

**Addenda**  
**Minnetonka Economic Development Authority Meeting**  
**Meeting of November 9, 2020**

**ITEM 5 – The Pointe at 801 Carlson Parkway**

Attached is a memo from Julie Eddington of Kennedy & Graven, along with the partial releases the developer has requested that the Authority execute.



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**TO:** Economic Development Authority  
**FROM:** Alisha Gray, Economic Development and Housing  
**DATE:** Nov. 9, 2020  
**SUBJECT:** Change Memo for Nov. 9, 2020

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**ITEM 5 - The Pointe at 801 Carlson Parkway**

The developer has requested that the Economic Development Authority release Lot 2, Block 1 from the contract for private development and restrictive covenant. The parcel that is being removed is not a part of the housing development project. The parcel is the proposed hotel site that is anticipated to be constructed in a later phase. The developer will record the partial releases once the plat is filed, showing the property will not be part of the housing development project.

A partial release for the contract for private development and restrictive covenant, and a memo from Julie Eddington, Kennedy & Graven, is being added to the attachments.



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## MEMORANDUM

TO: Alisha Gray  
FROM: Julie Eddington, Kennedy & Graven, Chartered  
DATE: November 19, 2020  
RE: Changes to Contract for Private Development for The Pointe

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Alisha,

The initial developer, United Properties Investment LLC, asked that the developer be changed to an affiliate. There is a resolution on the EDA's agenda this evening to approve the name change.

In addition to the name change requested by the developer, the developer has requested that the financial closing for the development be completed prior to platting of the property.

The legal description in the contract for private development notes that:

Outlot D, Carlson Ninth Addition is proposed to be replatted as two lots described as Lots 1 and 2, Block 1, Carlson Center Eighteenth Addition. The Development Property is proposed to be described as Lot 1, Block 1, Carlson Center Eighteenth Addition, which lot is the north lot of Carlson Center Eighteenth Addition. The south lot of Carlson Center Eighteenth Addition is proposed to be described as Lot 2, Block 1, Carlson Center Eighteenth Addition, and is excluded from the definition of Development Property.

The developer proposes to record the contract for private development and the declaration of restrictive covenants against the entire property noted above. The developer has requested that the Authority approve the execution of partial releases in order to remove the recorded documents from Lot 2, Block 1 once the plat is filed as that property will not be used for the development.

I have enclosed the two partial releases.

Julie Eddington

## **PARTIAL RELEASE OF CONTRACT FOR PRIVATE DEVELOPMENT**

This Partial Release of Contract for Private Development is made and effective as of \_\_\_\_\_, 20\_\_\_\_, by and among 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 (“Authority”), and THE POINTE OF MINNETONKA LLC, a Minnesota limited liability company (“Developer”).

The Authority and Developer are parties to that certain Contract for Private Development dated November \_\_\_\_, 2020 (the “Development Agreement”). The Development Agreement was filed for record on \_\_\_\_\_, 2020, in the Office of the County Recorder of Hennepin County, Minnesota, as document number \_\_\_\_\_, against the real property described as Outlot D, Carlson Ninth Addition, Hennepin County, Minnesota, which real property is described as the Development Property in the Development Agreement.

Developer obtained final plat approval for Carlson Center 18<sup>th</sup> Addition from the City of Minnetonka that subdivides the Development Property into two lots by Resolution No. 2020-\_\_\_\_\_, adopted on November 9, 2020. Authority and Developer agree that Lot 2, Block 1, Carlson Center Eighteenth Addition, Hennepin County, Minnesota, is not part of the development described and approved in the Development Agreement and should not be described as the Development Property and should not be encumbered by the Development Agreement.

Upon filing of the plat of Carlson Center 18<sup>th</sup> Addition in the Office of the County Recorder of Hennepin County, Minnesota, the Development Property described in the Development Agreement shall be Lot 1, Block 1, Carlson Center Eighteenth Addition, Hennepin County, Minnesota, and the Authority and Developer release the real property described on the attached Exhibit A (“Release Parcel”) from the Development Agreement. The Release Parcel is no longer subject to the terms and conditions of the Development Agreement and is no longer defined as the Development Property. The Development Agreement is hereby terminated and of no force or effect with respect to the Release Parcel. This is a partial release and is intended only to release the Release Parcel as specifically described herein from the Development Agreement, and is not intended to release any other real property from the Development Agreement. Other real property

(described as Lot 1, Block 1, Carlson Center Eighteenth Addition, Hennepin County, Minnesota) remains subject to the Development Agreement, and the Development Agreement remains in full force and effect with respect to such other real property.

IN WITNESS WHEREOF, the Authority and Developer have caused this Partial Release of Contract for Private Development to be duly executed and delivered as of the day and year first above written.

**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 \_\_\_\_ day of \_\_\_\_\_, 2020, by Brad Wiersum, the President of the Economic Development Authority in and for the City of Minnetonka, Minnesota, on behalf of the Authority.

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

STATE OF MINNESOTA    )  
  ) SS.  
COUNTY OF HENNEPIN    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020, by GERALYN BARONE, the Executive Director of the Economic Development Authority in and for the City of Minnetonka, Minnesota, on behalf of the Authority.

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

Execution page of the Developer to the Partial Release of Contract for Private Development, dated as of the date and year first written above.

**THE POINTE OF MINNETONKA LLC,**  
a Minnesota limited liability company

By: United Properties Investment LLC  
Its: Manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF MINNESOTA    )  
  ) SS.  
COUNTY OF HENNEPIN   )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020, by \_\_\_\_\_, the \_\_\_\_\_ of United Properties Investment LLC, the Manager of The Pointe of Minnetonka LLC, a \_\_\_\_\_, on behalf of the Developer.

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

STATE OF MINNESOTA    )  
  ) SS.  
COUNTY OF HENNEPIN   )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020, by \_\_\_\_\_, the \_\_\_\_\_ of United Properties Investment LLC, the Manager of The Pointe of Minnetonka LLC, a \_\_\_\_\_, on behalf of the Developer.

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

**Exhibit A**

**Release Parcel**

Lot 2, Block 1, Carlson Center Eighteenth Addition, Hennepin County, Minnesota

## **PARTIAL RELEASE OF DECLARATION OF RESTRICTIVE COVENANTS**

This Partial Release of Declaration of Restrictive Covenants is made and effective as of \_\_\_\_\_, 20\_\_\_\_, by and among 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 (“Authority”), and THE POINTE OF MINNETONKA LLC, a Minnesota limited liability company (“Developer”).

The Authority and Developer are parties to that certain Declaration of Restrictive Covenants dated November \_\_\_\_, 2020 (the “Declaration”). The Declaration was filed for record on \_\_\_\_\_, 2020, in the Office of the County Recorder of Hennepin County, Minnesota, as document number \_\_\_\_\_, against the real property described as Outlot D, Carlson Ninth Addition, Hennepin County, Minnesota, which real property is described as the Property in the Declaration.

Developer obtained final plat approval for Carlson Center 18<sup>th</sup> Addition from the City of Minnetonka that subdivides the Property into two lots by Resolution No. 2020-\_\_\_\_\_, adopted on November 9, 2020. Authority and Developer agree that Lot 2, Block 1, Carlson Center Eighteenth Addition, Hennepin County, Minnesota, is not part of the development described and approved in the Declaration and should not be described as the Property and should not be encumbered by the Declaration.

Upon filing of the plat of Carlson Center 18<sup>th</sup> Addition in the Office of the County Recorder of Hennepin County, Minnesota, the Property described in the Declaration shall be Lot 1, Block 1, Carlson Center Eighteenth Addition, Hennepin County, Minnesota, and the Authority and Developer release the real property described on the attached Exhibit A (“Release Parcel”) from the Declaration. The Release Parcel is no longer subject to the terms and conditions of the Declaration and is no longer defined as the Property. The Declaration is hereby terminated and of no force or effect with respect to the Release Parcel. This is a partial release and is intended only to release the Release Parcel as specifically described herein from the Declaration, and is not intended to release any other real property from the Declaration. Other real property (described as Lot 1, Block 1, Carlson Center Eighteenth Addition, Hennepin County, Minnesota) remains



subject to the Declaration, and the Declaration remains in full force and effect with respect to such other real property.

IN WITNESS WHEREOF, the Authority and Developer have caused this Partial Release of Declaration of Restrictive Covenants to be duly executed and delivered as of the day and year first above written.

**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 \_\_\_\_ day of \_\_\_\_\_, 2020, by Brad Wiersum, the President of the Economic Development Authority in and for the City of Minnetonka, Minnesota, on behalf of the Authority.

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

STATE OF MINNESOTA    )  
  ) SS.  
COUNTY OF HENNEPIN    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020, by Geralyn Barone, the Executive Director of the Economic Development Authority in and for the City of Minnetonka, Minnesota, on behalf of the Authority.

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

Execution page of the Developer to the Partial Release of Declaration of Restrictive Covenants, dated as of the date and year first written above.

**THE POINTE OF MINNETONKA LLC,**  
a Minnesota limited liability company

By: United Properties Investment LLC  
Its: Manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF MINNESOTA    )  
  ) SS.  
COUNTY OF HENNEPIN    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020, by \_\_\_\_\_, the \_\_\_\_\_ of United Properties Investment LLC, the Manager of The Pointe of Minnetonka LLC, a \_\_\_\_\_, on behalf of the Developer.

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

STATE OF MINNESOTA    )  
  ) SS.  
COUNTY OF HENNEPIN    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020, by \_\_\_\_\_, the \_\_\_\_\_ of United Properties Investment LLC, the Manager of The Pointe of Minnetonka LLC, a \_\_\_\_\_, on behalf of the Developer.

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

**Exhibit A**

**Release Parcel**

Lot 2, Block 1, Carlson Center Eighteenth Addition, Hennepin County, Minnesota