



AGENDA
CITY OF MINNETONKA
ECONOMIC DEVELOPMENT ADVISORY COMMISSION
Thursday, April 19, 2018
6:00 p.m.

Council Chambers
Minnetonka Community Center

1. Call to Order

2. Roll Call

Charlie Yunker
Jerry Knickerbocker
Megan Luke
Lee Jacobsohn

Jacob Johnson
Jay Hromatka
Melissa Johnston

3. Approval of March 22, 2018 minutes

BUSINESS ITEMS

4. Dominion Apartments (Legacy of Minnetonka and Preserve at Shady Oak)

Recommend the EDA provide feedback and recommend the city council approve the Contract(s) for Private Development

5. Staff Report

6. Other Business

The next regularly scheduled EDAC meeting will be held on, **Wednesday, May 23 at 6:00 p.m.**

7. Adjourn

If you have questions about any of the agenda items, please contact:
Alisha Gray, EDFP, Economic Development and Housing Manager (952) 939-8285
Julie Wischnack, AICP, Community Development Director, (952) 939-8282

**Unapproved
Minnetonka Economic Development Advisory Commission
Meeting Minutes**

**March 22, 2018
6 p.m.**

1. Call to Order

Chair Yunker called the meeting to order at 6 p.m.

2. Roll Call

EDAC commissioners present: Jay Hromatka, Lee Jacobsohn, Jacob Johnson, Melissa Johnston, Jerry Knickerbocker, Megan Luke, and Charlie Yunker were present.

Chair Yunker welcomed Hromatka and Luke to the commission.

Staff present: Community Development Director Julie Wischnack, Economic Development Housing Manager Alisha Gray, and Economic Development Coordinator Rob Hanson.

3. Approval of Nov. 27, 2018 Minutes

Johnston moved, Knickerbocker seconded a motion to recommend that the EDAC approve the minutes from the Nov. 27, 2018 meeting as included in the agenda. Jacobsohn, Johnson, Johnston, Knickerbocker, and Yunker voted yes. Hromatka and Luke abstained. Motion passed.

4. 2019-2023 EIP

EDAC was reviewing the old EDAC document for staff to create the 2019-2023 EIP. All project pages will be updated accordingly.

Gray and Wischnack reported.

Wischnack clarified the distinction between this document and other policy documents of the city. This is different from the comp plan in that it is meant to show the City's investment into different programs outlined in the city's comprehensive plan.

Johnson asked why the Minnetonka Home Enhancement Loan fund projections are relatively inflated compared to previous years. Asked if increased marketing would occur. Gray explained that current market forces, and CEE taking over administration will make the process more accessible for individuals. Johnson further asked if we are allocating enough to the program based on perceived demand. Gray explained that interest and repayments determine how much should be allocated year in and year out.

Jacobsohn asked what the difference is between the Small Projects Loan and the Minnetonka Home Enhancement Program. Gray explained the repayment terms and income limits are major differences.

Jacobsohn asked if maximum loan amounts are detrimental towards getting projects completed. Should the City look at potentially less restrictive guidelines to encourage more participation in the program? Gray responded that staff would investigate for the next draft of the document.

Knickerbocker asked for clarification on CDBG admin amounts. Wanted to make sure that there was no duplication in admin amounts that the City would receive. Wischnack explained that this draft of the EIP that the committee was looking at was the prior year document and that the administration amounts would be changed.

Knickerbock asked about the amount on the Music Barn (TIF Pooling Page). Commented that the amounts need to be revised.

Gray explained that the City will receive updated TIF projections in 2019 from Ehlers.

Johnson asked for more explanation on the concept of the Next Generation Program. Wischnack explained that it was a concept that predates WHALT. There wasn't originally a way to create single family affordable housing in Minnetonka. Further explained that staff will consider alternative methods or audiences to take on ownership of properties.

Johnson asked if CDBG programming that is deemed effective should be considered for alternative financing should the federal government cut CDBG funding in the future. Gray explained that repayments will help offset anticipated funding losses over the future.

Johnson asked for clarification on measures regarding Greater MSP's tracking of businesses assisted and what exactly a media headline is. Staff responded that Natureworks was one company that was assisted, Gray further commented that a tech company inquired and was working through the City and Greater MSP. Gray explained that Greater MSP tracks whenever a business from Minnetonka is mentioned in media headline.

Luke asked how the City determines the value of its investment into Greater MSP? Gray explained that Greater MSP has created economic dashboard to show its success across the metro. Greater MSP is important in that they can advocate for the region and the City globally.

Johnson asked if we should be allocating more dollars to Open for Business as it is one of the successful programs within the City. Wischnack explained that MCCD staff would notify the city if they felt that they were doing more work than they were being paid for. Gray mentioned that she would send out the list of businesses helped by Open to Business to the commissioners.

Staff clarified that in the updated draft, SAC/REC deferment numbers would be updated to reflect that the program is in place currently.

Johnson asked for clarification on the number of businesses that were supported through the Hennepin County Economic Gardening program. Gray responded that in 2017, two businesses were helped in the program.

Knickerbocker asked when strategic marketing would be implemented. Gray explained that staff was waiting for the city's brand to be established. The newsletter is being created and will be issued this summer.

Luke asked for clarification on why the expenditures for Metro Transit are shown as zero. Wischnack responded that since we are an opt-out community the money that Minnetonka would receive is directly going to Metro Transit instead due to the City's service contract with Metro Transit.

Chair Yunker, asked if the HRA Levy increasing was indicative of a trend for future HRA Levy amounts? In response to Chair Yunker's question, Wischnack explained that the funds from the HRA Levy would be used for the loan program and payback of SWLRT. Gray explained that WHAHLT is expected to be \$100,000 in 2019 and reduced to \$25,000 in 2020.

Gray stated that she noted the recommended changes to the report. She will do a more thorough update when commissioners review the EIP again in May.

5. Business Development Strategy

Gray reported.

Johnson commended staff for putting the document together. He suggested that listening sessions be utilized. He found those useful. Gray stated that the first newsletter could include a survey that would ask if an interested party would like to meet with staff or participate in a listening session or focus group.

Johnson thought that the City could play a role in networking events as well, especially for small businesses. He suggested partnering with The Commons. He thought face to face meetings may be more effective.

Knickerbocker thought the strategy was well thought out and put things in order. He noted that outreach had 30 business contacts in 2017. He questioned why something with a proven track record would not continue and expand. Gray explained that staff is working with the TwinWest Chamber of Commerce and the Greater MSP in 2018 and 2019.

Jacobsohn agreed with commissioners' comments regarding communicating and listening to the existing businesses. He suggested creating a Minnetonka Round Table for business owners and visiting new businesses to ask what struggles the owner had to establish the business. Gray stated that the newsletter could be used to find if there is interest for a round-table discussion.

Johnson commended staff on identifying one person, Hanson, as the single point of contact.

6. Staff Report

Gray and Wischnack reported:

- There was a ruling in favor of the Metropolitan Council that dealt with environmental issues and a bridge in Minneapolis for the SWLRT. Bids will be

opened in May and awarded in August. Construction could begin in September. Service could begin in 2023.

- Staff meets with MTC quarterly.
- There is a big reconstruction project being proposed for Ridgedale Drive.
- Shady Oak Road is in a holding pattern until tax credits are issued.
- A monopole is being built on Williston Road near the water tower.
- Minnetonka Hills Apartments is expected to begin construction in a few months.
- Midwest Mastercraft is framed.
- Mesaba Capital, which is now called "Havenwood," is under construction.
- Crest Ridge Senior Housing on County Road 73 and Interstate 394 is under construction.
- The RiZe at Opus is under construction.
- A brewery company is proposing to locate in an industrial area of Baker Road.
- The flying simulation business, iFly, will begin construction at Ridgedale Shopping Center soon.
- Active Adult Apartments on the Ridgedale Shopping Center property south of JCPenneys is moving forward.
- The remodeling fair was held in February. The attendance was good.
- Minnetonka secured \$1.8 million in grants for the Mariner and \$210,000 from the LHIA Account. WHAHLT also received funding.
- An application can be submitted on line for the Welcome to Minnetonka Home Enhancement Loan.
- Staff met with county staff and is now looking at how CDBG funds will be allocated for projects. The maximum loan amount of \$5,000 has not been increased since 2005. The loans have been providing temporary fixes for larger repairs. There are currently 222 outstanding deferred loans for \$5,000 or more for a total of \$1.1 million that could be repaid. The number of home sales completed in a year in Minnetonka is rising. Increasing the loan maximum amount up to \$15,000 is being considered to meet the spend-down requirement and allow for necessary, permanent fixes. The loan would be forgiven if the borrower lives in the house for 10 years or paid if the house would be sold or refinanced prior to 10 years. There is no interest and no payments. Knickerbocker supported increasing the loan amount. The amount has not kept up with inflation. Wischnack noted that there is a correlation between helping more people with smaller loan amounts and providing larger loan amounts to fewer people. The qualifying income limit for an applicant of the CDBG program is restricted to up to 80 percent of average median income. Funds are distributed according to a city's census track, poverty ratings, and other factors. Luke suggested providing a loan program to assist specifically seniors with house maintenance.
- Hanson is on the county's committee that handles public service requests. A report with the results will be provided at the next meeting.

Chair Yunker thanked staff for putting together the year-end report.

8. Other Business

The next SLUC meeting will be March 21, 2018 at 11:30 a.m. in Golden Valley.

The next EDAC meeting is scheduled for Thursday, April 19, 2018 at 6 p.m.

9. Adjournment

Knickerbocker moved, Johnson seconded a motion to adjourn the meeting at 8 p.m. Motion passed unanimously.

Economic Development Advisory Commission
Agenda Item #4
Meeting of April 19, 2018

Brief Description	Dominium Apartments
Recommendation	Recommend the EDA provide feedback and recommend the city council approve the Contract(s) for Private Development

Background

Dominium is proposing to redevelop the existing commercial property at 11001 Bren Road East. The concept plan contemplated redevelopment of the existing office building to construct a 6-story, 262-unit independent senior building and 220-units of affordable workforce rental housing within three 4 to 5-story buildings on a 9.8 acre site. The proposed 482 units would provide a housing density of 49 units per acre. (The original concept plan indicated 475 units)

The concept plan included a mix of workforce and senior housing units ranging from one to three bedrooms. The developer is proposing that all units would consist entirely of affordable workforce and senior tenants (55+) earning up to 60% AMI (approximately \$54,240 for a household of four or \$43,440 for a two person household).). The rents are structured to be capped at approximately 30% of the income level and are estimated to range from \$1,017 for a one-bedroom, \$1,221 for a two-bedroom, and \$1,410 for a three-bedroom unit (inclusive of utilities).

Prior Meeting Review and Summary

EDAC Subcommittee Review – October 25, 2017

On October 25, EDAC Commissioners Isaacson, Yunker, and Jacobsohn met as a subcommittee to review the request using Council Policy 2.14, the council's policy on TIF Financing as a guide for the assistance request. The EDAC subcommittee expressed that the request for TIF assistance with 2% inflation was reasonable and concluded that it met the following criteria:

- The project is compatible with the Comprehensive Guide Plan as a proposed mixed-use development;
- The project would not occur “but for” the assistance;
- The project is in a high priority “village area” as identified in the Comprehensive Guide Plan;
 - Project is located in Opus and is a high priority “village area”
- The project includes affordable housing units, which meets the city's affordable housing standards;
 - 100% of units with rents at 60% AMI.
- The proposed project amenities will benefit a larger area than identified in the development; and
- The project will maximize and leverage the use of other financial resources.
 - Developer is proposing a mix of financing sources.

In addition, the EDAC subcommittee provided feedback on items for the EDAC to consider at the November 27 meeting. The EDAC subcommittee requested the following additional information:

- The commissioners asked staff to prepare an analysis on the historical context of property value inflation on a sample of Minnetonka multifamily projects. Staff analyzed the historical property valuation on Belgrove (1988-2017), Boulevard Gardens (1998-2017), and Claremont (1988-2017). The Belgrove and Claremont both experienced a 14% cumulative increase in valuation while Boulevard Gardens experienced an 11% cumulative increase in valuation. Both the Belgrove and Claremont apartments experienced short timeframes with a decline in valuation year over year. However, the cumulative individual valuations for the three properties is positive.
- The commissioners requested information on the existing and proposed housing developments in OPUS. The attached map includes an overview of housing in Opus. There are currently 1,030 units of existing housing (red), 332 units under construction (yellow), and 700 proposed (blue). The Southwest LRT Housing Gaps Analysis recommended the following housing production in Opus in 2015-2030
 - Rental
 - 120 units at 80-100% AMI
 - 340 units at 100%+ AMI
 - Ownership
 - 70 units entry-level
 - 70 units mid-market
 - Total of 600 rental and ownership units

In addition, Minnetonka has currently met 50% (122 units) of the city's 2011-2020 Livable Communities Affordable housing goals for production of new affordable (rental and ownership) and 136% (509 units) of the new lifecycle housing as of 2017.

Lastly, recent housing data prepared for the 2040 comprehensive plan by Marquette Advisor's indicated that Minnetonka lost approximately 2,200 units affordable to households earning <80% of the area median income between 2010 and 2015. It is anticipated that this trend will continue on naturally occurring affordable housing (NOAH) properties as rents continue to rise, vacancy rates remain historically low, and new households enter the market.

EDAC Review – November 27, 2017

The EDAC reviewed the TIF financing request at the November 27 meeting. The EDAC generally concurred that the request for the 26-year TIF Housing District, with the inclusion of two-percent inflation, met the requirements of the TIF policy and that the request was consistent with the city's treatment of similar projects. The commissioners did concur that the remaining \$880,000 gap should be Dominium's responsibility to solve. The attached unapproved minutes from the November 27, 2017 meeting cover the commissioner's feedback in greater detail.

City Council Review - December 4, 2017

On Dec. 4, 2017, the city council discussed the initial concept plan and financing inquiry from Dominium. The discussion focused on the density, quality of construction, and height of the project, and the existing and proposed housing in Opus. The council expressed initial concern regarding the amount of affordable units in one project. However, the council members agreed

that additional senior and workforce affordable housing would assist Minnetonka in meeting current and future housing demand. The council requested that staff research future trail, park planning, and retail opportunities in the area. Lastly, the council expressed the financial assistance request was reasonable for the size of the project and would further review the financial request as the project progresses.

On April 6, Dominium formally submitted its land use application which will be reviewed at the April 30, 2018 and June 4, 2018 city council meetings and May 10, 2018 planning commission meeting. Additionally, the developer previewed a request for Tax Increment Financing (TIF) with the EDAC on Nov. 27, 2017 and city council on Dec. 4, 2017 and Dec. 18, 2017.

Contract for Private Development Overview

The city's legal counsel, Julie Eddington at Kennedy & Graven, drafted the attached Contract for Private Development that was developed based upon the requests for city assistance by the developer with feedback from the EDAC and city council. The contract outlines the major points associated with the TIF request as well as other expectations for the development. Given that the workforce housing "Preserve at Shady Oak" and the senior housing "Legends of Minnetonka" will have separate ownership entities each project will have its own contract for private development. The EDAC is reviewing the contract for the Preserve at Shady Oak, an additional contract will be drafted for the Legends of Minnetonka that mirrors the Preserve's contract. Staff anticipates slight modifications will be made to the contract prior to the June 4 city council review. If any substantial changes were requested during that time, staff would bring back the contract(s) for further EDAC review.

Both Ms. Eddington and Mr. Lehnhoff will be available at the EDAC meeting on April 19, 2018 to answer any questions regarding the Contract for Private Development and to answer questions related to the financial request.

Highlights of the Contract for Private Development are listed below:

Declaration of Restrictive Covenants

- Given that the developer is requesting TIF assistance and utilizing tax credit financing through the MHFA, there are certain income and rent restriction requirements the developer must follow. The developer is proposing to make all 482 units affordable to those at 60% AMI or less. In addition, rent limits on those affordable may not exceed 30% of the income calculated for that unit. Additionally, it has historically been the city's position to require a minimum of 30 years of affordability.
- As an example, rents are anticipated to be \$800 - \$1,200 per month (depending on the size of the unit). At 60% AMI, the maximum estimated annual income allowable for one person is approximately \$37,000 (\$17.30/hourly). For a four-person household, the estimated annual income allowable is approximately \$54,000 (\$24.50/hourly). In similar developments in Minnetonka, residents indicated employment in retail, administrative, and health professional careers.
- The declaration also requires the developer to accept tenants who are recipients of Section 8 certificates/vouchers during the 30-year affordability period.

- The developer must provide a 90-day notification in the event of a sale.

TIF and Other Funding Sources

The developer has asked the city to consider a “pay-as-you-go” TIF Note in the amount of \$7.809 million to assist with financing for the project. The TIF assistance would be split between the workforce housing (\$3.648 million) and the senior housing (\$4.161 million), each noted in a separate contract for private development. Mr. Lehnhoff (Ehlers) reviewed this request and prepared the attached memo that includes analysis of the request and a recommendation. The following is a summary of Ehlers’ recommendation that is included in the memo:

- Provide up to \$7.809 million in TIF, structured as a pay-as-you-go-TIF note over a maximum term of 26 years, including a 2% inflationary factor.
 - Interest rate on the TIF Note will be set at the lesser of 5.15% or the developer’s actual interest rate.
 - The developer increased the first mortgage to accommodate the reduction in TIF assistance.

The assistance requested from the developer would result in a per unit cost of approximately \$540 per year over a 30 year affordability period based on total assistance of \$7.809 million. The per unit assistance on previously approved housing redevelopment projects ranges from \$377 per unit/per year to \$4,777 per unit/per year.

The EDAC reviewed the TIF financing request at the November 27 meeting. The EDAC generally concurred that the request for the 26-year TIF Housing District, with the inclusion of two-percent inflation, met the requirements of the TIF policy and “but for” test and that the request was consistent with the city’s treatment of similar projects.

Other Grants

- The developer is in the process of applying for grant funding through the Metropolitan Council’s Livable Communities Demonstration Account (LCDA) and Hennepin County TOD grant program, to assist with project costs and seek other equity sources that do not impact Minnesota Housing Finance Agency (MHFA) tax credit scoring.

Minimum Assessment Agreement

- The developer agrees to not cause a reduction on the Minimum Market Value assessed in respect to the minimum improvements.

Events of Default

- If the developer fails to construct the senior housing component of the project the developer would be in default of the agreement. Similar language will be added to the contract for the senior housing component, noting default if the workforce housing is not constructed.

Bond Financing and MHFA Request at April 16, 2018 City Council Meeting

- On Dec. 18, 2018, the council provided preliminary approval for the issuance of tax-exempt multifamily housing revenue bonds up to \$120 Million to finance both the workforce units and the senior units. On Jan 9, 2018, the developer was awarded the bonding allocation from the state in the amount of \$65 Million (which provided half of the financing for the project as anticipated) to finance the workforce and senior housing. The

developer now plans to return a portion of the workforce bond allocation and apply for a new bond allocation for the senior units in May 2018. The developer plans to construct the workforce and senior housing as two separate projects with separate ownership entities for each (Dominium plans to construct both projects at the same time). The attached letter from Ryan Lunderby, Dominium Apartments, describes the commitment in greater detail. In addition, representatives from Dominium will attend the meeting to answer any questions.

- With the proposed change in financing, Dominium is committing to reserving approximately 262 units to tenants that are age 55 and greater (previous request committed to reserving units to age 50 and greater) in the senior component of the project. The developer is now requesting that the city call a public hearing, at the April 16 city council meeting, on the proposed tax-exempt multifamily revenue bonds in the amount of \$36,500,000 for the senior housing. The developer is also requesting that the city issue a multifamily housing revenue note in the amount of \$30,500,000 to provide short-term financing for the workforce housing (previously approved in December 2018). Staff anticipates that bonds will be issued as permanent financing for the workforce project within one year (the bonds will refund the note and finance the remaining costs of the project). As part of this request, the city must also adopt a housing program for workforce housing which is a requirement of the Federal Housing Act.
- In addition, the developer requested that the city council adopt resolutions (on April 16, 2018) supporting applications to Minnesota Housing Finance Agency (MHFA) for 4% Low Income Housing Tax Credits (LIHTC) in the amount of \$35,623,000 to assist with financing both the workforce and senior housing. The resolution includes language that the city will consider providing tax increment financing in the amount of up to \$4,161,000 for the senior housing and up to \$3,648,000 for the workforce housing, for a total of up to \$7,809,000. The attached memo from Ehlers further explains the analysis of the request, which is slightly higher than the previous request due to an increase of seven units and final 2018 property tax rates.

Upcoming Meetings:

- April 30, 2018 – Council introduction of planning items and referral to planning commissions
- May 10, 2018 – Planning commission public hearing and review
- June 4, 2018 – Final council/EDA review of planning items and financing request

Recommendation

Staff recommends the EDAC provide feedback and recommend the Economic Development Authority approve the Contract(s) for Private Development. This item is scheduled for city council review on June 4, 2018.

Submitted through:

Julie Wischnack, AICP, Community Development Director

Originated by:

Alisha Gray, EDFP, Economic Development and Housing Manager

Supplemental Information:

Location Map

Concept Plan

Memo from James Lehnhoff – Ehlers

Letter from Dominium

TIF Policy 2.18

Affordability Chart

Draft Contract for Private Development

[City Council Meeting – December 18, 2017](#)

[City Council Meeting– December 4, 2017](#)

[EDAC Meeting – November 27, 2017](#)



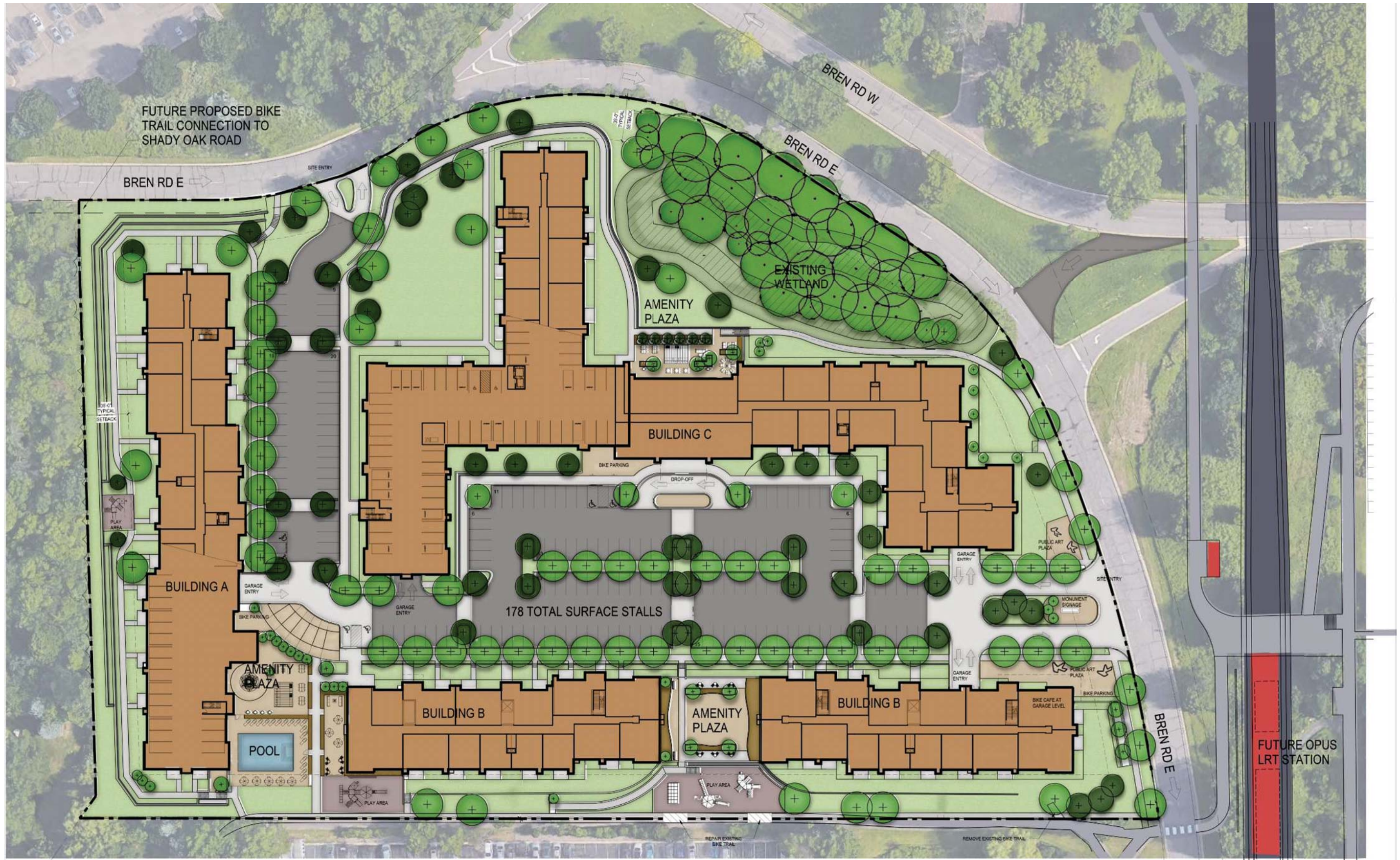
Location Map

Dominium
Address: 11001 Bren Rd E



This map is for illustrative purposes only.





BREN ROAD DEVELOPMENT
 MINNETONKA, MN
 CITY SUBMITTAL - APRIL 6, 2018

PROPOSED SITE





BLDG HEIGHT 153'-4"
 FIFTH FLOOR 142'-8"
 FOURTH FLOOR 132'-0"
 THIRD FLOOR 121'-4"
 SECOND FLOOR 110'-8"
 FIRST FLOOR 100'-0"
 GARAGE 89'-0"



BLDG HEIGHT 153'-4"
 FIFTH FLOOR 142'-8"
 FOURTH FLOOR 132'-0"
 THIRD FLOOR 121'-4"
 SECOND FLOOR 110'-8"
 FIRST FLOOR 100'-0"
 GARAGE 89'-0"

BREN ROAD DEVELOPMENT
 MINNETONKA, MN
 CITY SUBMITTAL - APRIL 6, 2018

EXTERIOR RENDERING & ELEVATIONS - URBAN VILLAGE





BLDG HEIGHT	167'-8"
SIXTH FLOOR	157'-0"
FIFTH FLOOR	146'-4"
FOURTH FLOOR	135'-8"
THIRD FLOOR	125'-0"
SECOND FLOOR	112'-6"
FIRST FLOOR	100'-0"
GARAGE	89'-0"



BLDG HEIGHT 142'-8"
 FOURTH FLOOR 132'-0"
 THIRD FLOOR 121'-4"
 SECOND FLOOR 110'-8"
 FIRST FLOOR 100'-0"
 GARAGE 89'-0"



BLDG HEIGHT 153'-4"
 FIFTH FLOOR 142'-8"
 FOURTH FLOOR 132'-0"
 THIRD FLOOR 121'-4"
 SECOND FLOOR 110'-8"
 FIRST FLOOR 100'-0"
 GARAGE 89'-0"

BREN ROAD DEVELOPMENT
 MINNETONKA, MN
 CITY SUBMITTAL - APRIL 6, 2018

EXTERIOR RENDERING & ELEVATIONS - NATURE/PARKS





BREN ROAD DEVELOPMENT
MINNETONKA, MN
CITY SUBMITTAL - APRIL 6, 2018

EXTERIOR RENDERING

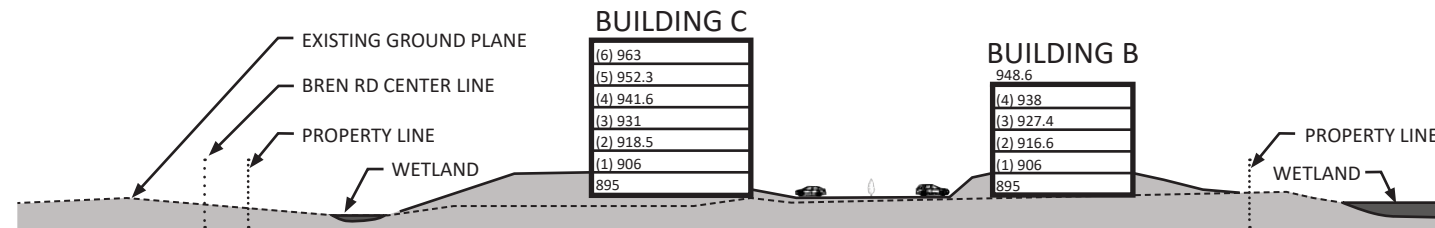




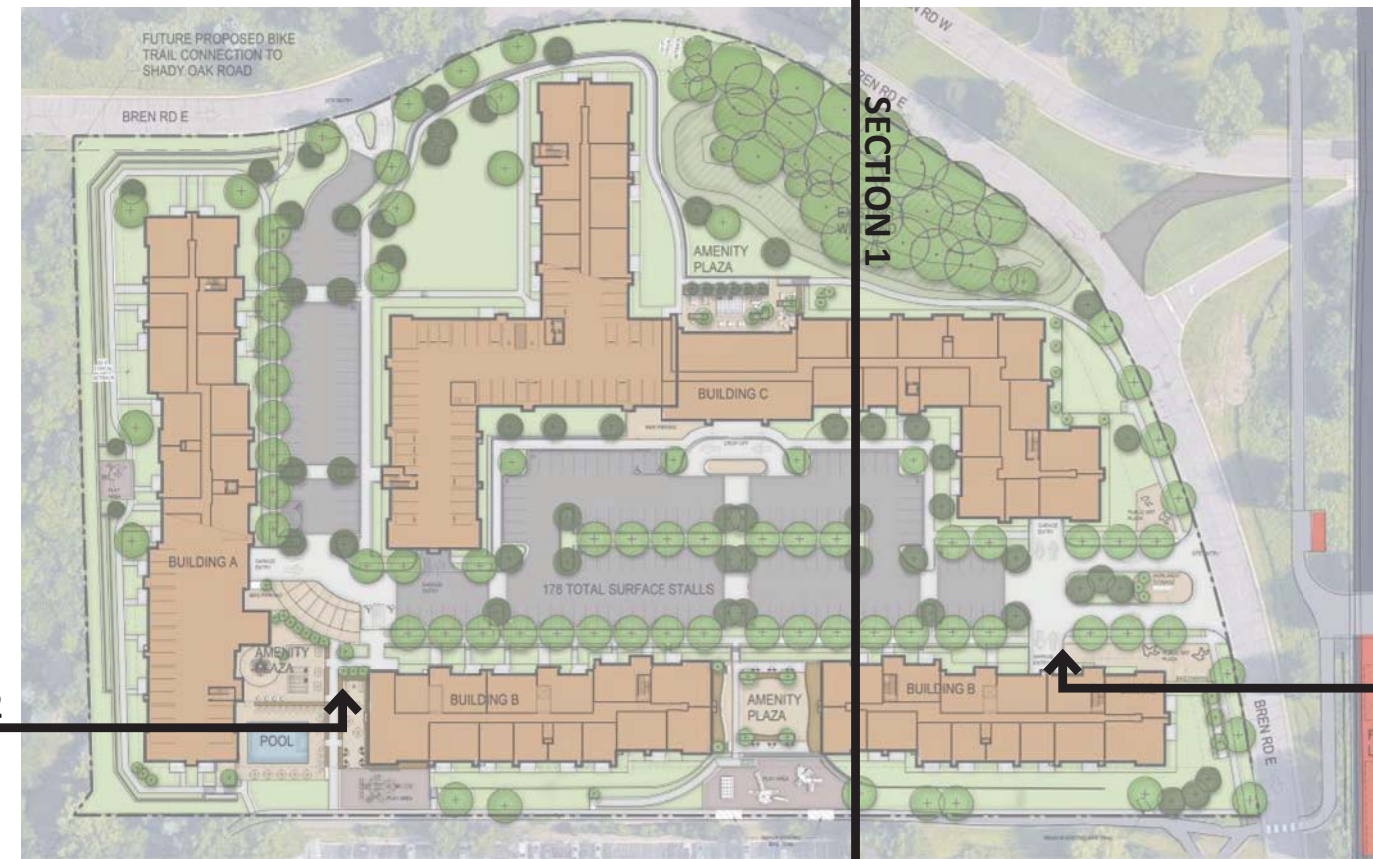
BREN ROAD DEVELOPMENT
MINNETONKA, MN
CITY SUBMITTAL - APRIL 6, 2018

EXTERIOR RENDERING

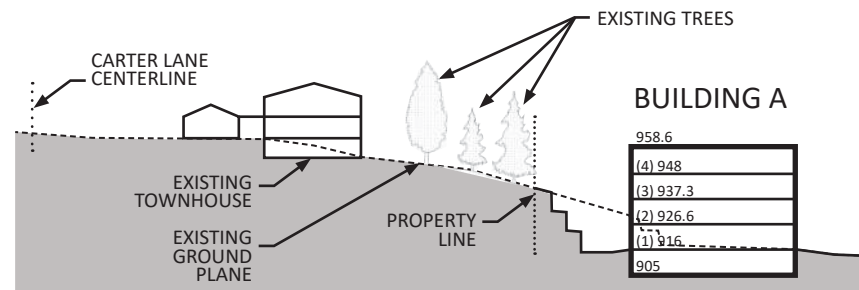




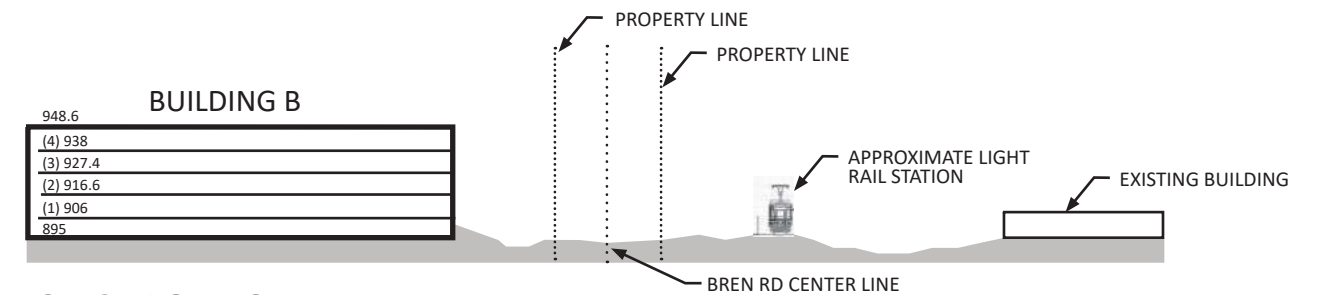
SECTION 1



SITE PLAN



SECTION 2



SECTION 3

SITE SECTIONS



Memo

To: Alisha Gray, Economic Development and Housing Manager
From: James Lehnhoff - Ehlers
Date: April 6, 2018
Subject: Dominion Project Proposal Review: Digi Site Redevelopment

In November 2017, the City of Minnetonka requested that Ehlers review the development pro forma and Tax Increment Financing (TIF) request from Dominion for their proposal to construct approximately 475 affordable apartments at 11001 Bren Road East. The original redevelopment concept included demolishing the existing office building and constructing 210 general occupancy affordable apartments and 265 age-restricted affordable apartments. To help close a nearly \$8.5 million project financing gap, the Economic Development Advisory Commission (“EDAC”) and the City Council subsequently considered a \$7.6 million TIF request from Dominion (includes a 2% inflationary factor). The remaining gap amount was to be addressed through a combination of project cost reductions and other funding sources.

Since last November, Dominion has conducted additional design work, revised the project budget, and submitted an updated development pro forma for analysis. The revised project proposes a total of 482 apartments—an increase of seven apartments. The “Legends of Minnetonka” includes 262 age-restricted affordable apartments and the “Preserve at Shady Oak” includes 220 general occupancy affordable apartments. As before, all the apartments would be affordable to households at or below 60% of area median income (AMI). The 2017 income limits as published by HUD:

Income Limit by Household Size	
Household Size	60% AMI Income Limit
1	\$37,980
2	\$43,440
3	\$48,840
4	\$54,240

HUD has not yet released the 2018 updates

The project must comply with the statutory required income restrictions for the term of the Housing TIF District (statutes do not require rent restrictions). However, the City has extended the compliance period to 30 years and required rent restrictions in prior projects.

Analysis

We have reviewed the updated development pro forma based on general industry standards for construction, land, and project costs; affordable rental rates and operating

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expenses; developer fees; available funding sources; underwriting criteria; and, project cash flow.

While the total development costs (“TDC”) increased from approximately \$240,000 per unit to \$274,000 per unit, the development pro forma assumptions are generally reasonable and within industry standards in the current market. The cost increase is primarily due to three factors: 1) construction costs, 2) financing costs, and 3) the developer/contractor fee. In addition to construction costs generally increasing in this market, more detailed designs and design changes contributed to a majority of the overall cost increase (i.e. a large retaining wall to address grade changes, shallow groundwater issues, additional stormwater management, and a 5-6 story building instead of the original 4-story building).

The financing costs increased due to higher interest rates and a need to “park” their bond allocation, which adds to the carrying costs. Finally, while the developer/contractor fee increased from the prior analysis, the increase was entirely offset by an even larger deferred fee to help reduce the gap (this is a financing technique used in LIHTC projects that can result in additional tax credit proceeds that actually reduces the overall financing gap). The developer/contractor fees still conform to Minnesota Housing underwriting requirements. The updated summary sources and uses are as follows:

Revised Sources and Uses			
Sources	Amount	Per Unit	% of Cost
First Mortgage	\$69,780,000	\$144,772	53%
TIF Note Request (26 years with 2% Inflation)	\$7,809,000	\$16,201	6%
4% LIHTC	\$35,623,000	\$73,907	27%
Met Council/Hennepin County Grants	\$1,500,000	\$3,112	1%
Deferred Developer/Contractor Fee (83% of total fee)	\$14,494,976	\$30,073	11%
Cash from Operations	\$3,071,523	\$6,372	2%
Total	\$132,278,499	\$274,437	100%
Uses	Amount	Per Unit	% of Cost
Acquisition Costs	\$10,000,000	\$20,747	8%
Construction Costs	\$87,689,878	\$181,929	66%
Professional Services	\$4,622,578	\$9,590	3%
Financing Costs	\$10,684,951	\$22,168	8%
Developer/Contractor Fee	\$17,439,080	\$36,181	13%
Reserves	\$1,842,012	\$3,822	1%
Total	\$132,278,499	\$274,437	100%

Dominium has maximized the first mortgage and 4% low-income housing tax credit equity. They expect to apply for \$1,500,000 in additional public resources from such entities as Hennepin County and the Metropolitan Council. Finally, Dominion will use future project cash flow from operations for the remaining project costs.

The TIF Note size increased from approximately \$7.6 million in the prior analysis to \$7.8 million in this analysis because of the additional units and applying the final 2018 property tax rates. However, this also means the property is paying more in annual property taxes than previously assumed. Other than this adjustment to the tax increment calculation, the project cost increases are addressed by Dominion through other sources.

Recommendation

Based upon our review of the developer's pro forma and current market conditions, the proposed development will not reasonably be expected to occur solely through private investment within the reasonably near future. Due to the costs associated with redeveloping the property and constructing housing with affordable rents, this project is feasible only through assistance, in part, from the City's contribution.

TIF assistance would be provided on a "pay-as-you-go" basis in the amount of \$7,809,000 over a maximum 26-year term. As discussed at the November meeting, the TIF assistance includes a 2% inflationary factor. The interest rate on the TIF Note will be set at the lesser of 5.15% or the Developer's actual interest rate.

With "pay-as-you-go" TIF assistance, the City does not provide any up-front funding. Instead, the City enters into an agreement to provide tax increment payments that are generated solely from a portion of the development's actual increased property taxes for up to 26 years. The applicant uses those future tax increment payments to obtain additional financing from a private lender. If the tax increment is insufficient to pay the \$7,809,000 TIF note in 26 years, the City does not make up the shortfall. Conversely, if the tax increment provides the \$7,809,000 before the end of the 26-year term, the City may end the TIF district early.

Please contact me at 651-697-8552 with any questions.



Via E-mail

April 10, 2018

Ms. Julie Wischnack
Economic Development Director
City of Minnetonka
14600 Minnetonka Blvd
Minnetonka, MN 55345

Re: Dominion Minnetonka Multifamily Development
11001 Bren Road East, Minnetonka, MN

Dear Ms. Wischnack,

The purpose of this letter is to inform you and city staff of a change in the plan of finance for the Bren Road redevelopment project that we have been working on together. In our initial concept reviews with the City of Minnetonka, Dominion had proposed a multifamily project that would serve both senior households and family/workforce households. To accomplish our goals for this project of providing a mix of housing for these two tenant populations, we need to split these into two separate projects.

We have been reviewing with our counsel ways to provide these two types of housing under one plan of finance and one ownership structure. There would have been benefits and efficiencies in financing this as one project, which is why we have been spending time exploring it. However, due to concerns with fair housing rules and further reviews of Minnesota bond statutes related to having tax exempt bonds finance age-restricted projects for seniors we felt it necessary to separate the two projects. The result of splitting the project into two projects will eliminate all fair housing concerns that we had previously and will allow us to restrict the senior building to households aged 55 or older, providing a better long term ownership and management plan for this site.

From the City's perspective and with guidance from city staff, Dominion expects to move through the remaining city processes as we have been. This includes providing one planning commission submission, scheduling remaining approvals for both projects at the same city council meetings, completing the financing closings for the two projects on the same date, and constructing both projects at the same time.

The workforce project and the senior project will be owned by separate Dominion-affiliated entities and Dominion Management Services, LLC will be managing both projects. Please let me know if you have any further questions about this change to the project.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ryan Lunderby".

Ryan Lunderby
Vice President

Policy Number 2.18
Tax Increment Financing and Tax Abatement

Purpose of Policy: This policy establishes criteria which guide the economic development authority and the city council when considering the use of tax increment financing and tax abatement tools in conjunction with proposed development.

Introduction

Under the Minnesota Statutes Sections 469.152 to 469.1799, the city of Minnetonka has the authority to establish tax increment financing districts (TIF districts). Tax increment financing is a funding technique that takes advantage of the increases in tax capacity and property taxes from development or redevelopment to pay public development or redevelopment costs. The difference in the tax capacity and the tax revenues the property generates after new construction has occurred, compared with the tax capacity and tax revenues it generated before the construction, is the captured value, or increments. The increments then go to the economic development authority and are used to repay public indebtedness or current costs the development incurred in acquiring the property, removing existing structures or installing public services. The fundamental principle that makes tax increment financing viable is that it is designed to encourage development that would not otherwise occur.

Under Minnesota Statutes, Sections 469.1812 to 469.1815, the city of Minnetonka has the right to abate property taxes. A city may grant an abatement of some or all of the taxes or the increase in taxes it imposes on a parcel of property if the city expects the benefits of the proposed abatement agreement to at least equal the costs of the proposed agreement. Abatement would be considered a reallocation or rededication of taxes for specific improvements or costs associated with development rather than a “refund” of taxes.

It is the judgment of the city council that TIF and abatement are appropriate tools that may be used when specific criteria are met. The applicant is responsible for demonstrating the benefit of the assistance, particularly addressing the criteria below. The applicant should understand that although approval may have been granted previously by the city for a similar project or a similar mechanism, the council is not bound by that earlier approval. Each application will be judged on the merits of the project as it relates to the public purpose.

TAX INCREMENT FINANCING

The Economic Development Authority (EDA), as authorized by the city, will be responsible to determine that (1) a project would not occur “but for” the assistance provided through tax increment financing; and (2) no other development would occur on the relevant site without tax increment assistance that could create a larger market value increase than the increase expected from the proposed development (after adjusting for

the value of the tax increment). At the time of any application for a Comprehensive Guide Plan amendment, rezoning or site plan approval for a project, whichever occurs first, the applicant must divulge that TIF financing will be requested.

Projects eligible for consideration of tax increment financing include but are not limited to the following:

- Projects must be compatible with the Comprehensive Guide Plan (or acquire an amendment) and the development and redevelopment objectives of the city.
- Priority will be given to those projects which:
 - are within the “village areas” identified in the city’s most recently adopted Comprehensive Guide Plan;
 - are mixed use or residential in nature, and include affordable housing units which meet the city’s affordable housing standards;
 - contain amenities or improvements which benefit a larger area than the identified development;
 - improve blighted or dilapidated properties, provide cohesive development patterns, or improve land use transitions; or
 - maximize and leverage the use of other financial resources.

Costs Eligible for Tax Increment Financing Assistance

The EDA will consider the use of tax increment financing to cover project costs as allowed for under Minnesota Statutes. The types of project costs that are eligible for tax increment financing are as follows:

Utilities design	Site related permits
Architectural and engineering fees directly attributable to site work	Soils correction
Earthwork/excavation	Utilities (sanitary sewer, storm sewer, and water)
Landscaping	Street/parking lot paving
Streets and roads	Curb and gutter
Street/parking lot lighting	Land acquisition
Sidewalks and trails	Legal (acquisition, financing, and closing fees)
Special assessments	Surveys
Soils test and environmental studies	Sewer Access Charges (SAC) and Water Access Charges (WAC)

Title insurance	Landscape design
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Forms of Assistance

Tax increment financing will generally be provided on a “pay-as-you-go” basis wherein the EDA compensates the applicant for a predetermined amount for a stated number of years. The EDA will have the option to issue a TIF Note with or without interest, where the principal amount of the TIF Note is equal to the amount of eligible project costs incurred and proven by the developer. In all cases, semi-annual TIF payments will be based on available increment generated from the project. TIF payments will be made after collection of property taxes.

Fiscal Disparities

TIF Districts will generally be exempt from the contribution to fiscal disparities. Tax revenues for fiscal disparities, generated by the TIF project, will be the responsibility of properties inside the district. The exception to this policy is when MN Statutes require that fiscal disparities be paid from within a TIF District, as is the case with Economic Development Districts.

TAX ABATEMENT

The tax abatement tool provides the ability to capture and use all or a portion of the property tax revenues within a defined geographic area for a specific purpose. Unlike TIF, tax abatement must be approved by each major authority under which the area is taxed, and therefore, usually only city property taxes will be abated. In practice, it is a tax “reallocation” rather than an exemption from paying property taxes. Tax abatement is an important economic development tool that, when used appropriately, can be useful to accomplish the city’s development and redevelopment goals and objectives. Requests for tax abatement must serve to accomplish the city’s targeted goals for development and redevelopment, particularly in the designated village center areas. At the time of any application for a Comprehensive Guide Plan amendment, rezoning or site plan approval for a project, whichever occurs first, the applicant must divulge that tax abatements will be requested.

Projects Eligible for Tax Abatement Assistance

Projects eligible for consideration of property tax abatement include but are not limited to the following:

- Projects must be compatible with the Comprehensive Guide Plan (or acquire an amendment) and the development and redevelopment objectives of the city; and
- Priority will be given to those projects which:
 - increase or preserve the tax base
 - provide employment opportunities in the City of Minnetonka;

- provide, help acquire or construct public facilities;
- finance or provide public infrastructure;
- improve blighted or dilapidated properties, provide cohesive development patterns, or improve land use transitions; or
- produce long-term affordable housing opportunities.

Fiscal Disparities

Tax revenues for fiscal disparities, generated by the abatement project, will be the responsibility of properties inside the district.

REVIEW PROCESS

All applications for TIF and tax abatement will be reviewed by city's community development director. After review by the city's financial consultant, the community development director may refer the request to the EDA. The EDA will hold appropriate public hearings and receive public input about the use of the financial tools. The EDA will provide a recommendation regarding the assistance to the city council.

The city council must consider, along with other development decisions, the request for assistance and will make the final decision as to the amount, length, and terms of the agreement.

Adopted by Resolution No. 2014-074
Council Meeting of July 21, 2014

Name of Project	Number of Affordable Units	Total Assistance	Years of Affordability	Assistance per Unit, per Year	Affordability Level
Dominium Apartments	482	7,890,000 (est)	30	\$540	60% AMI
Newport Partners (Mariner)	55	\$556,179 (est)	30	\$337	60% AMI
Homes Within Reach (2004-2012 grant years)	35	\$1,740,000	99	\$502	80% AMI
The Ridge	52	\$1,050,000	30	\$673	60% AMI
Shady Oak Redevelopment	49	\$1,209,000 (est)	30	\$822	60%AMI
West Ridge Market (Crown Ridge, Boulevard Gardens, Gables, West Ridge)	185	\$8,514,000	30	\$1,534	<i>Crown Ridge—60% AMI</i> <i>Boulevard Gardens—60% AMI</i> <i>Gables—initially 80% AMI, now no income limit</i> <i>West Ridge—50% AMI</i>
Beacon Hill (apartments)	62	\$2,484,000	25	\$1,602	50% AMI
Ridgebury	56	\$3,243,000	30	\$1,930	Initially--80% AMI Now no income limit
Glen Lake (St. Therese, Exchange)	43	\$4,800,000	30	\$3,721	60% AMI
Cedar Point Townhomes	9	\$512,000	15	\$3,792	50% AMI
Tonka on the Creek	20	\$2,283,000	30	\$3,805	50% AMI
At Home (Rowland)	21	\$2,500,000	30	\$3,968	50% AMI
Applewood Pointe	9	\$1,290,000	Initial Sale/Ongoing maximum %	\$4,777	80% AMI

**Second Draft
April 12, 2018**

**CONTRACT
FOR
PRIVATE DEVELOPMENT**

between

**ECONOMIC DEVELOPMENT AUTHORITY
IN AND FOR THE
CITY OF MINNETONKA, MINNESOTA**

and

MINNETONKA LEASED HOUSING ASSOCIATES II, LLLP

Dated _____, 2018

This document was drafted by:
KENNEDY & GRAVEN, CHARTERED (JAE)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, Minnesota 55402
Telephone: 612-337-9300

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CONTRACT FOR PRIVATE DEVELOPMENT

THIS CONTRACT FOR PRIVATE DEVELOPMENT, made as of the ____ day of _____, 2018 (the "Agreement"), is between the ECONOMIC DEVELOPMENT AUTHORITY IN AND FOR THE CITY OF MINNETONKA, MINNESOTA, a public body corporate and politic under the laws of the State of Minnesota (the "Authority"), and MINNETONKA LEASED HOUSING ASSOCIATES II, LLLP, a Minnesota limited liability limited partnership (the "Developer").

WITNESSETH:

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

WHEREAS, the Authority and the City have undertaken a program to promote economic development and job opportunities, promote the development and redevelopment of land which is underutilized within the City, and facilitate the development of affordable housing, and in this connection created a redevelopment project known as the _____ Redevelopment Project (the "Redevelopment Project") in the City, pursuant to Minnesota Statutes, Sections 469.001 through 469.047, as amended; and

WHEREAS, the City and the Authority have established within the Project the _____ Tax Increment Financing District, a housing district (the "TIF District"), and have adopted a financing plan (the "TIF Plan") for the TIF District in order to facilitate development of certain property in the Redevelopment Project and promote the development of affordable housing within the City, all pursuant to Minnesota Statutes, Sections 469.174 through 469.1794, as amended; and

WHEREAS, the Developer proposes to acquire certain property described in EXHIBIT A attached hereto (the "Development Property") within the TIF District and develop approximately 220 affordable multifamily housing apartment units, to be located at or about 11001 Bren Road East in the City, with one hundred percent (100%) of the apartment units made affordable to families at or below sixty percent (60%) of the area median income (the "Minimum Improvements"); and

WHEREAS, in order to make the Minimum Improvements economically feasible for the Developer to construct, the Authority is prepared to reimburse the Developer for certain land acquisition costs, site improvement costs, and costs of constructing housing related to the Minimum Improvements, which are eligible to be reimbursed with tax increment; 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, morals, and welfare of its residents, and in accord with the public purposes and provisions of the applicable State of Minnesota and local laws and requirements under which the Redevelopment Project has been undertaken and is being assisted.

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

ARTICLE I

Definitions

Section 1.1. Definitions. In this Agreement, unless a different meaning clearly appears from the context, the following terms have the following defined meanings:

“Administrative Costs” means the costs described in Section 3.5 hereof.

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

“Assessor” means the assessor of the County.

“Authority” means the Economic Development Authority in and for the City of Minnetonka, Minnesota, a public body corporate and politic under the laws of the State.

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

“Available Tax Increment,” means, on each Payment Date, ninety percent (90%) of the Tax Increment attributable to the Development Property and paid to the Authority by the County in the six (6) 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 the certification provided to the Developer pursuant to Section 4.4 hereof.

“City” means the City of Minnetonka, Minnesota.

“Closing” means the date the Developer purchases the Development Property.

“Code” means the Internal Revenue Code of 1986, as amended, and the treasury regulations promulgated thereunder.

“Construction Plans” means the plans, specifications, drawings and related documents on the construction work to be performed by the Developer on the Development Property, including the Minimum Improvements, which (a) must be as detailed as the plans, specifications, drawings and related documents which are submitted to the appropriate building officials of the City, and (b) must include at least the following: (1) site plan; (2) foundation plan; (3) floor plan for each floor; (4) cross-sections of each floor plan (length and width); (5) elevations (all sides, including a building materials schedule); (6) landscape and grading plan; and (7) other plans or supplements to the foregoing plans as the City may reasonably request to allow it to ascertain the nature and quality of the proposed construction work.

“County” means Hennepin County, Minnesota.

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

“Developer” means Minnetonka Leased Housing Associates II, LLLP, a Minnesota limited liability limited partnership, or its permitted successors and assigns.

“Development Property” means the real property described in EXHIBIT A attached hereto.

“EDA Act” means Minnesota Statutes, Sections 469.090 through 469.1082, as amended.

“Event of Default” means an action by the Developer listed in Article IX hereof.

“Holder” means the owner of a Mortgage.

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

“Material Change” means a change in construction plans that adversely affects generation of tax increment or changes the number of Rental Housing Units.

“Maturity Date” means the date that the Note has been paid in full or terminated, whichever is earlier.

“Minimum Assessment Agreement” means the Minimum Assessment Agreement establishing a Minimum Market Value of the Development Property and the Minimum Improvements substantially in the form attached hereto as EXHIBIT G.

“Minimum Improvements” means the construction of a multifamily housing development consisting of __ buildings with approximately 220 affordable apartment units, with _____ parking spaces, on the Development Property.

“Minimum Market Value” means a minimum market value for real estate tax purposes of \$_____ with respect to the Development Property and Minimum Improvements as of January 2, 20__ for taxes payable beginning in 20__ through the Termination Date.

“Mortgage” means any mortgage made by the Developer which is secured, in whole or in part, with the Development Property and which is a permitted encumbrance pursuant to the provisions of Article VII hereof.

“Note” means a Tax Increment Revenue Note, substantially in the form attached hereto as EXHIBIT B, to be delivered by the Authority to the Developer pursuant to Section 3.4 hereof, and any obligation issued to refund the Note.

“Payment Date” means each February 1 and August 1, commencing August 1, 2020, on which principal of the Note is paid.

“Redevelopment Plan” means the Redevelopment Plan for the Redevelopment Project approved and adopted by the Authority and the City Council of the City.

“Redevelopment Project” means the _____ Redevelopment Project.

“Redevelopment Project Area” means the real property located within the boundaries of the Redevelopment Project.

“Rental Housing Units” means the rental housing units constructed as part of the Minimum Improvements.

“Senior Housing Project” means the construction of approximately 262 affordable apartment units for seniors by Minnetonka Leased Housing Associates III, LLLP, a Minnesota limited liability limited partnership, on property adjacent to the Development Property.

“State” means the State of Minnesota.

“Tax Credit Law” means Section 42 of the Code.

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

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

“Tax Increment District” or “TIF District” means the _____ Tax Increment Financing District, a housing district.

“Tax Increment Plan” or “TIF Plan” means the _____ Tax Increment Financing Plan for Tax Increment Financing District, as approved _____, 2018, and as it may be amended from time to time.

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

“Termination Date” means _____.

“Unavoidable Delays” means delays beyond the reasonable control of the party seeking to be excused as a result thereof which are the direct result of strikes, lockouts or other labor troubles, prolonged adverse weather or 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 in properly exercising its rights under this Agreement) which directly result in delays. Unavoidable Delays shall not include delays experienced by the Developer in obtaining permits or governmental approvals necessary to enable construction of the Minimum Improvements by the dates such construction is required under Section 4.3 hereof, so long as the Construction Plans have been approved in accordance with Section 4.2 hereof. Unavoidable Delays shall include delays resulting from market conditions which make the Redevelopment Project financially infeasible.

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

ARTICLE II

Representations and Warranties

Section 2.1. Representations by the Authority. The Authority makes the following representations:

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

(b) The Authority proposes to assist in financing certain land acquisition costs, site improvement costs, and costs of constructing affordable housing necessary to facilitate the construction of the Minimum Improvements in accordance with the terms of this Agreement to further the objectives of the Redevelopment Plan.

(c) The Authority finds that the Minimum Improvements are necessary to alleviate a shortage of, and maintain existing supplies of, decent, safe, and sanitary housing for persons of low or moderate income and their families.

(d) The execution, delivery and performance of this Agreement and of any other documents or instruments required pursuant to this Agreement by the Authority, and consummation of the transactions contemplated therein and the fulfillment of the terms thereof, do not and will not conflict with or constitute a breach of or default under any existing (i) indenture, mortgage, deed of trust or other agreement or instrument to which the Authority is a party or by which the Authority or any of its property is or may be bound; or (ii) legislative act, constitution or other proceedings establishing or relating to the establishment of the Authority or its officers or its resolutions.

(e) There is not pending, nor to the best of the Authority's knowledge is there threatened, any suit, action or proceeding against the Authority before any court, arbitrator, administrative agency or other governmental authority that materially and adversely affects the validity of any of the transactions contemplated hereby, the ability of the Authority to perform its obligations hereunder, or the validity or enforcement of this Agreement.

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

(a) The Developer is a limited liability limited partnership duly organized and in good standing under the laws of the State, is duly authorized to transact business within the State, and has the power to enter into this Agreement.

(b) The Developer will construct, operate and maintain the Minimum Improvements in accordance with the terms of this Agreement, the Redevelopment Plan, and all local, State, and federal laws and regulations (including, but not limited to, environmental, zoning, building code and public health laws and regulations).

(c) The Developer will construct the Minimum Improvements in accordance with all local, State, or federal laws or regulations.

(d) The Developer will 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. The Developer did not obtain a building permit for any portion of the Minimum Improvements before _____, 2018, the date of approval of the TIF Plan for the TIF District.

(e) The Developer has received no notice or communication from any local, State, or federal official that the activities of the Developer on the Development Property may be or will be in violation of any environmental law or regulation. The Developer is aware of no facts the existence of which would cause it to be in violation of or give any person a valid claim under any local, State, or federal environmental law, regulation or review procedure.

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

(g) The proposed development by the Developer hereunder would not occur but for the tax increment financing assistance and other assistance being provided by the Authority hereunder.

(h) The Developer must promptly advise the Authority in writing of all litigation or claims affecting any part of the Minimum Improvements and all written complaints and charges made by any governmental authority materially affecting the Minimum Improvements or materially affecting Developer or its business which may delay or require changes in construction of the Minimum Improvements.

(i) The Developer represents that 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 constructed for use by the tenants of the Minimum Improvements constitutes a residential use.

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

ARTICLE III

Property Acquisition; Financing

Section 3.1. Status of Development Property. As of the date of this Agreement, the Developer has entered into a purchase agreement to acquire the Development Property. The Developer shall acquire the Development Property pursuant to the terms of such purchase agreement. The Authority has no obligation to acquire any portion of the Development Property.

Section 3.2. Environmental Conditions.

(a) The Developer acknowledges that the Authority makes no representations or warranties as to the condition of the soils on the Development Property or the fitness of the Development Property for construction of the Minimum Improvements or any other purpose for which the Developer may make use of such property, and that the assistance provided to the Developer under this Agreement neither implies any responsibility by the Authority for any contamination of the Development Property or poor soil conditions nor imposes any obligation on such parties to participate in any cleanup of the Development Property or correction of any soil problems.

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

Section 3.3. Reimbursement of Certain Developer Costs. The Authority is authorized to acquire real property and convey real property to private entities at a price determined by the Authority in order to facilitate development of the property. The Authority has determined that, in order to make development of the Minimum Improvements financially feasible, it is necessary to reduce the costs of acquisition of the Development Property, site preparation costs, costs of constructing housing, or any other costs eligible to be reimbursed with tax increment (collectively, the "Public Development Costs"). The Authority has also determined that, in light of potential liability that could be incurred by the Authority if the Authority takes title to the Development Property, it is in the best interest of the Authority for the Developer to acquire the Development Property directly. The Authority will reimburse the Developer for a portion of the actual cost of acquiring the Development Property in accordance with the terms of this Agreement.

Section 3.4. Issuance of Pay-As-You-Go Note.

(a) In consideration of the Developer constructing the Minimum Improvements and to finance the reimbursement of Public Development Costs incurred by the Developer, the Authority will issue and the Developer will purchase the Note in the principal amount of \$3,648,000. The Authority and the Developer agree that the consideration from the Developer for the purchase of the Note will consist of the Developer's payment of the Public Development Costs incurred by the Developer in at least the principal amount of the Note.

Before delivery of the Note, the Developer shall have:

(i) delivered to the Authority written evidence in a form satisfactory to the Authority that the Developer has paid Public Development Costs in at least the principal amount of \$3,648,000;

(ii) submitted Construction Plans to the Authority and obtained approval for the Construction Plans by the Authority;

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

(iv) delivered to the Authority an investment letter in substantially the form set forth in EXHIBIT C attached hereto or another form reasonably satisfactory to the Authority; and

(v) executed and delivered to the Authority the Minimum Assessment Agreement substantially in the form attached hereto as EXHIBIT G.

(b) The Developer understands and acknowledges that the Authority makes no representations or warranties regarding the amount of Available Tax Increment, or that revenues pledged to the Note will be sufficient to pay the principal of and interest on the Note. Any estimates of Tax Increment prepared by the Authority or its municipal advisors in connection with the TIF District or this Agreement are for the benefit of the Authority and are not intended as representations on which the Developer may rely.

(c) The Authority acknowledges that the Developer may assign the Note to a lender that provides the financing for the acquisition of the Development Property or the construction of the Minimum Improvements. The Authority consents to this type of assignment, conditioned upon receipt of an Investment Letter from the lender.

(d) If the TIF District is disqualified as described in Section 4.5 hereof, the Authority is required by the TIF Act to stop payments of Available Tax Increment to pay principal of and interest on the Note.

Section 3.5. Payment of Administrative Costs.

(a) The Developer is responsible to pay "Administrative Costs," which term means out-of-pocket-costs incurred by the Authority from and after _____, 2017: (i) the Authority's municipal advisor in connection with the Authority's financial participation in development of the Development Property; and (ii) the Authority's legal counsel in connection with negotiation and drafting of this Agreement.

(b) On and after the date of execution of this Agreement, but not more often than monthly, the Authority may request payment of Administrative Costs, and the Developer agrees to pay all Administrative Costs within ten (10) days of the Authority's written request, supported by suitable billings, receipts or other evidence of the amount and nature of Administrative Costs incurred. At the Developer's request, but no more often than monthly, the Authority will provide the Developer with a written report on current and anticipated expenditures for Administrative Costs, including invoices or other comparable evidence.

Section 3.6. Records. The Authority and its representatives will 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 and the costs for which the Developer has been reimbursed with Tax Increment.

Section 3.7. Exemption from Business Subsidy Act. The parties agree and understand that the purpose of the Authority’s financial assistance to the Developer is to facilitate development of affordable residential rental housing for persons of low and moderate income, and is not a “business subsidy” within the meaning of Minnesota Statutes, Sections 116J.993 to 116J.995, as amended.

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ARTICLE IV

Construction and Maintenance of Minimum Improvements

Section 4.1. Construction of Improvements. The Developer agrees that it will construct the Minimum Improvements on the Development Property substantially in accordance with the approved Construction Plans. The Developer agrees that, at all times prior to the Maturity Date, it will operate and maintain, preserve and keep the Minimum Improvements or cause the improvements to be maintained, preserved and kept with the appurtenances and every part and parcel thereof, in good repair and condition. The Authority will have no obligation to operate or maintain the Minimum Improvements.

Section 4.2. Construction Plans.

(a) Before commencement of construction of the Minimum Improvements, the Developer will submit to the Authority the Construction Plans. The Construction Plans must provide for the construction of the Minimum Improvements and must be in substantial conformity with the Redevelopment Plan, this Agreement, and all applicable State and local laws and regulations. The Authority Representative will approve the Construction Plans in writing if: (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 Redevelopment Plan; (iii) the Construction Plans conform to all applicable federal, State, and local laws, ordinances, rules and regulations; (iv) the Construction Plans are adequate to provide for construction of the Minimum Improvements; (v) the Construction Plans do not provide for expenditures in excess of the funds available to the Developer from all sources (including the Developer's equity) for construction of the Minimum Improvements; and (vi) no Event of Default has occurred. Approval may be based upon a review by the City's Building Official of the Construction Plans. No approval by the Authority Representative will relieve the Developer of the obligation to comply with the terms of this Agreement or of the Redevelopment Plan, applicable federal, State, and local laws, ordinances, rules and regulations, or to construct the Minimum Improvements in accordance therewith. No approval by the Authority Representative will 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, the Construction Plans will be deemed approved unless rejected in writing by the Authority Representative, in whole or in part. The rejections must set forth in detail the reasons therefor, and must be made within twenty (20) days after the date of their receipt by the Authority. If the Authority Representative rejects any Construction Plans in whole or in part, the Developer must 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 will continue to apply until the Construction Plans have been approved by the Authority. The Authority Representative's approval will not be unreasonably withheld, delayed or conditioned. Said approval will constitute a conclusive determination that the Construction Plans (and the Minimum Improvements constructed in accordance with said plans) comply to the Authority's satisfaction with the provisions of this Agreement relating thereto.

(b) If the Developer desires to make any Material Change in the Construction Plans after their approval by the Authority, the Developer must submit the proposed change to the Authority for its approval. If the Construction Plans, as modified by the proposed change, conform to the requirements of this Section 4.2 with respect to the previously approved Construction Plans, the Authority will approve the proposed change and notify the Developer in writing of its approval. Any change in the Construction Plans will, in any event, be deemed approved by the Authority unless rejected, in whole or in part, by written notice by the Authority to the Developer, setting forth in detail the reasons therefor. Any rejection must be made within twenty (20) days after receipt of the notice of such change. The Authority's approval of any change in the Construction Plans will not be unreasonably withheld.

Section 4.3. Commencement and Completion of Construction.

(a) Subject to Unavoidable Delays, the Developer will commence the construction of the Minimum Improvements by _____, 2018 and shall substantially complete the Minimum Improvements by _____, 20____.

(b) Construction is considered to be commenced upon the beginning of physical improvements to the Development Property beyond grading.

(c) All work with respect to the Minimum Improvements to be constructed or provided by the Developer on the Development Property must be in substantial conformity with the Construction Plans as submitted by the Developer and approved by the Authority. The Developer agrees for itself, its successors and assigns, and every successor in interest to the Development Property, or any part thereof, that the Developer, and its successors and assigns, will promptly begin and diligently prosecute to completion the development of the Development Property through the construction of the Minimum Improvements thereon, and that the construction will in any event be commenced and completed within the period specified in Section 4.3(a) hereof. Until construction of the Minimum Improvements has been completed, the Developer will make reports, in the detail and at the times as may reasonably be requested by the Authority, as to the actual progress of the Developer with respect to the construction.

Section 4.4. Certificate of Completion.

(a) Promptly after substantial completion of the Minimum Improvements in accordance with those provisions of the Agreement, the Authority will furnish the Developer with a Certificate of Completion in substantially the form attached hereto as EXHIBIT E. The certification by the Authority will be a conclusive determination of satisfaction and termination of the agreements and covenants in the Agreement and in any deed with respect to the obligations of the Developer, and its successors and assigns, to construct the Minimum Improvements and the dates for the completion thereof. The certification and the determination will 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.

(b) The Certificate of Completion provided for in this Section 4.4 will be in the form as will enable it to be recorded in the proper office for the recordation of deeds and other instruments pertaining to the Development Property. If the Authority refuses or fails to provide any certification in accordance with the provisions of this Section 4.4, the Authority will, within thirty (30) days after written request by the Developer, 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 it will be necessary, in the opinion of the Authority, for the Developer to take or perform in order to obtain the certification.

(c) The construction of the Minimum Improvements will be considered substantially complete when the Developer has received a certificate of occupancy from the City for all Residential Housing Units.

Section 4.5. Affordability Covenants; Qualification of the TIF District. The Developer agrees that the Minimum Improvements are subject to the following affordability covenants:

(a) As of the date hereof, the Developer expects that the Minimum Improvements will include the mix of Rental Housing Units set forth in EXHIBIT F. The Developer will cause one hundred

percent (100%) of the Rental Housing Units in the Minimum Improvements to be affordable to families at or below sixty percent (60%) of the area median income and to be rent-restricted in accordance with the Tax Credit Law, all as further described in the Declaration attached hereto as EXHIBIT D. Notwithstanding anything to the contrary in the Tax Credit Law, the restrictions will remain in effect for the thirty (30) year period described in the Declaration. On or before the Closing, the Developer will deliver the executed Declaration to the Authority in recordable form.

(b) The Developer will provide _____ parking spaces for the Minimum Improvements, including _____ spaces at or below grade underneath the apartment building and _____ surface parking spaces. Each of the 220 Rental Housing Units will be provided a covered parking space. The remaining _____ covered parking spaces will be available for lease by tenants for a monthly fee (initially \$_____).

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

(d) On or before January 31 of each year during the term of the Declaration, commencing on the first January 31 after issuance of the Certificate of Completion for the Minimum Improvements, the Developer must submit evidence of tenant incomes and rents, showing that the Minimum Improvements meet the income and rent requirements set forth in the Declaration. The Authority will review the submitted evidence related to the income restrictions required by Section 469.1761 of the TIF Act to determine that the TIF District remains a housing district under the TIF Act.

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

(f) The Developer shall accept tenants who are recipients of federal certificates for rent subsidies pursuant to the existing program under Section 8 of the United States Housing Act of 1937, as amended, codified as 42 U.S.C. Sections 1401 et seq., or its successor, and shall reserve at least _____ Rental Housing Units for holders of Section 8 certificates/vouchers. During the term of the Declaration, the Developer shall not adopt any policies specifically excluding rental to tenants holding Section 8 certificates/vouchers.

(g) The Developer will immediately notify the Authority if at any time during the term of the Declaration the dwelling units in the Minimum Improvements are not occupied or available for occupancy as required by the terms of the Declaration.

(h) In consideration for the issuance of the Note, the Developer agrees to provide the Authority with at least ninety (90) days’ notice of any sale of the Minimum Improvements.

Section 4.6. Affordable Housing Reporting. At least annually, no later than April 1 of each year commencing on the April 1 first following the issuance of the Certificate of Completion for the Minimum Improvements, the Developer shall provide a report to the Authority evidencing that the Developer complied

with the income affordability covenants set forth in Section 4.5 hereof during the previous calendar year. The income affordability reporting shall be on the form entitled "Tenant Income Certification" from the Minnesota Housing Finance Agency (MHFA HTC Form 14), or if unavailable, any similar form. The Authority may require the Developer to provide additional information reasonably necessary to assess the accuracy of such certification. Unless earlier excused by the Authority, the Developer shall send affordable housing reports to the Authority until the TIF District is decertified. If the Developer fails to provide the annual reporting required under this Section, the Authority may withhold payments of Available Tax Increment under the Note.

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ARTICLE V

Insurance

Section 5.1. Insurance.

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

(i) Builder's risk insurance, written on the so-called "Builder's Risk – Completed Value Basis," in an amount equal to one hundred percent (100%) of the insurable value of the Minimum Improvements at the date of completion, and with coverage available in nonreporting form on the so-called "all risk" form of policy. The interest of the Authority must be protected in accordance with a clause in form and content satisfactory to the Authority;

(ii) Commercial general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations and contractual liability insurance) together with a Protective Liability 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); the Authority must be listed as an additional insured on the policy; and

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

(b) Upon completion of construction of the Minimum Improvements and prior to the Maturity Date, the Developer must maintain, or cause to be maintained, at its cost and expense, and from time to time at the request of the Authority will 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 the risks as are ordinarily insured against by similar businesses.

(ii) Comprehensive general public liability insurance, including personal injury liability (with employee exclusion deleted), against liability for injuries to persons and/or property, in the minimum amount for each occurrence and for each year of \$2,000,000, and must be endorsed to show the Authority as an additional insured.

(iii) Other insurance, including workers' compensation insurance respecting all employees, if any, of the Developer, in an 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 workers' compensation.

(c) All insurance required in this Article V must 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. Upon request, the Developer will deposit annually with the Authority policies evidencing all the insurance, or a certificate or certificates or binders of the respective insurers stating that the insurance is in force and effect. Unless otherwise provided in this Article V, each policy must contain a provision that the insurer will not cancel nor modify it in such a way as to reduce the coverage provided below the amounts required herein without giving written notice to the Developer and

the Authority at least thirty (30) days before the cancellation or modification becomes effective. 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 will 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 \$100,000 in amount to, or destruction of, the Minimum Improvements or any portion thereof resulting from fire or other casualty. In the event this type of damage or destruction occurs, 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 the damage and, to the extent necessary to accomplish the repair, reconstruction and restoration, the Developer will apply the net proceeds of any insurance relating to the damage received by the Developer to the payment or reimbursement of the costs thereof.

The Developer will complete the repair, reconstruction and restoration of the Minimum Improvements, whether or not the net proceeds of insurance received by the Developer is sufficient to pay for the same. Any net proceeds remaining after completion of the repairs, construction and restoration will be the property of the Developer.

(e) Notwithstanding anything to the contrary contained in this Agreement, in the event of damage to the Minimum Improvements in excess of \$100,000 and the Developer fails to complete any repair, reconstruction or restoration of the Minimum Improvements within eighteen (18) months from the date of damage, the Authority may, at its option, terminate the Note as provided in Section 9.3(b) hereof. If the Authority terminates the Note, the termination will constitute the Authority's sole remedy under this Agreement as a result of the Developer's failure to repair, reconstruct or restore the Minimum Improvements. Thereafter, the Authority will have no further obligations to make any payments under the Note.

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

Section 5.2. Subordination. Notwithstanding anything to the contrary contained in this Article V, the rights of the Authority with respect to the receipt and application of any proceeds of insurance will, in all respects, be subject and subordinate to the rights of any lender under a Mortgage approved pursuant to Article VII hereof.

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ARTICLE VI

Tax Increment; Taxes; Minimum Assessment Agreement

Section 6.1. Right to Collect Delinquent Taxes. The Developer acknowledges that the Authority is providing substantial aid and assistance in furtherance of the redevelopment through issuance of the Note. The Developer understands that the Tax Increments pledged to payment of the Note are derived from real estate taxes on the Development Property, which taxes must be promptly and timely paid. To that end, the Developer agrees for itself, its successors and assigns, in addition to the obligation pursuant to statute to pay real estate taxes, that it is also obligated by reason of this Agreement to pay before delinquency all real estate taxes assessed against the Development Property and the Minimum Improvements. The Developer acknowledges that this obligation creates a contractual right on behalf of the Authority to sue the Developer or its successors and assigns to collect delinquent real estate taxes and any penalty or interest thereon and to pay over the same as a tax payment to the county auditor. In any such suit, the Authority will also be entitled to recover its costs, expenses and reasonable attorney fees. The Developer further agrees that it was not cause a reduction in the Minimum Market Value assessed in respect of the Minimum Improvements or the Development Property below the Minimum Market Value described in Section 6.2(a) hereof through:

- (a) willful destruction of the Minimum Improvements or any part thereof;
- (b) failure to reconstruct damaged or destroyed property pursuant to Section 4.3 hereof;
- (c) a request to the Assessor to reduce the Minimum Market Value of all or any portion of the Minimum Improvements or the Development Property;
- (d) a petition to the board of equalization of the County to reduce the Minimum Market Value of all or any portion of the Minimum Improvements or the Development Property;
- (e) a petition to the board of equalization of the State or the commissioner of revenue of the State to reduce the Minimum Market Value of all or any portion of the Minimum Improvements or the Development Property;
- (f) an action in a district court of the State or the tax court of the State seeking a reduction in the Minimum Market Value of the Minimum Improvements or the Development Property;
- (g) an application to the commissioner of revenue of the State or to any local taxing jurisdiction requesting an abatement or deferral of real estate taxes on the Minimum Improvements or the Development Property;
- (h) a transfer of the Minimum Improvements or the Development Property, or any part thereof, to an entity exempt from the payment of real estate taxes under State law and that entity applies for tax exemption; or
- (i) any other proceedings, whether administrative, legal or equitable, with any administrative body within the County or the State or with any court of the State or the federal government.

Section 6.2. Minimum Assessment Agreement.

(a) At the time of execution of this Agreement, the Authority and the Developer shall execute the Minimum Assessment Agreement for the Development Property and Minimum Improvements. The Assessment Agreement shall specify the Minimum Market Value, notwithstanding any failure to start or complete the Minimum Improvements on the Development Property by the Termination Date or any failure to reconstruct the Minimum Improvements after damage or destruction before the Termination Date.

(b) Nothing in the Minimum Assessment Agreement shall limit the discretion of the Assessor to assign a market value to the Minimum Improvements or the Development Property in excess of the Assessor's Minimum Market Value or prohibit the Developer from seeking through the exercise of legal or administrative remedies a reduction in any increase in the market value established pursuant to subsection (a) above; provided, however, that the Developer shall not seek a reduction of such market value below the Assessor's Minimum Market Value set forth in the Minimum Assessment Agreement in any year so long as such Minimum Assessment Agreement shall remain in effect. The Minimum Assessment Agreement shall remain in effect until the Termination Date; provided that, if at any time before the Termination Date, the Minimum Assessment Agreement is found to be terminated or unenforceable by any Tax Official or court of competent jurisdiction, the Minimum Market Value described in this Section 6.2 shall remain an obligation of the Developer or its successors and assigns (whether or not such value is binding on the Assessor), it being the intent of the parties that the obligation of the Developer to maintain, and not seek reduction of, the Minimum Market Value specified in this Section 6.2 is an obligation under this Agreement as well as under the Minimum Assessment Agreement, and is enforceable by the Authority against the Developer, its successors and assigns, in accordance with the terms of this Agreement and the Minimum Assessment Agreement. Notwithstanding anything contained in this Agreement to the contrary, the Developer shall not be precluded from contesting the Minimum Market Value if the Minimum Improvements or the Development Property, or any substantial portion thereof, is acquired by a public entity through eminent domain prior to the Termination Date.

Section 6.3. Reduction of Taxes. The Developer agrees that after the date of certification of the TIF District and prior to completion of the Minimum Improvements, it will not cause a reduction in the real property taxes paid in respect of the Development Property through: (A) willful destruction of the Development Property or any part thereof (except for the demolition of structures required for the construction of the Minimum Improvements); or (B) willful refusal to reconstruct damaged or destroyed property pursuant to Section 5.1 hereof.

The Developer also agrees that it will not, prior to the Maturity Date, (i) seek exemption from property tax for the Development Property; or (ii) convey or transfer or allow conveyance or transfer of the Development Property to any entity that is exempt from payment of real property taxes under State law (other than any portion thereof dedicated or conveyed to the Authority in accordance with this Agreement).

The Developer may, at any time following the issuance of the Certificate of Completion, seek through petition or other means to have the estimated market value for the Development Property reduced to not less than the Minimum Market Value. Prior to seeking a reduction in the estimated market value, the Developer must provide the Authority with written notice indicating its intention to do so. The Developer acknowledges and understands that this type of action will result in less Tax Increment being disbursed by the Authority for payment of the principal of and interest on the Note.

Upon receiving notice from the Developer of its intention to cause the reduction of the estimated market value of the Development Property, or otherwise learning of the Developer's intentions, the

Authority may suspend or reduce payments due under the Note, based on the Minimum Market Value, or the Assessor's estimated market value for the year in which the Minimum Improvements have been completed, if less than the Minimum Market Value, until the actual amount of the reduction in market value is determined, whereupon the Authority will make the suspended payments less any amount that the Authority is required to repay the County as a result any retroactive reduction in market value of the Development Property. During the period that the payments are subject to suspension, the Authority may make partial payments on the Note, from the amounts subject to suspension, if it determines, in its reasonable discretion, that the amount retained will be sufficient to cover any repayment which the County may require.

The Authority's suspension of payments on the Note pursuant to this Section will not be considered a default under Section 9.1 hereof.

Section 6.4. Property Tax Classification. The amount of Tax Increment to be derived from the TIF District during the term of the TIF District was estimated by the Authority's municipal advisor based on a "class 4a" property classification rate for rental properties under Minnesota Statutes, Section 273.13, subdivision 25(a). The Developer acknowledges and understands that if it changes the property tax classification of all or any portion of the Minimum Improvements to a "class 4d" property classification rate for affordable rental properties under Minnesota Statutes, Section 273.13, the amount of Available Tax Increment derived from the TIF District and used to pay the principal of and interest on the Note will decrease.

Section 6.5. Qualifications. Notwithstanding anything herein to the contrary, the parties acknowledge and agree that upon the transfer of the Development Property to another person or entity, the Developer will no longer be obligated under Sections 6.1 and 6.3 hereof, unless the transfer is made in violation of the provisions of Section 8.2 hereof.

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ARTICLE VII

Financing

Section 7.1. Mortgage Financing.

(a) Before commencement of construction of the Minimum Improvements, the Developer must submit to the Authority evidence of one or more commitments for financing which, together with committed equity for the construction, is sufficient for payment of the Minimum Improvements. The commitments may be submitted as short term financing, long-term mortgage financing, a bridge loan with a long-term take-out financing commitment, or any combination of the foregoing.

(b) If the Authority finds that the financing is sufficiently committed and adequate in amount to pay the costs specified in subsection (a) then the Authority will notify the Developer in writing of its approval. The approval will not be unreasonably withheld and either approval or rejection will be given within twenty (20) days from the date when the Authority is provided the evidence of financing. A failure by the Authority to respond to the evidence of financing will be deemed to constitute an approval hereunder. If the Authority rejects the evidence of financing as inadequate, it will do so in writing specifying the basis for the rejection. In any event the Developer will submit adequate evidence of financing within ten (10) days after any rejection.

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 authorized pursuant to this Article VII, the Developer will cause the Authority to receive copies of any notice of default received by the Developer from the Holder of the Mortgage. Thereafter, the Authority will have the right, but not the obligation, to cure any Mortgage default on behalf of the Developer within the cure periods as are available to the Developer under the Mortgage documents.

Section 7.3. Modification; Subordination. In order to facilitate the Developer obtaining financing for the development of the Minimum Improvements, the Authority agree to subordinate its rights under this Agreement to the Holder of any Mortgage securing construction or permanent financing, under terms and conditions reasonably acceptable to the Authority. Any subordination agreement must be approved by the Board of the Authority.

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ARTICLE VIII

Prohibitions Against Assignment and Transfer; Indemnification

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

Section 8.2. Prohibition Against Developer's Transfer of Property and Assignment of Agreement. The Developer represents and agrees that prior to issuance of the Certificate of Completion for the Minimum Improvements:

(a) Except only by way of security for, and only for, the purpose of obtaining financing necessary to enable the Developer or any successor in interest to the Development Property, or any part thereof, to perform its obligations with respect to making the Minimum Improvements 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 the Agreement or the Development Property or any part thereof or any interest therein, or any contract or agreement to do any of the same (except a lease to a residential occupant), 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. Any transfer of this type will be subject to the provisions of this Agreement.

(b) In the event the Developer, upon transfer or assignment of the Development Property seeks to be released from its obligations under this Agreement, the Authority will be entitled to require, except as otherwise provided in this Agreement, as conditions to any release that:

(i) Any proposed transferee will 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.

(ii) Any proposed transferee, by instrument in writing satisfactory to the Authority and in form recordable among the land records, will, 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 and agreed to be subject to all the conditions and restrictions to which the Developer is subject; provided, however, that the fact that any transferee of, or any other successor in interest whatsoever to, the Development Property, or any part thereof, will not, for whatever reason, have assumed these obligations or so agreed, and will not (unless and only to the extent otherwise specifically provided in this Agreement or agreed to in writing by the Authority) deprive the Authority of any rights or remedies or controls with respect to the Development Property or any part thereof or the construction of the Minimum Improvements; it being the intent of the parties as expressed in this Agreement that (to the fullest extent permitted at law and in equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement) no transfer of, or change with respect to, ownership in the Development Property or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, will 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 Minimum Improvements that the Authority would have had, had there been no transfer or change. In the absence of specific written agreement by the Authority to the contrary, no transfer or approval by the

Authority thereof will be deemed to relieve the Developer, or any other party bound in any way by this Agreement or otherwise with respect to the construction of the Minimum Improvements, from any of its obligations with respect thereto.

(iii) Any and all instruments and other legal documents involved in effecting the transfer of any interest in this Agreement or the Development Property governed by this Article VIII, must be in a form reasonably satisfactory to the Authority.

In the event the foregoing conditions are satisfied then the Developer will be released from its obligation under this Agreement.

After issuance of the Certificate of Completion for the Minimum Improvements, the Developer may transfer or assign the Development Property or the Developer's interest in this Agreement if it obtains the prior written consent of the Authority (which consent will not be unreasonably withheld) and the transferee or assignee is bound by all the Developer's obligations hereunder. The Developer must submit to the Authority written evidence of any 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 evidence of transfer and assumption, the Developer will remain bound by all its obligations under this Agreement.

Section 8.3. Release and Indemnification Covenants.

(a) The Developer releases from and covenants and agrees that the Authority and its respective governing body members, officers, agents, servants and employees thereof will not be liable for and agrees to indemnify and hold harmless the Authority and its respective 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 Minimum Improvements.

(b) Except for any willful misrepresentation or any willful or wanton misconduct of the following named parties, the Developer agrees to protect and defend the Authority and its respective governing body members, officers, agents, servants and employees thereof, 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, maintenance and operation of the Minimum Improvements.

(c) The Authority and its respective governing body members, officers, agents, servants and employees thereof will not be liable for any damage or injury to the persons or property of the Developer or its officers, agents, servants or employees or any other person who may be about the Development Property or Minimum Improvements due to any act of negligence of any person, except if such damage or injury to persons or property is due to any act of negligence by the Authority and its respective governing body members, officers, agents, servants and employees.

(d) All covenants, stipulations, promises, agreements and obligations of the Authority contained herein will 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.

ARTICLE IX

Events of Default

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

- (a) The Developer or the Authority fails to observe or perform any covenant, condition, obligation, or agreement on its part to be observed or performed under this Agreement; or
- (b) The Developer:
 - (i) files any petition in bankruptcy or for any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the United States Bankruptcy Act or under any similar federal or State law;
 - (ii) makes an assignment for benefit of its creditors;
 - (iii) admits in writing its inability to pay its debts generally as they become due; or
 - (iv) is adjudicated as bankrupt or insolvent; or
- (c) The Senior Housing Project is not constructed; or
- (d) Prior to the Termination Date, the Developer appeals or challenges the Minimum Market Value of the Development Property or the Minimum Improvements under this Agreement or the Minimum Assessment Agreement, except as otherwise permitted in Article VI hereof.

Section 9.2. Remedies on Default. Whenever any Event of Default referred to in Section 9.1 hereof occurs, the non-defaulting party may exercise its rights under this Section 9.2 after providing thirty (30) days’ written notice to the defaulting party of the Event of Default, but only if 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 defaulting party does not provide assurances reasonably satisfactory to the non-defaulting party that the Event of Default will be cured and will be cured as soon as reasonably possible:

- (a) Suspend its performance under the Agreement until it receives assurances that the defaulting party will cure its default and continue its performance under the Agreement.
- (b) Cancel and rescind or terminate the Agreement.
- (c) Upon a default by the Developer, the Authority may suspend payments under the Note or terminate the Note and the TIF District, subject to the provisions of Section 9.3 hereof.
- (d) Take whatever action, including legal, equitable or administrative action, which may appear necessary or desirable to collect any payments due under this Agreement, or to enforce performance and observance of any obligation, agreement, or covenant under this Agreement.

Section 9.3. Termination or Suspension of Note. After the Authority has issued the Certificate of Completion for the Minimum Improvements, the Authority may exercise its rights under Section 9.2(c) hereof only for the following Events of Default:

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

(b) the Developer fails to comply with the Developer's obligation to operate and maintain, preserve and keep the Minimum Improvements or cause the improvements to be maintained, preserved and kept with the appurtenances and every part and parcel thereof, in good repair and condition, pursuant to Sections 4.1 and 5.1(e) hereof; provided that, upon the Developer's failure to comply with Developer's obligations under Sections 4.1 or 5.1(e) hereof, if uncured after thirty (30) days' written notice to the Developer of the failure, the Authority may only suspend payments under the Note until the Developer complies with said obligations; if the Developer fails to comply with said obligations for a period of eighteen (18) months, the Authority may terminate the Note and the TIF District; or

(c) the Developer fails to comply with the rent and income restrictions or to deliver annual rent and income reports as provided in Section 4.5 hereof and the Declaration; provided that, upon the Developer's failure to provide annual reports, if uncured after thirty (30) days' written notice to the Developer of the failure, the Authority may only suspend payments under the Note until the Developer delivers said reports. If the Developer fails to deliver rent and income reports for a period of six (6) months following the date the reports are due after written notice to the Developer of the failure, the Authority may terminate the Note and the TIF District.

Section 9.4. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Authority or the Developer is intended to be exclusive of any other available remedy or remedies, but each and every remedy will be cumulative and will 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 will impair any right or power or will be construed to be a waiver thereof, but any right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it, it will not be necessary to give notice, other than the notices already required in Sections 9.2 and 9.3 hereof.

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

Section 9.6. Attorneys' Fees. Whenever any Event of Default occurs and if the Authority employs attorneys or incurs other expenses for the collection of payments due or to become due or for the enforcement of performance or observance of any obligation or agreement on the part of the Developer under this Agreement, and the Authority prevails in the action, the Developer agrees that it will, within ten days of written demand by the Authority, pay to the Authority the reasonable fees of the attorneys and the other expenses so incurred by the Authority.

ARTICLE X

Additional Provisions

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

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

Section 10.3. Restrictions on Use. The Developer agrees that, prior to the Maturity Date, the Developer, and its successors and assigns, will use the Development Property solely for the development of residential rental housing in accordance with the terms of this Agreement, and will not discriminate upon the basis of race, color, creed, sex or national origin in the sale, lease, or rental or in the use or occupancy of the Development Property or any improvements erected or to be erected thereon, or any part thereof.

Section 10.4. Titles of Articles and Sections. Any titles of the several parts, Articles, and Sections of the Agreement are inserted for convenience of reference only and will be disregarded in construing or interpreting any of its provisions.

Section 10.5. 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 will 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 to or delivered personally to the Developer at _____, Attn: _____; and

(b) in the case of the Authority, is addressed to or delivered personally to the Authority at 14600 Minnetonka Blvd, Minnetonka, Minnesota 55345-1502, Attn: Executive Director;

or at any other address with respect to any party as that party may, from time to time, designate in writing and forward to the other as provided in this Section.

Section 10.6. Counterparts. This Agreement may be executed in any number of counterparts, each of which will constitute one and the same instrument.

Section 10.7. Recording. The Authority may record this Agreement and any amendments thereto with the County Recorder or Registrar of Titles of the County. The Developer must pay all costs for recording.

Section 10.8. Amendment. This Agreement may be amended only by written agreement approved by the Authority and the Developer.

Section 10.9. Authority Approvals. Unless otherwise specified, any approval required by the Authority under this Agreement may be given by the Authority Representative.

Section 10.10. Termination. This Agreement terminates on 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.

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

IN WITNESS WHEREOF, the Authority has caused this Contract for Private Development to be duly executed in its name and behalf and the Developer has caused this Contract for Private Development to be duly executed in its name and behalf, all as of the date and year first written above.

**ECONOMIC DEVELOPMENT AUTHORITY IN
AND FOR THE CITY OF MINNETONKA,
MINNESOTA**

By _____
Its President

By _____
Its Executive Director

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____, 2018, by _____, the President of the Economic Development Authority in and for the City of Minnetonka, Minnesota, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the Authority.

Notary Public

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____, 2018, by Geralyn Barone, the Executive Director of the Economic Development Authority in and for the City of Minnetonka, Minnesota, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the Authority.

Notary Public

EXHIBIT A
DESCRIPTION OF DEVELOPMENT PROPERTY

[Insert legal description]

EXHIBIT B
FORM OF NOTE

UNITED STATE OF AMERICA
STATE OF MINNESOTA
HENNEPIN COUNTY
ECONOMIC DEVELOPMENT AUTHORITY IN AND FOR THE
CITY OF MINNETONKA

No. R-1

\$ _____

TAX INCREMENT REVENUE NOTE
SERIES 20__

Rate

Accrual Date

_____ %

(to be determined)

The Economic Development Authority in and for the City of Minnetonka, Minnesota (the "Authority"), for value received, certifies that it is indebted and hereby promises to pay to Minnetonka Leased Housing Associates II, LLLP, a Minnesota limited liability limited partnership, or registered assigns (the "Owner"), the principal sum of \$_____ and to pay interest thereon at the annual interest rate set forth above, as and to the extent set forth herein.

1. Payments. Principal and interest (the "Payments") will be paid on _____ 1, 20____, and each February 1 and August 1 thereafter to and including _____ 1, 20____ (the "Payment Dates"), in the amounts and from the sources set forth in Section 3 herein. Payments will be applied first to accrued interest, and then to unpaid principal.

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

2. Interest. Interest at the rate stated herein will accrue on the unpaid principal, commencing on the date the Authority receives and approves written evidence of the Owner's expenditures related to land acquisition, site preparation, constructions of constructing housing, and other costs eligible to be reimbursed with tax increment related to the Minimum Improvements in an amount at least equal to \$_____ (the "Accrual Date"). Interest accruing from and after the Accrual Date shall accrue on a simple basis and will not be added to principal. Interest will be computed on the basis of a year of three hundred sixty (360) days comprised of twelve (12) months of thirty (30) days.

3. Available Tax Increment. Payments on this Note are payable on each Payment Date in the amount of and solely payable from "Available Tax Increment," which will mean, on each Payment Date, ninety percent (90%) of the Tax Increment attributable to the Development and paid to the Authority by Hennepin County in the six (6) months preceding the Payment Date, all as the terms are defined in the Contract for Private Development, dated _____, 2018 (the "Agreement"),

between the Authority and Owner. Available Tax Increment will not include any Tax Increment if, as of any Payment Date, there is an uncured Event of Default under the Agreement.

The Authority will have no obligation to pay principal of and interest on this Note on each Payment Date from any source other than Available Tax Increment, and the failure of the Authority to pay the entire amount of principal of or interest on this Note on any Payment Date will not constitute a default hereunder as long as the Authority pays principal of and interest hereon to the extent of Available Tax Increment. The Authority will have no obligation to pay unpaid balance of principal or accrued interest that may remain after the final Payment on _____ 1, 20__.

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

5. Termination. At the Authority's option, this Note will terminate and the Authority's obligation to make any payments under this Note will be discharged upon the occurrence of an Event of Default on the part of the Developer as defined in Section 9.1 of the Agreement, but only if the Event of Default has not been cured in accordance with Section 9.2 of the Agreement.

6. Nature of Obligation. This Note is one of an issue in the total principal amount of \$_____ all issued to aid in financing certain public development costs and administrative costs of a Redevelopment Project undertaken by the Authority pursuant to Minnesota Statutes, Sections 469.001 through 469.047, as amended, and is issued pursuant to an authorizing resolution (the "Resolution") duly adopted by the Authority on _____, 2018, and pursuant to and in full conformity with the Constitution and laws of the State of Minnesota, including Minnesota Statutes, Sections 469.174 through 469.1794, as amended. This Note is a limited obligation of the Authority which is payable solely from Available Tax Increment pledged to the payment hereof under the Resolution. This Note and the interest hereon will not be deemed to constitute a general obligation of the State of Minnesota or any political subdivision thereof, including, without limitation, the Authority. Neither the State of Minnesota nor any political subdivision thereof will be obligated to pay the principal of or interest on this Note or other costs incident hereto except out of Available Tax Increment, and neither the full faith and credit nor the taxing power of the State of Minnesota or any political subdivision thereof is pledged to the payment of the principal of or interest on this Note or other costs incident hereto.

7. Estimated Tax Increment Payments. 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 Developer may rely.

THE AUTHORITY MAKES NO REPRESENTATION OR WARRANTY THAT THE AVAILABLE TAX INCREMENT WILL BE SUFFICIENT TO PAY THE PRINCIPAL OF AND INTEREST ON THIS NOTE.

8. Registration and Transfer. This Note is issuable only as a fully registered note without coupons. As provided in the Resolution, and subject to certain limitations set forth therein, this Note is transferable upon the books of the Authority kept for that purpose at the principal office of the Executive Director of the Authority, by the Owner hereof in person or by the Owner's attorney duly authorized in writing, upon surrender of this Note together with a written instrument of transfer satisfactory to the Authority, duly executed by the Owner. Upon the transfer or exchange and the payment by the Owner of any tax, fee, or governmental charge required to be paid by the Authority with respect to the transfer or

exchange, there will be issued in the name of the transferee a new Note of the same aggregate principal amount, bearing interest at the same rate and maturing on the same dates.

This Note will not be transferred to any person other than an affiliate, or other related entity, of the Owner unless the Authority has been provided with an investment letter in a form substantially similar to the investment letter attached to the Agreement or, in a form satisfactory to the Authority, that the transfer is exempt from registration and prospectus delivery requirements of federal and applicable state securities laws.

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

IN WITNESS WHEREOF, the Board of Commissioners of the Economic Development Authority in and for the City of Minnetonka, Minnesota, has caused this Note to be executed with the manual signatures of its President and Executive Director, all as of _____, 20__.

**ECONOMIC DEVELOPMENT
AUTHORITY IN AND FOR THE CITY OF
MINNETONKA, MINNESOTA**

Executive Director

President

REGISTRATION PROVISIONS

The ownership of the unpaid balance of the within Note is registered in the bond register of the Authority's Executive Director, in the name of the person last listed below.

Date of Registration

Registered Owner

Signature of Executive Director

Minnetonka Leased Housing
Associates II, LLLP
Federal ID # _____

EXHIBIT C

INVESTMENT LETTER

To: Economic Development Authority in and for the City of Minnetonka, Minnesota (the “Authority”)
Attention: Executive Director

Re: Tax Increment Revenue Note, Series 20____, in the original aggregate principal amount of
\$_____

The undersigned, as Owner of \$_____ in principal amount of the above-captioned Note (the “Note”) pursuant to a resolution of the Authority adopted on _____, 2018 (the “Resolution”), hereby represents to you and to Kennedy & Graven, Chartered, Minneapolis, Minnesota, development counsel, as follows:

1. We understand and acknowledge that the Note is delivered to the Owner as of this date pursuant to the Resolution and the Contract for Private Development, dated _____, 2018 (the “Contract”), between the Authority and the Owner.

2. We understand that the Note is payable as to principal and interest solely from Available Tax Increment as defined in the Note and the provisions of the Contract.

3. We understand that the Note does not accrue interest until the “Accrual Date,” as defined in the Note.

4. We further understand that any estimates of Tax Increment prepared by the Authority or its municipal advisors in connection with the TIF District, the Contract or the Note are for the benefit of the Authority, and are not intended as representations on which the Owner may rely.

5. We acknowledge and understand that, if at any time, the Owner fails to meet the housing income restrictions required for a housing tax increment district as set forth in Minnesota Statutes, Section 469.174, subdivision 11 and Section 469.1761, and therefore, the tax increment district will no longer qualify as a housing tax increment district, no further payments will be made under the Note.

6. We have sufficient knowledge and experience in financial and business matters, including purchase and ownership of municipal obligations, to be able to evaluate the risks and merits of the investment represented by the purchase of the above-stated principal amount of the Note.

7. We acknowledge that no offering statement, prospectus, offering circular or other comprehensive offering statement containing material information with respect to the Authority and the Note has been issued or prepared by the Authority, and that, in due diligence, we have made our own inquiry and analysis with respect to the Authority, the Note and the security therefor, and other material factors affecting the security and payment of the Note.

8. We acknowledge that we have either been supplied with or have access to information, including financial statements and other financial information, to which a reasonable investor would attach significance in making investment decisions, and we have had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Authority, the Note and the security

therefor, and that as a reasonable investor we have been able to make our decision to purchase the above-stated principal amount of the Note.

9. We have been informed that the Note (i) is not being registered or otherwise qualified for sale under the “Blue Sky” laws and regulations of any state, or under federal securities laws or regulations, (ii) will not be listed on any stock or other securities exchange, and (iii) will carry no rating from any rating service.

10. We acknowledge that neither the Authority nor Kennedy & Graven, Chartered has made any representations as to the status of interest on the Note for state or federal income tax purposes.

11. We represent to you that we are purchasing the Note for our own accounts and not for resale or other distribution thereof, except to the extent otherwise provided in the Note, the Resolution, or any other resolution adopted by the governing body of the Authority.

12. All capitalized terms used herein have the meaning provided in the Contract unless the context clearly requires otherwise.

13. The Owner’s federal tax identification number is _____.

14. We acknowledge receipt of the Note as of the date hereof.

(The remainder of this page intentionally left blank.)

[OWNER]

By _____
Its _____

Dated: _____

EXHIBIT D

FORM OF DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS (the “Declaration”), dated _____, 2018, by MINNETONKA LEASED HOUSING ASSOCIATES II, LLLP, a Minnesota limited liability limited partnership (the “Developer”), is given to the ECONOMIC DEVELOPMENT AUTHORITY IN AND FOR THE CITY OF MINNETONKA, a public body corporate and politic under the laws of the State of Minnesota (the “Authority”).

RECITALS

WHEREAS, the Authority entered into that certain Contract for Private Development, dated _____, 2018 (the “Contract”), filed _____, 2018 in the Office of the [Recorder] [Registrar of Titles] for Hennepin County, Minnesota as Document No. _____, between the Authority and the Developer; and

WHEREAS, pursuant to the Contract, the Developer is obligated to cause construction of 220 housing units of rental housing on the property described in Exhibit A hereto (the “Property”), and to cause compliance with certain affordability covenants described in Section 4.5 of the Contract; and

WHEREAS, Section 4.5 of the Contract requires that the Developer cause to be executed an instrument in recordable form substantially reflecting the covenants set forth in Section 4.5 of the Contract; and

WHEREAS, the Developer intends, declares, and covenants that the restrictive covenants set forth herein will be and are covenants running with the Property for the term described herein and binding upon all subsequent owners of the Property for the term described herein, and are not merely personal covenants of the Developer; and

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

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

1. Term of Restrictions.

(a) Occupancy and Rental Restrictions. The term of the Occupancy Restrictions set forth in Section 3 and the Rental Restriction set forth in Section 4 of this Declaration will commence on the date a certificate of occupancy is received from the City of Minnetonka, Minnesota for all rental units on the Property. The period from commencement to termination is the “Qualified Project Period.”

(b) Termination of Declaration. This Declaration will terminate upon the date that is thirty (30) years after the commencement of the Qualified Project Period.

(c) Removal from Real Estate Records. Upon termination of this Declaration, the Authority will, upon request by the Developer or its assigns, file any document appropriate to remove this Declaration from the real estate records of Hennepin County, Minnesota.

2. Project Restrictions.

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

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

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

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

(ii) The Developer will permit any duly authorized representative of the Authority to inspect the books and records of the Developer pertaining to the income of Qualifying Tenants residing in the Project.

3. Occupancy Restrictions.

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

(i) Qualifying Tenants. From the commencement of the Qualified Project Period, one hundred percent (100%) of the Rental Housing Units will be occupied (or treated as occupied as provided herein) or held vacant and available for occupancy by Qualifying Tenants. Qualifying Tenants means those persons and families who are determined from time to time by the Developer to have combined adjusted income that does not exceed sixty percent (60%) of the Minneapolis-St. Paul metropolitan statistical area (the "Metro Area") median income for the applicable calendar year. For purposes of this definition, the occupants of a residential unit will not be deemed to be Qualifying Tenants if all the occupants of such residential unit at any time are "students," as defined in Section 151(c)(4) of the Internal Revenue Code of 1986, as amended (the "Code"), not entitled to an exemption under the Code. The determination of whether an individual or family is of low or moderate income will be made at the time the tenancy commences and on an ongoing basis thereafter, determined at least annually. If during their tenancy a Qualifying Tenant's income exceeds one hundred forty percent (140%) of the maximum income qualifying as low or moderate income for a family of its size, the next available unit (determined in accordance with the Code and applicable regulations) (the "Next Available Unit Rule") must be leased to a Qualifying Tenant or held vacant and available for occupancy by a Qualifying Tenant. If the Next Available Unit Rule is violated, the Unit will not continue to be treated as a Qualifying Unit.

(ii) Certification of Tenant Eligibility. As a condition to initial and continuing occupancy, each person who is intended to be a Qualifying Tenant will be required annually to sign and deliver to the Developer a Certification of Tenant Eligibility substantially in the form attached as Exhibit B hereto, or in any other form as may be approved by the Authority (the "Eligibility Certification"), in which the prospective Qualifying Tenant certifies as to qualifying as low or moderate income. In addition, the person will be required to provide whatever other

information, documents, or certifications are deemed necessary by the Authority to substantiate the Eligibility Certification, on an ongoing annual basis, and to verify that the tenant continues to be a Qualifying Tenant within the meaning of Section 3(a) hereof. Eligibility Certifications will be maintained on file by the Developer with respect to each Qualifying Tenant who resides in a Project unit or resided therein during the immediately preceding calendar year.

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

(iv) Annual Report. The Developer covenants and agrees that during the term of this Declaration, it will prepare and submit to the Authority on or before January 31 of each year, a certificate substantially in the form of Exhibit C hereto, executed by the Developer, (a) identifying the tenancies and the dates of occupancy (or vacancy) for all Qualifying Tenants in the Project, including the percentage of the dwelling units of the Project which were occupied by Qualifying Tenants (or held vacant and available for occupancy by Qualifying Tenants) at all times during the year preceding the date of the certificate; (b) describing all transfers or other changes in ownership of the Project or any interest therein; and (c) stating, that to the best knowledge of the person executing the certificate after due inquiry, all the units were rented or available for rental on a continuous basis during the year to members of the general public and that the Developer was not otherwise in default under this Declaration during the year.

(v) Notice of Non-Compliance. The Developer will immediately notify the Authority if at any time during the term of this Declaration the dwelling units in the Project are not occupied or available for occupancy as required by the terms of this Declaration.

(b) Section 8 Housing. The Developer shall accept tenants who are recipients of federal certificates for rent subsidies pursuant to the existing program under Section 8 of the United States Housing Act of 1937, as amended, codified as 42 U.S.C. Sections 1401 et seq., or its successor, and shall reserve at least ___ Rental Housing Units for holders of Section 8 certificates/vouchers. During the term of this Declaration, the Developer shall not adopt any policies specifically excluding rental to tenants holding Section 8 certificates/vouchers.

4. Rental Restrictions. The Developer represents, warrants and covenants that the maximum gross rent for all units occupied by Qualifying Tenants must not exceed thirty percent (30%) of the imputed income limitation applicable to the unit, all in accordance with the Tax Credit Law.

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

6. [Intentionally omitted.]

7. Enforcement.

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

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

(c) The Developer acknowledges that the primary purpose for requiring compliance by the Developer with the restrictions provided in this Declaration is to ensure compliance of the property with the housing affordability covenants set forth in Section 4.5 of the Contract, and by reason thereof, the Developer, in consideration for assistance provided by the Authority under the Contract that makes possible the construction of the Minimum Improvements (as defined in the Contract) on the Property, hereby agrees and consents that the Authority will be entitled, for any breach of the provisions of this Declaration, and in addition to all other remedies provided by law or in equity, to enforce specific performance by the Developer of its obligations under this Declaration in a state court of competent jurisdiction. The Developer hereby further specifically acknowledges that the Authority cannot be adequately compensated by monetary damages in the event of any default hereunder.

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

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

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

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

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

To the Authority: Economic Development Authority in and for the City of
Minnetonka
14600 Minnetonka Boulevard
Minnetonka, MN 55345
Attention: Community Development Director

To the Developer: Minnetonka Leased Housing Associates II, LLLP
[ADDRESS]
Attention: _____

12. Governing Law. This Declaration is governed by the laws of the State of Minnesota and, where applicable, the laws of the United States of America.

13. Attorneys' Fees. In case any action at law or in equity, including an action for declaratory relief, is brought against the Developer to enforce the provisions of this Declaration, the Developer agrees to pay the reasonable attorneys' fees and other reasonable expenses paid or incurred by the Authority in connection with the action.

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

15. Relationship to Tax Credit Law Requirements. Notwithstanding anything to the contrary, during any period while one hundred percent (100%) of the units in the Property are subject to income and rent limitations under the Tax Credit Law, evidence of compliance with the Tax Credit Law requirements filed with the Authority at least annually will satisfy any requirements otherwise imposed under this Declaration. During any portion of the Qualified Project Period as defined herein when the Tax Credit Law income and rent restrictions do not apply to the Property, this Declaration controls.

16. Notice of Sale. In consideration for the issuance of the Note, the Developer agrees to provide the Authority with at least ninety (90) days' notice of any sale of the Project.

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

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

MINNETONKA LEASED HOUSING ASSOCIATES II, LLLP, a Minnesota limited liability limited partnership

By: _____
Its: General Partner

By: _____
Name: _____
Its: _____

STATE OF MINNESOTA)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____, 20____, by _____, the _____ of _____, a Minnesota _____, the general partner of Minnetonka Leased Housing Associates II, LLLP, a Minnesota limited liability limited partnership, on behalf of the Developer.

Notary Public

This document drafted by:

Kennedy & Graven Chartered (JAE)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, MN 55402

This Declaration is acknowledged and consented to by:

**ECONOMIC DEVELOPMENT AUTHORITY IN
AND FOR THE CITY OF MINNETONKA,
MINNESOTA**

By _____
Its President

By _____
Its Executive Director

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____, 20___, by _____, the President of the Economic Development Authority in and for the City of Minnetonka, Minnesota, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the Authority.

Notary Public

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____, 20___, by _____, the Executive Director of the Economic Development Authority in and for the City of Minnetonka, Minnesota, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the Authority.

Notary Public

EXHIBIT A

Legal Description

The land referred to is situated in the State of Minnesota, County of Hennepin, and is described as follows:

[Insert legal description]

EXHIBIT B

Certification of Tenant Eligibility

(INCOME COMPUTATION AND CERTIFICATION)

Project: [Address]

Owner:

Unit Type: _____ 1 BR _____ 2 BR _____ 3 BR

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

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

Income Computation

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

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

(b) excluding casual, sporadic or irregular gifts; amounts which are specifically for or in reimbursement of medical expenses; lump sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workmen's compensation), capital gains and settlement for personal or property losses; amounts of educational scholarships paid directly to the student or the educational institution, and amounts paid by the government to a veteran for use in meeting the costs of tuition, fees, books and

equipment, but in either case only to the extent used for these types of purposes; special pay to a serviceman head of a family who is away from home and exposed to hostile fire; relocation payments under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; foster child care payments; the value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1964 which is in excess of the amount actually charged for the allotments; and payments received pursuant to participation in ACTION volunteer programs, is as follows: \$_____.

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

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

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

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

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

Yes _____

No _____

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

Yes _____

No _____

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

Head of Household

Spouse

FOR COMPLETION BY OWNER
(OR ITS MANAGER) ONLY

1. Calculation of Eligible Tenant Income:

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

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

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

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

3. Rent:

(a) The rent for the unit is \$_____.

(b) The amount entered in 3(a) is less than or equal to the maximum rent permitted under the Declaration.

4. Number of apartment unit assigned: _____.

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

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

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

MINNETONKA LEASED HOUSING ASSOCIATES
II, LLLP, a Minnesota limited liability limited
partnership

By _____
Its _____

EXHIBIT C

Certificate of
Continuing Program Compliance

Date: _____

The following information with respect to the Project located at _____, Minnetonka, Minnesota (the "Project"), is being provided by Minnetonka Leased Housing Associates II, LLLP (the "Owner") to the Economic Development Authority in and for the City of Minnetonka, Minnesota (the "Authority"), pursuant to that certain Declaration of Restrictive Covenants, dated _____, 2018 (the "Declaration"), with respect to the Project:

(A) The total number of residential units which are available for occupancy is 220. The total number of these units occupied is _____.

(B) The following residential units (identified by unit number) are currently occupied by "Qualifying Tenants," as the term is defined in the Declaration (for a total of ____ units):

1 BR Units:

2 BR Units:

3 BR Units:

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

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

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

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

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

(F) In renting the residential units in the Project, the Owner has not given preference to any particular group or class of persons (except for persons who qualify as Qualifying

Tenants); and none of the units listed in (D) above have been rented for occupancy entirely by students, no one of which is entitled to file a joint return for federal income tax purposes. All of the residential units in the Project have been rented pursuant to a written lease, and the term of each lease is at least twelve (12) months.

(G) The information provided in this “Certificate of Continuing Program Compliance” is accurate and complete, and no matters have come to the attention of the Owner which would indicate that any of the information provided herein, or in any “Certification of Tenant Eligibility” obtained from the Tenants named herein, is inaccurate or incomplete in any respect.

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

(I) The Owner certifies that as of the date hereof one hundred percent (100%) of the residential dwelling units in the Project are occupied or held open for occupancy by Qualifying Tenants, as defined and provided in the Declaration.

(J) The rental levels for each Qualifying Tenant comply with the maximum permitted under the Declaration.

IN WITNESS WHEREOF, I have hereunto affixed my signature, on behalf of the Owner, on _____, 2018.

MINNETONKA LEASED HOUSING ASSOCIATES II, LLLP, a Minnesota limited liability limited partnership

By: _____
Its: General Partner

By: _____
Name: _____
Its: _____

Notary Public

This document was drafted by:
KENNEDY & GRAVEN, CHARTERED (JAE)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, Minnesota 55402

EXHIBIT F

RENTAL HOUSING UNITS BY UNIT TYPE

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

EXHIBIT G

FORM OF MINIMUM ASSESSMENT AGREEMENT

MINIMUM ASSESSMENT AGREEMENT

and

ASSESSOR'S CERTIFICATION

between

**ECONOMIC DEVELOPMENT AUTHORITY
IN AND FOR THE
CITY OF MINNETONKA, MINNESOTA,**

MINNETONKA LEASED HOUSING ASSOCIATES II, LLLP,

and

COUNTY ASSESSOR FOR HENNEPIN COUNTY, MINNESOTA

This Document was drafted by:

KENNEDY & GRAVEN, Chartered (JAE)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, MN 55402
(612) 337-9300

THIS MINIMUM ASSESSMENT AGREEMENT, dated as of this ____ day of _____, 2018 (the "Minimum Assessment Agreement"), is between the ECONOMIC DEVELOPMENT AUTHORITY IN AND FOR THE CITY OF MINNETONKA, MINNESOTA, a public body corporate and politic under the laws of the State of Minnesota (the "Authority"), and MINNETONKA LEASED HOUSING ASSOCIATES II, LLLP, a Minnesota limited liability limited partnership, its successors and assigns (the "Owner").

WITNESSETH:

WHEREAS, the Authority and the Owner have entered into a Contract for Private Development, dated _____, 2018 (the "Agreement"), concerning the property legally described on EXHIBIT A attached hereto (the "Development Property"); and

WHEREAS, pursuant to the Agreement, the Owner will construct approximately 220 affordable multifamily housing apartment units, with one hundred percent (100%) of the apartment units made affordable to families at or below sixty percent (60%) of the area median income, on the Development Property (the "Minimum Improvements"); and

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

WHEREAS, the Authority and the County Assessor for Hennepin County, Minnesota have reviewed the Plans for the Minimum Improvements which the Owner has agreed to construct on the Development Property pursuant to the Agreement; and

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

1. The Minimum Market Value for the Development Property with the Minimum Improvements shall be \$_____. The parties agree that this Minimum Market Value shall be placed against the Development Property as of January 2, 20___, for taxes payable beginning in 20___, notwithstanding any failure to start or complete construction of such Minimum Improvements by that date.

2. The Minimum Market Value herein established shall be of no further force and effect and this Minimum Assessment Agreement shall terminate on the Termination Date. The Termination Date has the meaning given to it under the Agreement.

3. This Minimum Assessment Agreement shall be promptly recorded by the Owner with a copy of Minnesota Statutes, Section 469.177, subdivision 8 set forth in EXHIBIT B attached hereto. The Owner shall pay all costs of recording this Minimum Assessment Agreement.

4. Neither the preambles nor the provisions of this Minimum Assessment Agreement are intended to, nor shall they be construed as, modifying the terms of the Agreement. Unless the context indicates clearly to the contrary, the terms used in this Minimum Assessment Agreement shall have the same meaning as the terms used in the Agreement.

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

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

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

8. The parties hereto agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements, amendments and modifications hereto, and such further instruments as may reasonably be required for correcting any inadequate, or incorrect, or amended description of the Development Property, or for carrying out the expressed intention of this Minimum Assessment Agreement.

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

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

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

IN WITNESS WHEREOF, the Authority and the Owner have executed this Minimum Assessment Agreement as of the date and year first written above.

**ECONOMIC DEVELOPMENT AUTHORITY IN
AND FOR THE CITY OF MINNETONKA,
MINNESOTA**

By _____
Its President

By _____
Its Executive Director

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____, 2018, by _____, the President of the Economic Development Authority in and for the City of Minnetonka, Minnesota, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the Authority.

Notary Public

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____, 2018, by Geralyn Barone, the Executive Director of the Economic Development Authority in and for the City of Minnetonka, Minnesota, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the Authority.

Notary Public

MINNETONKA LEASED HOUSING ASSOCIATES II, LLLP, a Minnesota limited liability limited partnership

By: _____
Its: General Partner

By: _____
Name: _____
Its: _____

STATE OF MINNESOTA)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____, 2018, by _____, the _____ of _____, a Minnesota _____, the general partner of Minnetonka Leased Housing Associates II, LLLP, a Minnesota limited liability limited partnership, on behalf of the Developer.

Notary Public

**EXHIBIT A
TO ASSESSMENT AGREEMENT**

The Development Property is legally described as follows:

[Insert legal description]

**EXHIBIT B
TO ASSESSMENT AGREEMENT**

Section 469.177, subd. 8. **Assessment Agreements.** An authority may enter into a written assessment agreement with any person establishing a minimum market value of land, existing improvements, or improvements to be constructed in a district, if the property is owned or will be owned by the person. The minimum market value established by an assessment agreement may be fixed, or increase or decrease in later years from the initial minimum market value. If an agreement is fully executed before July 1 of an assessment year, the market value as provided under the agreement must be used by the county or local assessor as the taxable market value of the property for that assessment. Agreements executed on or after July 1 of an assessment year become effective for assessment purposes in the following assessment year. An assessment agreement terminates on the earliest of the date on which conditions in the assessment agreement for termination are satisfied, the termination date specified in the agreement, or the date when tax increment is no longer paid to the authority under section 469.176, subdivision 1. The assessment agreement shall be presented to the county assessor, or city assessor having the powers of the county assessor, of the jurisdiction in which the tax increment financing district and the property that is the subject of the agreement is located. The assessor shall review the plans and specifications for the improvements to be constructed, review the market value previously assigned to the land upon which the improvements are to be constructed and, so long as the minimum market value contained in the assessment agreement appears, in the judgment of the assessor, to be a reasonable estimate, shall execute the following certification upon the agreement:

The undersigned assessor, being legally responsible for the assessment of the above described property, certifies that the market values assigned to the land and improvements are reasonable

The assessment agreement shall be filed for record and recorded in the office of the county recorder or the registrar of titles of each county where the real estate or any part thereof is situated. After the agreement becomes effective for assessment purposes, the assessor shall value the property under Section 273.11, except that the market value assigned shall not be less than the minimum market value established by the assessment agreement. The assessor may assign a market value to the property in excess of the minimum market value established by the assessment agreement. The owner of the property may seek, through the exercise of administrative and legal remedies, a reduction in market value for property tax purposes, but no city assessor, county assessor, county auditor, board of review, board of equalization, commissioner of revenue, or court of this state shall grant a reduction of the market value below the minimum market value established by the assessment agreement during the term of the agreement filed of record regardless of actual market values which may result from incomplete construction of improvements, destruction, or diminution by any cause, insured or uninsured, except in the case of acquisition or reacquisition of the property by a public entity. Recording an assessment agreement constitutes notice of the agreement to anyone who acquires any interest in the land or improvements that is subject to the assessment agreement, and the agreement is binding upon them.

An assessment agreement may be modified or terminated by mutual consent of the current parties to the agreement. Modification or termination of an assessment agreement must be approved by the governing body of the municipality. If the estimated market value for the property for the most recently available assessment is less than the minimum market value established by the assessment agreement for that or any later year and if bond counsel does not conclude that termination of the agreement is necessary to preserve the tax exempt status of outstanding bonds or refunding bonds to be issued, the modification or termination of the assessment agreement also must be approved by the governing bodies of the county and the school district. A document modifying or terminating an agreement, including records of the municipality, county, and school district approval, must be filed for record. The assessor's review and certification is not required if the document terminates an agreement. A change to an agreement not fully

executed before July 1 of an assessment year is not effective for assessment purposes for that assessment year. If an assessment agreement has been modified or prematurely terminated, a person may seek a reduction in market value or tax through the exercise of any administrative or legal remedy. The remedy may not provide for reduction of the market value below the minimum provided under a modified assessment agreement that remains in effect. In no event may a reduction be sought for a year other than the current taxes payable year.

**EDAC Agenda Item #5_
Meeting of April 19, 2018**

Brief Description

Staff Report

Transit Updates

Green Line Extension (Southwest LRT)

- The Metropolitan Council published the Eden Prairie video visualization of the GreenLine extension which features the station areas in Eden Prairie including: SouthWest station, Golden Triangle, and City West Station. The video can be viewed online here: <https://www.youtube.com/watch?v=sr3yXHnhNjY>
- Additionally, the Hopkins/Minnetonka video visualization and other station area visualizations can be viewed online here: <https://metro council.org/Transportation/Projects/Current-Projects/Southwest-LRT/Project-Videos/Local-Area-Visualizations.aspx>
- In March, the Met Council approved agreements with Hennepin County Regional Railroad Authority (HCRRA) and Canadian Pacific Railway (CP) to move forward with freight rail property acquisition to advance the SWLRT Project.
- SWLRT Milestones
 - May 2018 – Metropolitan Council Opens Civil Construction Bids
 - August 2018 – Metropolitan Council Awards Civil Construction Bids
 - September 2018 – Civil Construction Begins
 - 2023 – Service begins

Metro Transit

- Community Development staff continue to meet with Metro Transit on a quarterly basis. Most of the time has been devoted to new development connections and preparing for the LRT opening.

Development Updates

PROJECT	DESCRIPTION	LOCATION	PLANS	STATUS
Hopkins Montessori School	CUP for Montessori school in upper level of existing daycare	14401 Brunsvold Rd	https://tinyurl.com/14410Brunsvold	Under Review
Glen Lake Elementary	Site plan review for driveway/parking lot reconfiguration	4801 Woodridge Rd	https://tinyurl.com/4801Woodridge	Under Review
Arundel Addition	Preliminary and final plat for a three-lot subdivision	15500 Minnetonka Blvd	https://tinyurl.com/15500MinnetonkaBlvd	Under Review
Solbekken Villas	Multiple application for construction of condo development	5740/5750 Shady Oak Rd	https://tinyurl.com/5740ShadyOakRd	Under review
Ridgedale Active Adult Apartments (Trammel Crow)	Concept plan for senior apartment building	12421 Wayzata Blvd	https://tinyurl.com/12421wayatablvd	Under Review
Chabad Center for Jewish Life	CUP for religious facility	2333/2339 Hopkins Crossroad and 11170 Mill Run	https://tinyurl.com/2339HopkinsXrd	Under review
Adler Graduate School	CUP for educational facility in the I-1 zoning district	10225 Yellow Circle Dr	https://tinyurl.com/10225YellowCir	Under Review
Ridgedale Executive Apts	Multiple application for construction of a market-rate apartment building	12501 Ridgedale Drive	http://tinyurl.com/12501RidgedaleDr	Under Review
Wellhaven Pet Health	CU P for a veterinary clinic	1700 Plymouth Rd	https://tinyurl.com/WellhavenMtnka	Under Review
Dominium	Concept plan for three building, 425-unit apartment development	11001 Bren Road E	http://tinyurl.com/11001brenrde	Under Review
Shady Oak Road Redevelopment	Redevelopment of city-owned parcel	4312 Shady Oak Road	http://tinyurl.com/ShadyOakCrossing	Tax credit application in June 2018
Minnetonka Hills Apts	Multiple items for construction of a 75-unit apartment building	2828 & 2800 Jordan Ave	http://tinyurl.com/MtnkaHillsApts2nd	Waiting for grading/building permit
Midwest Master Craft	Items concerning a new marine sales building.	17717 Highway 7	http://tinyurl.com/17717Hwy7	Under Construction

Mesaba Capital	Items for senior rental building	17710/17724 Old Excelsior Blvd	http://tinyurl.com/MesabaCapitalMtka	Under Construction
Crest Ridge Senior Housing	Items concerning a senior rental building	10955 Wayzata Blvd	http://tinyurl.com/CrestRidgeSH	Under Construction
RiZe at Opus	Multiple items for construction of a 322-unit apartment building	10101 Bren Road East	http://tinyurl.com/lecesse	Under Construction
Ridgedale Corner Shoppes	Multiple items for redevelopment of the existing TCF bank site.	1801 Plymouth Road	http://tinyurl.com/ridgedaleTCF	Under Construction

Business Development Updates



#Minnetonka businesses – did you know the Open to Business program can assist you with tasks like buying property and can often provide gap financing? Learn more at eminnetonka.com/opentobusiness

3:30 PM - 11 Apr 2018

Economic development staff continues to meet with communications staff to design the upcoming business outreach newsletter. Topics for the first newsletter include:

- Introduction and vision for future issues
- Meet your economic development staff
- Business development update
- Feature spot on business resources
- Solicitation of ideas for business spotlight
- Business focused demographic information for city

The first issue of the business newsletter will be mailed out to businesses in June.

Housing Updates

Center for Energy and Environment

The Welcome to Minnetonka and Minnetonka Home Enhancement Programs are now administered through the Center for Energy and Environment. Minnetonka residents can apply online at www.mnlendingcenter.org or call 612-335-5884 to receive a paper application.

There was one Welcome to Minnetonka loan processed to date and an additional three loans in process.

CDBG

Staff continues to work with Hennepin County on the transition of programming that will take place on July 1, 2018.

Staff reviewed the public service applications, and it appears favorable that organizations operating within Minnetonka will continue to see funding. Final allocation amounts will be made in June.

Interest in the Small Projects Loan Program continues to be robust. Currently, there are eight projects underway or in process. As the weather continues to improve, staff anticipates an increase in applications.

Upcoming Events

Thursday, May 10

ULI Minnesota
2018 OneVillage Partners Real Estate Breakfast
Minikada Club – 7:15 – 9:00 a.m.
3205 Excelsior Blvd
Minneapolis, MN 55416

Wednesday, May 23

SLUC
Size: Does it Matter? What do homebuyers want?
Brookview Golden Valley - 11:30am
316 Brookview Pkwy S
Golden Valley, MN 55426

Wednesday, May 23

EDAC Meeting
City Council Chambers
6:00 p.m

Originated by:

Alisha Gray, EDFP, Economic Development and Housing Manager
Julie Wischnack, AICP, Community Development Director