

Draft
November 10, 2022

CONTRACT
FOR
PRIVATE REDEVELOPMENT

between

**ECONOMIC DEVELOPMENT AUTHORITY FOR THE
CITY OF SHAKOPEE, MINNESOTA**

CITY OF SHAKOPEE, MINNESOTA

and

BLOOMINGTON INVESTMENTS, LLC

Dated _____, 2022

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CONTRACT FOR PRIVATE REDEVELOPMENT

THIS CONTRACT FOR PRIVATE REDEVELOPMENT, made as of the ____ day of _____, 2022 (the “Agreement”), is between the ECONOMIC DEVELOPMENT AUTHORITY FOR THE CITY OF SHAKOPEE, MINNESOTA, a public body corporate and politic under the laws of the State of Minnesota (the “Authority”), the CITY OF SHAKOPEE, MINNESOTA, a statutory city and political subdivision of the State of Minnesota (the “City”), and BLOOMINGTON INVESTMENTS, LLC, a Minnesota limited liability company (the “Redeveloper”).

WITNESSETH:

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

WHEREAS, the City has undertaken a program to promote economic development and job opportunities and to promote the development and redevelopment of land which is underutilized within the City, and in this connection created the Minnesota River Valley Housing and Redevelopment Project No. 1 (the “Redevelopment Project”) in an area located in the City pursuant to Minnesota Statutes, Sections 469.001 through 469.047, as amended (the “HRA Act”); and

WHEREAS, by resolution dated April 4, 1995, the City Council of the City transferred control, authority, and operation of the Redevelopment Project to the Authority, which currently administers the Project, exercising the powers of a housing and redevelopment authority under the HRA Act, in accordance with the EDA Act; and

WHEREAS, pursuant to the EDA Act and the HRA Act, the Authority is authorized to undertake certain activities to prepare real property for development and redevelopment by private enterprise; and

WHEREAS, within the Redevelopment Project, the Authority has created Tax Increment Financing (Redevelopment) District No. 18 (the “TIF District”), a redevelopment district, in order to facilitate redevelopment of certain property in the Redevelopment Project; and

WHEREAS, the Redeveloper proposes to acquire certain property from the Authority (the “Authority Property”) and certain other parcels (the “Additional Property,” and together with the Authority Property, the “Redevelopment Property”) within the TIF District; and

WHEREAS, the Redeveloper proposes to construct on the Redevelopment Property an approximately 19,000-seat amphitheater with associated back-of-house facilities, a roof over the seating area, a large outdoor/lawn area, and support facilities, including a parking lot for approximately 600 vehicles and buses (the “Minimum Improvements”); and

WHEREAS, the Redeveloper proposes to construct a public parking lot (“Parking Lot”) on Block 1, Lot 2, Canterbury Amp Addition, and once the construction of the Parking Lot is completed, the Redeveloper intends to donate the Parking Lot to the Authority for public parking; and

WHEREAS, the Authority will enter into a License Agreement with the Redeveloper for exclusive use of the Parking Lot by the Redeveloper when there are performances at the amphitheater; and

WHEREAS, in order to achieve the objectives of the redevelopment plan for the Redevelopment Project and make the Minimum Improvements economically feasible for the Redeveloper to construct, the Authority is prepared to convey the Authority Property to the Redeveloper and reimburse the Redeveloper for a portion of the land acquisition costs, site improvement costs, infrastructure costs, utility costs, demolition and remediation costs, and other costs related to the Minimum Improvements that may 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; and

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:

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

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 meanings:

“Additional Property” means the property legally described in EXHIBIT B attached hereto.

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

“Authority” means the Economic Development Authority for the City of Shakopee, Minnesota.

“Authority Property” means the property legally described in EXHIBIT A attached hereto.

“Authority Property Purchase Price” has the meaning set forth in Section 3.2 hereof.

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

“Available Tax Increment” means, on each Payment Date, the Tax Increment attributable to the Tax Increment Property and paid to the Authority by the County in the six (6) months preceding the Payment Date after first deducting therefrom ten percent (10%) of the Tax Increment to be used to reimburse the Authority for administrative expenses. Available Tax Increment shall 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.

“Business Subsidy Act” means Minnesota Statutes, Sections 116J.993 to 116J.995, as amended.

“Certificate of Completion” means the certification provided to the Redeveloper pursuant to Section 4.4 hereof and set forth in EXHIBIT D.

“City” means the City of Shakopee, Minnesota.

“City Council” means the City Council of the City.

“City Representative” means the City Administrator of the City, or any person designated by the City Administrator to act as the City Representative for the purposes of this Agreement.

“Closing” has the meaning given such term in Section 3.2 hereof.

“Construction Plans” means the plans, specifications, drawings and related documents on the construction work to be performed by the Redeveloper on the Redevelopment Property, including the Minimum Improvements, which (a) shall be as detailed as the plans, specifications, drawings and related documents which are submitted to the appropriate building officials of the City; and (b) shall include at least the following: (1) site plan; (2) foundation plan; (3) floor plan for each floor; (4) cross-sections of each (length and width); (5) elevations (all sides, including a building materials schedule); (6) landscape and grading plan; and (7) such 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 Scott County, Minnesota.

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

“Event of Default” means an action by the Redeveloper 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.

“License Agreement” means the License Agreement, dated _____, between the Authority and the Redeveloper regarding the use of the Parking Lot by Redeveloper for events at the Amphitheater.

“Material Change” means a change in construction plans that adversely affects generation of tax increment.

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

“Master Developer” means Canterbury Park Holding Corporation, a Minnesota corporation and the parent of Canterbury Development LLC.

“Minimum Improvements” means the development on the Redevelopment Property of an approximately 19,000-seat amphitheater with associated back-of-house facilities, a roof over the seating area, a large outdoor/lawn area and support facilities, infrastructure, utilities, streets, and parking facilities.

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

“Payment Date” means each February 1 and August 1 on which principal of and interest on the TIF Note is paid.

“Parking Lot” means the parking lot to be constructed by Redeveloper based on the designs set forth in EXHIBIT F. The Parking Lot will be available for free public parking except for the days the Redeveloper has events at the Amphitheater pursuant to the terms of the License Agreement.

“Parking Lot Parcel” means Lot 1, Block 2, Canterbury Amp Addition.

“Public Redevelopment Costs” means costs related to the development of the Minimum Improvements and eligible to be reimbursed with Tax Increment, including but not limited to land acquisition costs, site improvement costs, infrastructure costs, utility costs, demolition and remediation costs, and the parking facilities.

“Purchase Agreement” means the purchase agreement, dated November __, 2022, between the Authority and the Redeveloper.

“Redeveloper” means Bloomington Investments, LLC, a Minnesota limited liability company, or its permitted successors and assigns.

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

“Redevelopment Project” means the Minnesota River Valley Housing and Redevelopment Project No. 1.

“Redevelopment Property” means the real property described in EXHIBIT A and EXHIBIT B attached hereto.

“State” means the State of Minnesota.

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

“Tax Increment Property” means the property from which the Available Tax Increment will be derived. A depiction of the Tax Increment Property is set forth in EXHIBIT G.

“Tax Official” means any County 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.

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

“TIF District” means the Tax Increment Financing (Redevelopment) District No. 18, a redevelopment district within the Redevelopment Project.

“TIF Note” means the Tax Increment Limited Revenue Note, substantially in the form attached hereto as EXHIBIT C, to be delivered by the Authority to the Redeveloper pursuant to Section 3.4(a) hereof.

“TIF Plan” means the Tax Increment Financing Plan for the TIF District approved by the City Council of the City on March 6, 2018, as amended by the City Council of the City on August 8, 2018, as further amended by the City Council of the City on April 21, 2020, as further amended by the City Council on September 7, 2021, and as it may be further amended.

“Unavoidable Delays” means delays beyond the reasonable control of the Buyer as a result thereof which are the direct result of strikes, other labor troubles, prolonged adverse weather or acts of God, fire, or other casualty to the Minimum Improvements, inability to obtain materials or supplies for reasons outside the Buyer’s reasonable control, pandemic, 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 Seller in exercising its rights under this Agreement) which directly results in delays. Unavoidable Delays shall not include delays in the Buyer’s obtaining of permits or governmental approvals necessary to enable construction of the Minimum Improvements by the dates such construction is required under this Section 35 of this Agreement.

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ARTICLE II

Representations and Warranties

Section 2.1. Representations by the Authority. The Authority makes the following representations as the basis for the undertaking on its part herein contained:

(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 and site improvement costs 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 activities of the Authority are undertaken for the purpose of fostering the redevelopment of certain real property in the City, which will create new tax base in the City and create employment opportunities in the City.

(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.

(f) No commissioner of the Board or officer of the Authority has either a direct or indirect financial interest in this Agreement, nor will any commissioner or officer benefit financially from this Agreement within the meaning of Section 469.009 of the HRA Act.

Section 2.2. Representations by the City.

(a) The City is a statutory city organized and existing under the Constitution and the laws of the State. Under the provisions of the HRA Act, the City has the power to enter into this Agreement and carry out its obligations hereunder.

(b) The activities of the City are undertaken for the purpose of fostering the redevelopment of certain real property in the City, which will create new tax base in the City and create employment opportunities in the City.

Section 2.3. Representations by the Redeveloper. The Redeveloper represents and warrants that:

(a) The Redeveloper is a limited liability company 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 Redeveloper 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 Redeveloper has received no notice or communication from any local, State or federal official that the activities of the Redeveloper or the Authority in or on the Redevelopment Property may be or will be in violation of any environmental law or regulation (other than those notices or communications of which the Authority is aware). The Redeveloper 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.

(d) The Redeveloper 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.

(e) 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 Redeveloper is now a party or by which it is bound, or constitutes a default under any of the foregoing.

(f) The proposed development by the Redeveloper hereunder would not occur but for the tax increment financing assistance being provided by the Authority hereunder.

(g) The Redeveloper shall 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 Redeveloper or its business which may delay or require changes in construction of the Minimum Improvements.

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ARTICLE III

Property Acquisition; Financing

Section 3.1. Status of Redevelopment Property. The Authority currently owns the Authority Property and shall convey the Authority Property to the Redeveloper pursuant to the provisions of the Purchase Agreement. The Redeveloper has entered into two purchase agreements to purchase the Additional Property. The Authority has no obligation to purchase the Additional Property.

Section 3.2. Conveyance of Authority Property. The Authority and the Redeveloper have entered into the Purchase Agreement which sets forth the terms of the purchase of the Property.

Section 3.3. Issuance of Pay-As-You-Go TIF Note.

(a) To reimburse the Redeveloper for certain Public Redevelopment Costs, the Authority shall issue and deliver and the Redeveloper shall purchase the TIF Note in the principal amount of \$1,000,000 in substantially the form set forth in EXHIBIT C. The Authority and the Redeveloper agree that the consideration from the Redeveloper for the purchase of the TIF Note shall consist of the Redeveloper's payment of the Public Redevelopment Costs in at least the principal amount of the TIF Note.

The Authority shall deliver the TIF Note upon delivery by the Redeveloper of an investment letter in substantially the form attached hereto as EXHIBIT D, together with evidence reasonably satisfactory to the Authority that the Redeveloper has paid the Public Redevelopment Costs in at least the principal amount of the TIF Note. The principal of and interest on the TIF Note shall be payable each Payment Date solely with Available Tax Increment.

(b) The Redeveloper understands and acknowledges that the Authority makes no representations or warranties regarding the amount of Available Tax Increment, or that revenues pledged to the TIF Note will be sufficient to pay the principal of and interest on the TIF Note. Any estimates of Tax Increment prepared by the Authority or its financial or 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 Redeveloper may rely.

(c) The Authority acknowledges that the Redeveloper may assign the TIF Note to a lender that provides part of the financing for the acquisition of the Redevelopment Property or the construction of the Minimum Improvements. Pursuant to the terms of the TIF Note, the TIF Note may be assigned if the assignee executes an investment letter in substantially the form set forth in EXHIBIT D.

Section 3.4. Additional Subsidy. The Authority has provided a land write-down in the amount of \$1,000,000, described in Section 8 of the Purchase Agreement. The Redeveloper will receive the TIF Note in the amount of up to \$1,000,000, and the tax increment shall be used by the Redeveloper to develop the Parking Lot based on the designs set forth in EXHIBIT F. Once the Parking Lot is constructed by the Redeveloper pursuant to the designs in EXHIBIT F, the Redeveloper shall convey the Parking Lot to the Authority for \$1.00. The Authority and the Redeveloper shall enter the License Agreement to allow the Redeveloper to have exclusive use of the Parking Lot for a maximum of 75 days per year for amphitheater parking. The License Agreement can be amended to include additional dates for Redeveloper's use, if needed. The Parking Lot shall be available to the public at all other times at no charge.

Section 3.5. Parking Lot Agreement. The Redeveloper and the Master Developer shall enter into an agreement to maintain the Parking Lot and shall provide insurance naming the City and the Authority as additional insured.

Section 3.6. Future Consideration of Structured Parking. Redeveloper may, at its option and upon sixty (60) days written notice to the Authority (the “Repurchase Notice”) elect to repurchase the Parking Lot Parcel (the “Repurchase”). If Redeveloper elects the Repurchase, the closing date for the Repurchase shall be thirty (30) days after the date the Redeveloper delivers the Repurchase Notice to the Authority. On the closing date of the Repurchase, Redeveloper shall pay to the Authority a purchase price of One Dollar (\$1.00) and the Authority shall convey title to the to the Parking Lot Parcel to Redeveloper in materially the same condition as title existed on the date Redeveloper conveyed the Parking Lot Parcel to the Authority. Redeveloper shall pay the closing costs attributable to the repurchase of the Parking Lot Parcel, including title insurance premiums, recording fees and the fees of the closer. If, as of the Closing Date, any portion of the TIF Note remains unpaid, then the parties shall execute and deliver (or cause to be executed and delivered) such instruments as are required to terminate the TIF Note and any further obligation of the Authority to make payments to the holder of the TIF Note subsequent to the closing date, except that any unpaid TIF Note installments based on real estate taxes previously paid shall be prorated to the closing date. On the closing date the parties shall execute a termination of the License Agreement in a form reasonably acceptable to the parties. The Authority’s conveyance of the Parking Lot Parcel shall be subject to all applicable zoning and subdivision ordinances and the then existing PUD governing the development and use of the Parking Lot Parcel (the “PUD”). Any modification of the permitted use of the Parking Lot Parcel will be subject to the terms and conditions the PUD and such modification may require an amendment of the PUD in accordance with applicable City ordinances and regulations.

Section 3.7. Termination of TIF District. At any time following the payment in full of the principal of and interest on TIF Note, the Authority may use the remaining Tax Increment for any other authorized uses set forth in the TIF Plan or may terminate the TIF District.

Section 3.8. Records. The Authority, the City, and their representatives shall have the right at all reasonable times after reasonable notice to inspect, examine and copy all books and records of Redeveloper relating to the Minimum Improvements and the costs for which the Redeveloper has been reimbursed with Tax Increment.

Section 3.9. Exception to Business Subsidy Act. Section 116J.993, subdivision 3(17) of the Business Subsidy Act provides an exception from the Business Subsidy Act for redevelopment when the recipient’s investment in the purchase of the site and in site preparation is seventy percent (70%) or more of the assessor’s current year’s estimated market value. In order to use this exception, the Redeveloper should warrant and represent that its investment in the purchase of the Redevelopment Property and the site preparation on such Redevelopment Property (net of any portion of such costs to be reimbursed with tax increment or any other subsidies provided by the City or Authority) will equal at least seventy percent (70%) of the County assessor’s estimated market value for the Redevelopment Property for the 2022 assessment year, calculated as follows:

Redevelopment Property cost	\$15,030,654
<i>Plus</i> Estimated cost of site preparation	\$16,150,000
<i>Equals</i> land cost and site preparation	\$31,180,654
2022 Assessor’s Estimated Fair Market Value of Redevelopment Property	\$11,707,800

\$31,180,654 (acquisition and site preparation cost) less \$8,280,000 (amount of financial assistance provided by City for acquisition and site preparation), equals \$22,900,654 which is more than 70% of \$11,707,800 (assessor's current estimated fair market value).

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ARTICLE IV

Construction of Minimum Improvements

Section 4.1. Construction of Minimum Improvements. Following the conveyance of the Authority Property to the Redeveloper and the purchase of the Additional Property by the Redeveloper, the Redeveloper agrees that it will construct the Minimum Improvements on the Redevelopment Property substantially in accordance with the Construction Plans as approved pursuant to Section 4.2 hereof, and at all times prior to the Maturity Date, the Redeveloper will operate and maintain, preserve, and keep the Minimum Improvements or cause such improvements to be maintained, preserved, and kept with the appurtenances and every part and parcel thereof, in good repair and condition. The Authority shall 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 Redeveloper shall submit the Construction Plans to the Authority and the City. The Authority Representative and the City 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 Redeveloper from all sources (including Redeveloper's equity) for construction of the Minimum Improvements; and (vi) no uncured 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 or the City Representative shall relieve the Redeveloper 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 or the City Representative shall constitute a waiver of an Event of Default. If approval of the Construction Plans is requested by the Redeveloper in writing at the time of submission, such Construction Plans shall be deemed approved unless rejected in writing by the Authority Representative or the City Representative, in whole or in part. Such rejections shall set forth in detail the reasons therefor, and shall be made within thirty (30) days after the date of their receipt by the Authority and the City. If the Authority Representative or the City Representative rejects any Construction Plans in whole or in part, the Redeveloper shall submit new or corrected Construction Plans within thirty (30) days after written notification to the Redeveloper of the rejection. The provisions of this Section relating to approval, rejection and resubmission of corrected Construction Plans shall continue to apply until the Construction Plans have been approved by the Authority and the City. The approval of the Authority Representative or the City Representative shall not be unreasonably withheld, delayed or conditioned. Said approval shall constitute a conclusive determination that the Construction Plans (and the Minimum Improvements constructed in accordance with said plans) comply to the satisfaction of the Authority and the City with the provisions of this Agreement relating thereto.

(b) If the Redeveloper desires to make any Material Change in the Construction Plans after their approval by the Authority and the City, the Redeveloper shall submit the proposed change to the Authority and the City for their approval. If the Construction Plans, as modified by the proposed change, conform to the requirements of this Section 4.2 with respect to such previously approved Construction Plans, the Authority Representative and the City Representative shall approve the proposed change and notify the Redeveloper in writing of its approval. Such change in the Construction Plans shall, in any event, be deemed approved by the Authority and the City unless rejected, in whole or in part, by written notice by the Authority

and the City to the Redeveloper, setting forth in detail the reasons therefor. Such rejection shall be made within thirty (30) days after receipt of the notice of such change. The approval by the Authority and the City of any such change in the Construction Plans may be conditioned on amendment to provisions of this Agreement if such amendments will mitigate the materiality of such proposed changes.

Section 4.3. Commencement and Completion of Construction. Subject to Unavoidable Delays, the Redeveloper will commence the construction of the Minimum Improvements on or before November __, 2023 and substantially complete construction of the Minimum Improvements by December 1, 2025. Construction is considered to be commenced upon the beginning of physical improvements beyond grading. All work with respect to the Minimum Improvements to be constructed or provided by the Redeveloper on the Redevelopment Property shall be in substantial conformity with the Construction Plans as submitted by the Redeveloper and approved by the Authority and the City.

The “Four-Year Rule” (Minn. Stat. Section 469.176, subd. 6) states that if, after four years from the date of certification of the original net tax capacity of the TIF District, no demolition, rehabilitation, or renovation of property or other site preparation, including qualified improvement of a street adjacent to a parcel but not installation of utility service including sewer or water systems, has been commenced on a parcel located within the TIF District by the TIF Authority or by the owner of the parcel in accordance with the TIF Plan, no additional Tax Increment may be taken from that parcel, and the original net tax capacity of that parcel shall be excluded from the original net tax capacity of the TIF District. If none of the activities noted above are commenced, the parcels will be removed from the TIF District and returned to the TIF District after the work described above is completed but at the current net tax capacity.

The Redeveloper agrees for itself, its successors and assigns, and every successor in interest to the Redevelopment Property, or any part thereof, that the Redeveloper, and such successors and assigns, shall promptly begin and diligently prosecute to completion the development of the Minimum Improvements.

Section 4.4. Certificate of Completion.

(a) Promptly after completion of the Minimum Improvements in accordance with those provisions of this Agreement relating solely to the obligations of the Redeveloper to construct the Minimum Improvements (including the dates for beginning and completion thereof), the Authority Representative and the City Representative will furnish the Redeveloper with a Certificate of Completion shown in EXHIBIT D hereof; provided, however, that prior to the issuance of the Certificate of Completion, the Redeveloper must provide the Authority with evidence satisfactory to the Authority Representative and the City Representative that all contractors, subcontractors, and project laborers have been paid.

(b) If the Authority Representative or the City Representative shall refuse or fail to provide any certification in accordance with the provisions of this Section, the Authority Representative or the City Representative, as applicable, shall, within thirty (30) days after written request by the Redeveloper, provide the Redeveloper with a written statement, indicating in adequate detail in what respects the Redeveloper has failed to complete the Minimum Improvements in accordance with the provisions of this Agreement, or is otherwise in default, and what measures or acts will be necessary, in the opinion of the Authority and the City, for the Redeveloper to take or perform in order to obtain such certification.

(c) Regardless of whether a Certificate of Completion is issued by the Authority and the City, the construction of the Minimum Improvements shall be deemed to be complete upon issuance of a certificate of occupancy by the City.

ARTICLE V

Insurance

Section 5.1. Insurance.

(a) The Redeveloper 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 or the City, furnish the Authority or the City 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 and the City shall be protected in accordance with a clause in form and content satisfactory to the Authority and the City;

(ii) comprehensive 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 and the City shall be listed as additional insureds 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 Redeveloper shall maintain, or cause to be maintained, at its cost and expense, and from time to time at the request of the Authority or the City shall furnish proof of the payment of premiums on, insurance as follows:

(i) insurance against loss and/or damage to the Minimum Improvements under a policy or policies covering such risks as are ordinarily insured against by similar businesses;

(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 shall be endorsed to show the Authority and the City as additional insureds; and

(iii) such other insurance, including workers' compensation insurance respecting all employees, if any, of the Redeveloper, in such amount as is customarily carried by like organizations engaged in like activities of comparable size and liability exposure; provided that the Redeveloper 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 shall be taken out and maintained in responsible insurance companies selected by the Redeveloper which are authorized under the laws of the State to assume the risks covered thereby. Upon request, the Redeveloper will deposit annually with the Authority and the City policies evidencing all such insurance, or a certificate or certificates or binders of the respective insurers stating that such insurance is in force and effect. Unless otherwise provided in this Article V each policy shall contain a provision that the insurer shall 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 Redeveloper, the Authority, and the City at least thirty (30) days before the cancellation or modification becomes effective. In lieu of separate policies, the Redeveloper may maintain a single policy, blanket or umbrella policies, or a combination thereof, having the coverage required herein, in which event the Redeveloper shall deposit with the Authority and the City a certificate or certificates of the respective insurers as to the amount of coverage in force upon the Minimum Improvements.

(d) The Redeveloper agrees to notify the Authority and the City immediately in the case of damage exceeding \$200,000 in amount to, or destruction of, the Minimum Improvements or any portion thereof resulting from fire or other casualty. In such event the Redeveloper will forthwith repair, reconstruct and restore the Minimum Improvements to substantially the same or an improved condition or value as it existed prior to the event causing such damage and, to the extent necessary to accomplish such repair, reconstruction and restoration, the Redeveloper will apply the net proceeds of any insurance relating to such damage received by the Redeveloper to the payment or reimbursement of the costs thereof.

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

(e) Notwithstanding anything to the contrary contained in this Agreement, in the event of damage to the Minimum Improvements in excess of \$200,000 and the Redeveloper 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 TIF Note as provided in Section 9.3(b) hereof. If the Authority terminates the TIF Note, such termination shall constitute the Authority's sole remedy under this Agreement as a result of the Redeveloper's failure to repair, reconstruct, or restore the Minimum Improvements. Thereafter, the Authority shall have no further obligations to make any payments under the TIF Note.

(f) The Redeveloper, the Authority, and the City agree that all of the insurance provisions set forth in this Article V shall 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 and the City with respect to the receipt and application of any proceeds of insurance shall, in all respects, be subject and subordinate to the rights of any lender under a Mortgage approved pursuant to Article VII hereof.

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

ARTICLE VI

Tax Increment; Taxes

Section 6.1. Right to Collect Delinquent Taxes. The Redeveloper acknowledges that the Authority is providing substantial aid and assistance in furtherance of the redevelopment through issuance of the TIF Note. The Redeveloper understands that the Tax Increments pledged to payment of the TIF Note are derived from real estate taxes on the Redevelopment Property, which taxes must be promptly and timely paid. To that end, the Redeveloper 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 Redevelopment Property and the Minimum Improvements. The Redeveloper acknowledges that this obligation creates a contractual right on behalf of the Authority to sue the Redeveloper 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 shall also be entitled to recover its costs, expenses and reasonable attorneys' fees.

Section 6.2. Reduction of Taxes. The Redeveloper agrees that prior to completion of the Minimum Improvements, it will not cause a reduction in the real property taxes paid in respect of the Redevelopment Property through (a) willful destruction of the Redevelopment Property or any part thereof (except for the demolition of structures required for construction of the Minimum Improvements); or (b) willful refusal to reconstruct damaged or destroyed property pursuant to Section 5.1 hereof.

The Redeveloper also agrees that it will not, prior to the Maturity Date, (i) seek exemption from property tax for the Redevelopment Property; or (ii) convey or transfer or allow conveyance or transfer of the Redevelopment Property to any entity that is exempt from payment of real property taxes under State law.

The Redeveloper may, at any time following the issuance of the Certificate of Completion, seek through petition or other means to have the assessor's estimated market value for the Redevelopment Property reduced. Such activity must be preceded by written notice from the Redeveloper to the Authority indicating its intention to do so.

Upon receiving such notice, or otherwise learning of the Redeveloper's intentions, the Authority may suspend or reduce payments due under the TIF Note except for the portion of such payments from Available Tax Increment based on the Minimum Market Value as described in the Minimum Assessment Agreement, or the assessor's estimated market value for the year in which the Minimum Improvements have been completed, if less than 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 of any retroactive reduction in market value of the Redevelopment Property.

During the period that the payments are subject to suspension, the Authority may make partial payments on the TIF Note, from the amounts subject to suspension, if it determines, in its sole and absolute discretion, that the amount retained will be sufficient to cover any repayment which the County may require. Upon resolution of the Redeveloper's tax petition, any Available Tax Increment deferred and withheld under this Section shall be paid, without interest thereon, to the extent payable under the assessor's final determination of market value.

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

Section 6.3. Qualifications. Notwithstanding anything herein to the contrary, the parties acknowledge and agree that upon a transfer of the Redevelopment Property to another person or entity, the Redeveloper will remain obligated under Sections 6.1 and 6.2 hereof, unless the Redeveloper is released from such obligations in accordance with the terms and conditions of Section 8.2(b) or 8.3 hereof.

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ARTICLE VII

Financing

Section 7.1. Mortgage Financing.

(a) Before commencement of construction of the Minimum Improvements, the Redeveloper shall submit to the Authority and the City evidence of one or more commitments for financing which, together with committed equity for such construction, is sufficient for payment of the Minimum Improvements. Such 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 and the City find that the financing is sufficiently committed and adequate in amount to pay the costs specified in subsection (a) above, then the Authority and the City shall notify the Redeveloper in writing of its approval. Such approval shall not be unreasonably withheld and either approval or rejection shall be given within thirty (30) days from the date when the Authority and the City are provided the evidence of financing. A failure by the Authority and the City to respond to such evidence of financing shall be deemed to constitute an approval hereunder. If the Authority and the City reject the evidence of financing as inadequate, they shall do so in writing specifying the basis for the rejection. In any event the Redeveloper shall submit adequate evidence of financing within thirty (30) days after such rejection.

Section 7.2. Option of Authority and City to Cure Default in Mortgage. In the event that any portion of the Redeveloper's funds is provided through mortgage financing, and there occurs a default under any Mortgage authorized pursuant to this Article VII, the Redeveloper shall cause the Authority and the City to receive copies of any notice of default received by the Redeveloper from the Holder of such Mortgage. Thereafter, the Authority and the City shall have the right, but not the obligation, to cure any such default on behalf of the Redeveloper within such cure periods as are available to the Redeveloper under the Mortgage documents.

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

Section 7.4. Termination. All the provisions of this Article VII shall terminate with respect to the Minimum Improvements, upon delivery of the Certificate of Completion for the Minimum Improvements. The Redeveloper or any successor in interest to the Minimum Improvements or portion thereof, may sell or engage in financing or any other transaction creating a mortgage or encumbrance or lien on the Minimum Improvements or any portion thereof for which a Certificate of Completion has been obtained, without obtaining prior written approval of the Authority and the City; provided that such sale, financing or other transaction creating a mortgage or encumbrance shall not be deemed as resulting in any subordination of the rights of the Authority and the City under this Agreement unless the Authority and the City expressly consent to such a subordination.

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

ARTICLE VIII

Prohibitions Against Assignment and Transfer; Indemnification

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

Section 8.2. Prohibition Against Redeveloper's Transfer of Property and Assignment of Agreement. The Redeveloper 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 Redeveloper or any successor in interest to the Redevelopment 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 Redeveloper has not made or created and will not make or create or suffer to be made or created any total or partial sale, assignment, conveyance, or lease, or any trust or power, or transfer in any other mode or form of or with respect to this Agreement or the Redevelopment Property or any part thereof or any interest therein, or any contract or agreement to do any of the same, without the prior written approval of the Authority and the City unless the Redeveloper remains liable and bound by this Agreement in which event approval by the Authority and the City is not required. Any such transfer shall be subject to the provisions of this Agreement. The Redeveloper may transfer the Redevelopment Property to an affiliated entity if the affiliated entity enters into an assignment and assumption agreement.

(b) Prior to the issuance of the Certificate of Completion, in the event the Redeveloper, upon transfer or assignment of the Redevelopment Property seeks to be released from its obligations under this Agreement, the Authority and the City shall be entitled to require, except as otherwise provided in this Agreement, as conditions to any such release that:

(i) Any proposed transferee shall have the qualifications and financial responsibility, in the reasonable judgment of the Authority and the City, necessary and adequate to fulfill the obligations undertaken in this Agreement by the Redeveloper.

(ii) Any proposed transferee, by instrument in writing satisfactory to the Authority and the City and in form recordable among the land records, shall, for itself and its successors and assigns, and expressly for the benefit of the Authority and the City, have expressly assumed all of the obligations of the Redeveloper under this Agreement and agreed to be subject to all the conditions and restrictions to which the Redeveloper is subject; provided, however, that the fact that any transferee of, or any other successor in interest whatsoever to, the Redevelopment Property, or any part thereof, shall not, for whatever reason, have assumed such obligations or so agreed, and shall not (unless and only to the extent otherwise specifically provided in this Agreement or agreed to in writing by the Authority) deprive the Authority or the City of any rights or remedies or controls with respect to the Redevelopment 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 Redevelopment Property or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, shall operate, legally or practically, to deprive or

limit the Authority or the City 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 or the City would have had, had there been no such transfer or change. In the absence of specific written agreement by the Authority to the contrary, no such transfer or approval by the Authority thereof shall be deemed to relieve the Redeveloper 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 Redevelopment Property governed by this Article VIII, shall be in a form reasonably satisfactory to the Authority and the City.

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

After issuance of the Certificate of Completion for the Minimum Improvements, the Redeveloper may transfer or assign the Redevelopment Property or the Redeveloper's interest in this Agreement if it obtains the prior written consent of the Authority and the City (which consent will not be unreasonably withheld) and the transferee or assignee is bound by all the Redeveloper's obligations hereunder. The Redeveloper shall submit to the Authority and the City written evidence of any such transfer or assignment, including the transferee or assignee's express assumption of the Redeveloper's obligations under this Agreement. If the Redeveloper fails to provide such evidence of transfer and assumption, the Redeveloper shall remain bound by all its obligations under this Agreement.

Section 8.3. Release and Indemnification Covenants.

(a) The Redeveloper releases from and covenants and agrees that the Authority, the City, and their governing body members, officers, agents, servants and employees thereof shall 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, gross negligence or any willful or wanton misconduct of the Authority, the City, or their governing body members, officers, agents or employees, the Redeveloper agrees to protect and defend the Authority, the City, and their 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. As to any willful misrepresentation, gross negligence or any willful or wanton misconduct of the Authority, the City, or their governing body members, officers, agents or employees, the Authority and the City agree to protect and defend the Redeveloper, its officers, agents, servants and employees and hold the same harmless from any such proceedings.

(c) The Authority, the City, and their governing body members, officers, agents, servants and employees thereof shall not be liable for any damage or injury to the persons or property of the Redeveloper or its officers, agents, servants or employees or any other person who may be about the Redevelopment Property or Minimum Improvements due to any act of negligence of any person.

(d) All covenants, stipulations, promises, agreements and obligations of the Authority and the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations

of the Authority and the City and not of any governing body member, officer, agent, servant or employee of the Authority or the City in the individual capacity thereof.

ARTICLE IX

Events of Default

Section 9.1. Events of Default. 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) failure by the Redeveloper, the Authority, or the City to observe or perform any covenant, condition, obligation, or agreement on its part to be observed or performed under this Agreement; or
- (b) if the Redeveloper:
 - (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) fails to pay real estate taxes on the Redevelopment Property or the Minimum Improvements as they become due;
 - (iv) admits in writing its inability to pay its debts generally as they become due; or
 - (v) is adjudicated a bankrupt or insolvent.

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 this Agreement until it receives assurances that the defaulting party will cure its default and continue its performance under this Agreement;
- (b) cancel and rescind or terminate this Agreement, subject to the provisions of Section 9.3;
- (c) upon a default by the Redeveloper, the Authority may suspend payments under the TIF Note or terminate the TIF Note, subject to the provisions of Section 9.3 hereof; or
- (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 TIF Note. After the Authority has issued its Certificate of Completion for the Minimum Improvements, the Authority and the City may exercise its rights under Section 9.2 hereof only for the following Events of Default:

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

(b) the Redeveloper fails to comply with Redeveloper's obligation to operate and maintain, preserve, and keep the Minimum Improvements or cause such 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 hereof; provided that, upon Redeveloper's failure to comply with Redeveloper's obligations under Section 4.1 or 5.1 hereof, if uncured after thirty (30) days' written notice to the Redeveloper of such failure, the Authority may only suspend payments under the TIF Note until such time as Redeveloper complies with said obligations; if the Redeveloper fails to comply with said obligations for a period of eighteen (18) months, the Authority may terminate the TIF Note.

Section 9.4. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Authority or the Redeveloper is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it, it shall 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, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

Section 9.6. Attorneys' Fees and Costs. Whenever any Event of Default occurs and if the Authority or the City employs attorneys or incur other expenses for the collection of payments due or to become due or for the enforcement of performance or observance of any obligation or agreement on the part of the Redeveloper under this Agreement, and the Authority or the City prevails in the action, the Redeveloper agrees that it will, within ten (10) days of written demand by the Authority or the City, pay to the Authority or the City the reasonable fees of the attorneys and the other expenses so incurred by the Authority or the City.

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

ARTICLE X

Additional Provisions

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

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

Section 10.3. Restrictions on Use. The Redeveloper agrees that, prior to the Maturity Date, the Redeveloper, and such successors and assigns, shall use the Redevelopment Property solely for redevelopment purposes in accordance with the terms of this Agreement, and shall 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 Redevelopment Property or any improvements erected or to be erected thereon, or any part thereof.

Section 10.4. Provisions Not Merged With Deed. None of the provisions of this Agreement are intended to or shall be merged by reason of any deed transferring any interest in the Redevelopment Property and any such deed shall not be deemed to affect or impair the provisions and covenants of this Agreement.

Section 10.5. Titles of Articles and Sections. Any titles of the several parts, Articles, and Sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

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

To the Redeveloper:	Bloomington Investments, LLC 510 First Avenue North, Suite 600 Minneapolis, MN 55403 Attn: Ned Abdul
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To the Authority:	Shakopee EDA 485 Gorman Street Shakopee, MN 55379 Attn: Executive Director
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To the City:

City of Shakopee
485 Gorman Street
Shakopee, MN 55379
Attn: City Administrator

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

Section 10.7. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 10.8. Recording. The Authority may record this Agreement or a memorandum of this Agreement and any amendments thereto with the County Recorder and/or Registrar of Titles of the County, as the case may be. The Redeveloper shall pay all costs for recording.

Section 10.9. Amendment. This Agreement may be amended only by written agreement executed by the Authority, the City, and the Redeveloper.

Section 10.10. Interpretation; Concurrence. The language in this Agreement shall be construed simply according to its generally understood meaning, and not strictly for or against any party and no interpretation shall be affected by which party drafted any part of this Agreement. By executing this Agreement, the parties acknowledge that they (a) enter into and execute this Agreement knowingly, voluntarily and willingly of their own volition with such consultation with legal counsel as they deem appropriate; (b) have had a sufficient amount of time to consider this Agreement's terms and conditions, and to consult an attorney before signing this Agreement; (c) have read this Agreement, understand all of its terms, appreciate the significance of those terms and have made the decision to accept them as stated herein; and (d) have not relied upon any representation or statement not set forth herein.

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

IN WITNESS WHEREOF, the Authority, the City, and the Redeveloper have caused this Contract for Private Redevelopment to be duly executed by their duly authorized representatives as of the date first above written.

**ECONOMIC DEVELOPMENT AUTHORITY FOR
THE CITY OF SHAKOPEE, MINNESOTA**

By _____
Its President

By _____
Its Executive Director

STATE OF MINNESOTA)
) SS.
COUNTY OF SCOTT)

The foregoing instrument was acknowledged before me this day of _____, 2022, by Jody Brennan, the President of the Economic Development Authority for the City of Shakopee, 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 SCOTT)

The foregoing instrument was acknowledged before me this day of _____, 2022, by William H. Reynolds, the Executive Director of the Economic Development Authority for the City of Shakopee, Minnesota, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the Authority.

Notary Public

Execution page of the City to the Contract for Private Redevelopment, dated the date and year first written above.

CITY OF SHAKOPEE, MINNESOTA

By _____
Its Mayor

By _____
Its City Administrator

STATE OF MINNESOTA)
) SS.
COUNTY OF SCOTT)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by William P. Mars, the Mayor of the City of Shakopee, Minnesota, a statutory city organized and existing under the laws of the State of Minnesota, on behalf of the City.

Notary Public

STATE OF MINNESOTA)
) SS.
COUNTY OF SCOTT)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by William H. Reynolds, the City Administrator of the City of Shakopee, Minnesota, a statutory city organized and existing under the laws of the State of Minnesota, on behalf of the City.

Notary Public

Execution page of the Redeveloper to the Contract for Private Redevelopment, dated the date and year first written above.

BLOOMINGTON INVESTMENTS, LLC

By _____
Its _____

STATE OF MINNESOTA)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this day of _____, 2022, by _____, the _____ of Bloomington Investments, LLC, a Minnesota limited liability company, on behalf of the Redeveloper.

Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF AUTHORITY PROPERTY

PID No. 271320020: Lot 2, Block 1, Behringer's 1st Addition, according to the plat thereof, Scott County, Minnesota

PID No. 279040103: The South Half (S 1/2) of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section 4, Township 115, Range 22 West, Scott County, Minnesota

EXHIBIT B

LEGAL DESCRIPTION OF ADDITIONAL PROPERTY

PID No. 275010030: [insert legal]

EXHIBIT C

FORM OF TIF NOTE

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF SCOTT
ECONOMIC DEVELOPMENT AUTHORITY FOR THE
CITY OF SHAKOPEE

No. R-1

\$1,000,000

TAX INCREMENT LIMITED REVENUE NOTE
SERIES _____

<u>Rate</u>	<u>Date of Original Issue</u>
_____%	_____, 20__

The Economic Development Authority for the City of Shakopee, Minnesota (the “Authority”), for value received, certifies that it is indebted and hereby promises to pay to Bloomington Investments, LLC, a Minnesota limited liability company, or registered assigns (the “Owner”), the principal sum of \$1,000,000 and to pay interest thereon at the rate per annum set forth above, as and to the extent set forth herein. Capitalized terms used herein that are otherwise not defined shall have the meanings provided in the Contract for Private Redevelopment, dated November __, 2022 (the “Contract”), between the Authority, the City of Shakopee, Minnesota (the “City”), and the Owner.

1. Payments. Principal and interest (the “Payments”) shall be paid on _____, 20__, and each February 1 and August 1 thereafter (each a “Payment Date”) to and including February 1, 2046_, in the amounts and from the sources set forth in Section 3 herein. Payments shall be applied first to accrued interest, and then to unpaid principal.

Payments are payable by mail to the address of the Owner or such 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 above shall accrue on the unpaid principal, commencing on the Date of Original Issue. Interest shall accrue on a simple basis and will not be added to principal. Interest shall be computed on the basis of a year of three hundred sixty (360) days and charged for actual days principal is unpaid.

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 Tax Increment Property (as defined in the Contract) and paid to the Authority by the County in the six (6) months preceding the Payment Date. The principal of and interest on this Note shall be payable each Payment Date solely from Available Tax Increment. 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. Principal payments on this Note are subordinate to all of the City's General Obligation Tax Increment Bonds that have been issued or will be issued in the maximum amount of up to \$22,377,450 (net of capitalized interest, costs of issuance of the bonds, underwriter's discount, and bond discount (if any)) and an interfund loan of the Authority in the maximum amount of up to \$6,300,000 (collectively, the "TIF Bonds"). Therefore, Available Tax Increment (as defined in the Agreement) will first be used by the City to provide debt service coverage in the amount of one hundred and five percent (105%) of the principal of and interest on the TIF Bonds and to reimburse the City for any Deficiency Payments (as defined in the Agreement). The City will only make payments on this the existing Canterbury TIF Note and this TIF Note in the amount of Available Tax Increment remaining after the payment of principal of and interest on the TIF Bonds on each Payment Date.

The Authority shall 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 or interest on this Note on any Payment Date shall not constitute a default hereunder as long as the Authority pays principal and interest hereon to the extent of Available Tax Increment. The Authority shall have no obligation to pay unpaid balance of principal or accrued interest that may remain after the payment of Available Tax Increment from the last payment of Tax Increment the Authority is entitled to receive from the County with respect to the Redevelopment Property.

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 shall 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 shall terminate and the Authority's obligation to make any payments under this Note shall be discharged upon the occurrence of an Event of Default on the part of the Owner, 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 issued to aid in financing certain public redevelopment 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 Board of Commissioners of the Authority on October 4, 2022, 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 shall 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 shall 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 financial or municipal advisors in connection with the TIF District or the Agreement are for the benefit of the Authority, and are not intended as representations on which the Owner 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. This Note is issuable only as a fully registered note without coupons.

9. Transfer. 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 Finance Director of the City. Upon surrender for transfer of the TIF Note, including any assignment or exchange thereof, duly endorsed by the registered owner thereof or accompanied by a written instrument of transfer, in form reasonably satisfactory to the Finance Director of the City, as registrar (the "Registrar"), duly executed by the registered owner thereof or by an attorney duly authorized by the registered owner in writing, and the payment by the Owner of any tax, fee, or governmental charge required to be paid by or to the Authority with respect to such transfer or exchange, the Registrar shall authenticate and deliver, in the name of the designated transferee or transferees, a new Note of the same aggregate principal amount, bearing interest at the same rate and maturing on the same dates.

Notwithstanding the foregoing, the TIF Note shall 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 in Exhibit D attached to the Agreement or a certificate of the transferor, in a form satisfactory to the Executive Director of the Authority, that such transfer is exempt from registration and prospectus delivery requirements of federal and applicable state securities laws. The Registrar may close the books for registration of any transfer after the fifteenth day of the month preceding each Payment Date and until such Payment Date.

The Owner may assign the TIF Note to a lender that provides all or part of the financing for the acquisition of the Redevelopment Property or the construction of the Minimum Improvements. The Authority hereby consents to such assignment, conditioned upon receipt of an investment letter from such lender in substantially the form attached to the Agreement as Exhibit D, or other form reasonably acceptable to the Executive Director of the Authority. The Authority also agrees that future assignments of the TIF Note may be approved by the Executive Director of the Authority without action of the Board of Commissioners of the Authority, upon the receipt of an investment letter in substantially the form of Exhibit D of the Agreement or other investment letter reasonably acceptable to the Authority from such assignees.

This Note is issued pursuant to the Resolution and is entitled to the benefits thereof, which Resolution is incorporated herein by reference.

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 for the City of Shakopee, Minnesota has caused this Note to be executed with the manual signatures of its President and Executive Director, all as of the Date of Original Issue specified above.

**ECONOMIC DEVELOPMENT
AUTHORITY FOR THE CITY OF
SHAKOPEE, MINNESOTA**

Executive Director

President

REGISTRATION PROVISIONS

The ownership of the unpaid balance of the within Note is registered in the bond register of the Economic Development Authority for the City of Shakopee, Minnesota, in the name of the person last listed below.

Date of Registration

Registered Owner

Signature of Finance Director

Bloomington Investments, LLC
Federal ID #_____

EXHIBIT D

FORM OF INVESTMENT LETTER

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

Re: \$_____ Tax Increment Limited Revenue Note, Series 20____

The undersigned, as Owner of \$_____ in principal amount of the above-captioned Note (the “Note”) pursuant to a resolution adopted by the Board of Commissioners of the Authority on October 4, 2022 (the “Resolution”), hereby represents to you and to Kennedy & Graven, Chartered, Minneapolis, Minnesota, development counsel, as follows:

1. We understand and acknowledge that the TIF Note is delivered to the Owner as of this date pursuant to the Resolution and the Contract for Private Redevelopment, dated November____, 2022 (the “Contract”), between the Authority, the City of Shakopee, Minnesota, and the Owner.

2. We understand that the TIF Note is payable as to principal and interest solely from Available Tax Increment (as defined in the TIF Note).

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

4. 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 TIF Note.

5. We acknowledge that no offering statement, prospectus, offering circular or other comprehensive offering statement containing material information with respect to the Authority and the TIF 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 TIF Note and the security therefor, and other material factors affecting the security and payment of the TIF Note.

6. 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 TIF 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 TIF Note.

7. We have been informed that the TIF 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.

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

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

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

11. The Owner's federal tax identification number is _____.

12. We acknowledge receipt of the TIF Note as of the date hereof.

BLOOMINGTON INVESTMENTS, LLC

By _____
Its _____

Dated: _____, 20____

EXHIBIT E

FORM OF CERTIFICATE OF COMPLETION

The undersigned hereby certifies that Bloomington Investments, LLC, a Minnesota limited liability company (the "Redeveloper"), has fully complied with its obligations under Articles III and IV of the Contract for Private Redevelopment, dated November __, 2022 (the "Agreement"), between the Economic Development Authority for the City of Shakopee, Minnesota, the City of Shakopee, Minnesota, and the Redeveloper (the "Contract") [a memorandum of] which was recorded in the office of [County Recorder] [Registrar of Titles] of Scott County, Minnesota on _____, 20__, as document number _____, with respect to construction of the Minimum Improvements in accordance with Article IV of the Agreement, and that the Redeveloper is released and forever discharged from its obligations with respect to construction of the Minimum Improvements under Articles III and IV of the Agreement.

Dated: _____, 20__.

**ECONOMIC DEVELOPMENT AUTHORITY FOR
THE CITY OF SHAKOPEE, MINNESOTA**

By _____
Its Executive Director

STATE OF MINNESOTA)
) SS.
COUNTY OF SCOTT)

The foregoing instrument was acknowledged before me this _____, 20__, by _____, the Executive Director of the Economic Development Authority for the City of Shakopee, Minnesota, on behalf of the Authority.

Notary Public

CITY OF SHAKOPEE, MINNESOTA

By _____
Its City Administrator

STATE OF MINNESOTA)
) SS.
COUNTY OF SCOTT)

The foregoing instrument was acknowledged before me this _____, 20__, by
_____, the City Administrator of the City of Shakopee, Minnesota, on behalf of the City.

Notary Public

EXHIBIT F

DESIGNS FOR PUBLIC PARKING LOT

[INSERT DESIGNS FOR PARKING LOT]

EXHIBIT G

DESCRIPTION OF TAX INCREMENT PROPERTY

Lot 1 Block 1, Canterbury Amp Addition, according to the plat thereof, Scott County, Minnesota

Lots 1 and 2, Block 2, Canterbury Amp Addition, according to the plat thereof, Scott County, Minnesota

Outlot B, Canterbury Amp Addition, according to the plat thereof, Scott County, Minnesota

EXHIBIT H
FORM OF LICENSE AGREEMENT

[INSERT AGREEMENT]

License Agreement will include the following:

- Redeveloper will have exclusive use of the Parking Lot without charge for 75 days per year, which number will be subject to increase if the number of events at the Amphitheater exceed that that number.
- Redeveloper may charge for parking at the Parking Lot in conjunction with Amphitheater events.
- On days when no Amphitheater events occur, the public shall be allowed to park without fee.
- Redeveloper shall not be obligated to remove snow from the Parking Lot until and unless and until development occurs on Outlot B.
- Redeveloper shall be responsible for ordinary maintenance and repair of the Parking Lot and insurance

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