE REDEVELOPMENT

THIS ASSIGNMENT AND ASSUMPTION OF CONTRACT FOR PRIVATE REDEVELOPMENT (the "Assignment") is entered into this ___ day of April, 2022, by and between NJS Development LLC, a South Dakota limited liability company ("Assignor/Developer") and Lake Isabelle Flats, LLC, a South Dakota limited liability company and NSKW, LLC a South Dakota Limited Liability Company ("Assignees").

WITNESSETH:

WHEREAS, on April ____, 2022, Assignor/Developer entered into that certain Contract for Private Redevelopment ("Redevelopment Contract") with the Hastings Economic Development and Redevelopment Authority ("Authority"), a public body corporate and politic under the laws of the State of Minnesota attached as Exhibit A, wherein the Hastings Economic Development and Redevelopment Authority, agreed to provide tax increment financing to assist Assignor/Developer in constructing a multifamily rental housing facility, more fully described in the Redevelopment Contract, (the "Property"); and

WHEREAS, Assignor/Developer has entered into a Real Estate Purchase Agreement with the Authority for the purchase of a portion of the real property legally described in Exhibit B ("Authority Purchase Agreement"); and

WHEREAS, Assignor/Developer has entered into a Real Estate Purchase Agreement with Timothy and Kay Rowen for the purchase of a portion of the real property legally described in Exhibit B ("Rowen Purchase Agreement"); and

WHEREAS, Assignor/Developer have assigned their rights and obligations under the Authority Purchase Agreement to Lake Isabelle Flats, LLC; and

WHEREAS, Assignor/Developer have assigned their rights and obligations under the Rowen Purchase Agreement to NSKW, LLC; and

WHEREAS, upon the closing of the Purchase Agreements, the Assignees shall become fee owner of the real property legally described on attached Exhibit B (herein the "Real Property"). Assignees will construct a 89-unit rental multi-family housing facility, consisting of studio, one-bedroom, two-bedroom units, with 65 in-building parking stalls and 33 surface stalls on the Real Property (the "Project"); and

WHEREAS, Assignor/Developer wishes to assign to Assignees, and Assignees desires to assume from Assignor/Developer, all right, title, interest and obligations in the Redevelopment Contract.

NOW, THEREFORE, the parties mutually agree as follows:

1. Assignor/Developer hereby assigns to Assignees all of Assignor/Developer's right, title, interest, duties and obligations in, to and under the Redevelopment Contract. Assignees hereby accepts the foregoing assignment and agrees to assume and perform all covenants and remaining obligations required of the Assignor/Developer under or in connection with the Redevelopment Contract arising from and after the date hereof, and agrees to be subject to all the conditions and restrictions to which the Assignor/Developer is subject.

2. Assignor/Developer agrees to indemnify, hold harmless and defend Assignees from and against all debts, liabilities and obligations arising from the Redevelopment Contract occurring prior to the date hereof. Assignee agrees to indemnify, hold harmless and defend Assignor/Developer from and against all debts, liabilities and obligations arising from the Redevelopment Contract occurring after the date hereof, except those specifically assumed by Assignor/Developer.

3. Assignor/Developer hereby covenants and agrees with Assignees that Assignor/Developer will, as often as reasonably required so to do by Assignees, and at Assignee's sole expense, execute, acknowledge and deliver any and all such other instruments of further assurance, as Assignees may hereafter deem reasonably necessary or proper to complete, insure and perfect the conveyance and transfer to Assignees of any and all interest of Assignor/Developer hereby assigned.

4. Assignees agree to faithfully observe and perform all of the obligations and agreements of the Redevelopment Contract.

5. Assignor/Developer warrants and represents that:

(a) It has the right to exercise and deliver this Assignment under the terms of the Agreement. The execution of this Assignment and performance and observance of its terms hereof have been duly authorized by necessary company action and do not contravene or violate any provision of Assignor/Developer's organizational documents.

(b) To Assignor/Developer's knowledge, as of the date hereof (i) the Redevelopment Contract is in full force and effect, subject to no defenses, setoffs or counterclaims whatsoever; and (ii) there exists no event, condition or occurrence that would cause the Redevelopment Contract to be subject to any defenses, setoffs or counterclaims whatsoever upon its execution and delivery.

(c) To Assignor/Developer's knowledge, there exists no event, condition or occurrence which constitutes, or which with notice and/or the passage of time would constitute, a breach of or default under any terms or conditions of any of the Redevelopment Contract.

(d) Assignor/Developer acknowledges that this assignment and approval by the City shall not relieve the Assignor/Developer or any other party bound in any way by the Redevelopment Contract or otherwise with respect to the construction of the Project from any of its obligations with respect thereto.

(e) The Assignor/Developer agrees to pay all reasonable legal fees and expenses of the City, including fees of the City Attorney's office and outside counsel retained by the City to review the documents submitted to the City in connection with any transfer.

6. Assignees hereby represent and warrant that the Assignees have the qualifications and financial responsibility, necessary and adequate to fulfill the obligations undertaken in this Agreement by the Assignor/Developer in that the Assignees will be the Developer under the terms of the Redevelopment Contract.

7. This Assignment shall be governed by and be construed in accordance with the laws of the State of Minnesota. Whenever possible, each provision of this Assignment shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Assignment shall be prohibited by or be invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Assignment.

8. Notices required hereunder shall be by registered or certified mail or hand delivered, addressed as follows:

Each notice shall be addressed as follows:

If to Assignor/Developer at: NJS Development, LLC
1507 E. 69th
Sioux Falls, SD 57108
Attention: Nathan Stencil

With a copy to:

Hagen Wilka & Archer, LLP
600 S Main Avenue, Suite 102
Sioux Falls, SD 57104
Attention: John Archer, Esq.

If to Assignees at: Lake Isabelle Flats, LLC
6245 S. Pinnacle Place
Sioux Falls, SD 57108
Attention: Nathan Stencil

NSKW, LLC
6245 S. Pinnacle Place
Sioux Falls, SD 57108
Attention: Nathan Stencil

or to such other address specified in writing by one party to the other in accordance herewith.

9. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

10. Assignor/Developer and Assignee represent and warrant that the preceding is true and correct.

IN WITNESS WHEREOF, the parties hereto have set their hands as of the date first above written.

Assignor/Developer:

NJS Development LLC

Assignees:

Lake Isabelle Flats, LLC

By _____
Its _____

By _____
Its _____

NSKW, LLC

By _____
Its _____

CONSENT OF THE HASTINGS ECONOMIC AND REDEVELOPMENT AUTHORITY

The Hastings Economic and Redevelopment Authority, a public body corporate and politic under the laws of the State of Minnesota, hereby consents to the terms of this Assignment..

AND REDEVELOPMENT

HASTINGS ECONOMIC DEVELOPMENT
AUTHORITY

By: _____
Its: Bruce Goblirsch, Its President

By: _____
Its: Eric Maass, Its Secretary

EXHIBIT A

Redevelopment Contract

EXHIBIT B

Legal Description of the Real 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.