
Loan #BMNMB24000004
(Shakopee Flats)

COLLATERAL ASSIGNMENT OF CONTRACT FOR PRIVATE REDEVELOPMENT

THIS COLLATERAL ASSIGNMENT OF CONTRACT FOR PRIVATE REDEVELOPMENT (this “*Assignment*”) is made as of June __, 2024, from **Shakopee Apartments, LLC** a Minnesota limited liability company (“*Assignor*”), to **A10 Capital, LLC**, a Delaware limited liability company (together with its successors and/or assigns, the “*Assignee*”).

R E C I T A L S:

WHEREAS, Assignee has agreed to lend to Assignor up to the maximum principal amount of \$25,095,000.00 (the “*Loan*”), for the purpose, in part, of financing tenant improvements in a multifamily building commonly known as Shakopee Apartments located at 125 Scott Street North, Shakopee, Scott County, Minnesota, more particularly described in Exhibit A annexed hereto and made a part hereof (the “*Land*”); and

WHEREAS, the Loan is evidenced by (i) that certain Promissory Note of even date herewith, made by Assignor to Assignee (the “*Note*”), and (ii) that certain Loan Agreement of even date herewith, by and among Assignor and Assignee (the “*Loan Agreement*”); and

WHEREAS, the Note is secured by, among other things, a Mortgage With Assignment of Leases and Rents, Security Agreement and Fixture Filing dated of even date herewith from Assignor, as mortgagor, to Assignee, as mortgagee, recorded in the real estate records of Scott County, Minnesota (the “*Security Instrument*”), encumbering (1) Assignor’s fee interest in and to the Land; (2) all buildings, structures, facilities, fixtures, additions, and other improvements, now or at any time hereafter situated, placed or constructed upon the Land (the “*Improvements*”) and the personal property to be installed thereon or therein; and (3) the other property, rights and interests of Assignor described in and encumbered by the Security Instrument (the Land and the foregoing Improvements, personal property and other mortgaged property being referred to as the “*Premises*”); and

WHEREAS, the Economic Development Authority for the City of Shakopee, a public body corporate and politic under the laws of the State of Minnesota (the “**Authority**”) and Gaughan Development LLC, a Minnesota limited liability company (the “**Redeveloper**”) entered into that certain Contract for Private Redevelopment dated July 3, 2018 and recorded as document numbers A1110047 and T265765 with the Office of the Registrar of Titles, Scott County, Minnesota which was amended by that certain First Amendment to Contract for Private Redevelopment, dated December 18, 2019 and recorded as document numbers A1110048 and T265766 with the Office of the Registrar of Titles, Scott County, Minnesota and further amended by that certain Second Amendment to Contract for Private Redevelopment, dated October 6, 2020 and recorded as document numbers A1110049 and T265767 with the Office of the Registrar of Titles, Scott County, Minnesota (collectively, the “**Redevelopment Contract**”); and

WHEREAS, the Redevelopment Contract was assigned from Redeveloper to Borrower pursuant to that certain Assignment and Assumption of Contract for Private Redevelopment (the “**Redevelopment Contract Assignment**”), by and between Redeveloper, Borrower, and Authority dated November 18, 2020 and recorded as document numbers A1110050 and T265768 with the Office of the Registrar of Titles, Scott County, Minnesota (the Redevelopment Contract and the Redevelopment Contract Assignment collectively, the “**Contract**”); and

WHEREAS, the assignment of Assignor’s rights in and to the Contract, as more fully provided in this Assignment, is one of the conditions precedent to the obligations of Assignee to fund the Loan;

A G R E E M E N T:

NOW, THEREFORE, in consideration of the premises, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor covenants and agrees with Assignee and its successors and assigns as follows:

1. Assignor hereby ASSIGNS, SELLS, CONVEYS, AND SETS OVER unto Assignee all of Assignor’s right, title, and interest in and to (a) the Contract; (b) any engineering reports, soil and environmental reports, site plans and surveys necessary to or used in performance of the Contract, the work to be performed pursuant to the Contract, or required by the terms of the Contract (to the extent assignable) (collectively, the “**Reports**”); (c) working drawings, other drawings, plans and specifications and any other documents that are necessary or required by the terms of the Contract, used in performance of the Contract, or the work to be performed pursuant to the Contract (to the extent assignable) (collectively, the “**Plans**”); and (d) all permits, authorizations and licenses required by the terms of the Contract, issued in connection with Contract or the work to be performed pursuant to the Contract. All remedies available to Assignor under the Contract, the Reports and the Plans are hereby assigned to Assignee (subject to paragraph 3 below). This Assignment, among other security, secures the timely performance of Assignor’s obligations to Assignee, whether now existing or hereafter arising, under the Loan Agreement and the other Loan Documents (as defined in the Loan Agreement). Assignor and Assignee understand and agree that Assignee assumes no obligation or liability of any kind under or in connection with the Contract by reason of the acceptance by Assignee of this Assignment,

and that this Assignment is accepted solely as security for the performance by Assignor of its obligations under the Loan Agreement and the other Loan Documents.

2. Assignor represents, warrants and covenants that (a) the Contract has neither been amended or supplemented nor have any provisions thereof been waived and the Contract is in full force and effect, valid and enforceable against and by Assignor in accordance with its terms; (b) as of the date hereof, no default on the part of Assignor or (to the best of Assignor's knowledge) the Authority exists under the Contract, and no event or condition has occurred and is continuing which, with the giving of notice or lapse of time or both, would constitute such a default; (c) except by reason of its execution and delivery of one or more of the Loan Documents, Assignor has not sold, assigned, pledged, mortgaged, transferred or otherwise encumbered any of its right, title or interest in or to the Contract, the Reports or the Plans and will not further sell, assign, pledge, mortgage, transfer or otherwise encumber any of its right, title or interest in or to the Contract, the Reports or the Plans as long as this Assignment is in effect; (d) Assignor's right, title and interest in and to the Contract, the Reports and the Plans are not now subject to any lien, encumbrance or security interest or other limitation, other than as set forth previously in clause (c); and (e) Contract is in full force and effect and enforceable in accordance with its terms.

3. Until the occurrence of an Event of Default under and as defined in the Loan Agreement, Assignee shall not exercise any rights hereunder and Assignor shall be entitled to receive and exercise all rights under the Contract. After the occurrence of an Event of Default under and as defined in the Loan Agreement, Assignee shall have the right (and Assignor hereby irrevocably constitutes and appoints Assignee as its attorney-in-fact, which power is coupled with an interest, to do so), but shall not be obligated, in Assignee's name or in another person's name (including Assignor's), to demand, receive, and enforce Assignor's rights under the Contract to receive payments, to make payments and give releases, receipts and satisfactions thereunder, to amend and/or supplement the Contract, and to take all other actions in respect of the Contract, and with the same force and effect, as fully as if Assignor had taken such actions and this Assignment had never been made. Assignee may reassign its right, title and interest in the Contract to any present or future holder of the Loan Documents or owner of the Premises upon notice to the Authority but without any requirement for consent from Assignor or Authority, and any such reassignment shall be valid and binding upon Assignor and Authority as fully as if each had expressly approved the same.

4. Assignor hereby authorizes Authority to commence performance of all obligations under the Contract for the benefit of Assignee upon receipt by Authority of a written notice from Assignee stating that an Event of Default under the Loan Agreement has occurred. Authority shall be entitled to rely on such notice from Assignee as conclusive proof of Assignee's right to take such action, regardless of whether or not (a) an Event of Default under the Loan Agreement has actually occurred, or (b) a dispute exists between Assignor and Assignee regarding the actual occurrence of such an Event of Default. Authority is hereby held harmless by Assignor from liability arising from Authority's performance of its obligation under the Contract for the benefit of Assignee in the event it is later held that Assignee was not entitled to give such notice.

5. Assignor shall remain liable under the Contract to perform all of Assignor's obligations thereunder in accordance with and pursuant to the terms and provisions thereof. Assignor shall promptly pay or cause to be paid, as and when the same becomes due and payable, all sums due and payable by Assignor under the Contract and shall timely and diligently perform and observe all other obligations to be performed and observed by Assignor thereunder and do all things necessary to preserve and keep the same in full force and effect without default by Assignor thereunder. In no event shall Assignor do or permit to be done, or omit to do or permit the omission of any act or thing, the doing or omission of which with the giving of notice or lapse of time or both would constitute default under the Contract. Assignor shall furnish Assignee with any notice of default or termination by Authority under the Contract promptly after the giving or receiving of any such notice, and shall not exercise any right of termination on its part without the prior written consent of Assignee. Assignor shall not, without the prior written consent of Assignee in each instance, amend, supplement, modify, terminate, cancel, extend, release or surrender the Contract, waive or consent to a waiver of any of its material rights or obligations thereunder or consent or agree to any such amendment, supplement, modification, cancellation, termination, extension, release or surrender.

6. Assignor hereby subordinates the Contract to the Loan, the Loan Documents and the rights of Assignee, its successors or assigns and agrees the Contract is subject to and subordinate in all respects to the Loan, the Loan Documents and the rights of Assignee, its successors or assigns.

7. Assignor hereby agrees to pay and protect, and indemnify, defend and hold Assignee harmless from and against, any and all claims, demands, liabilities, losses, lawsuits, judgments, and actual costs and expenses (including, without limitation, all charges, disbursements and reasonable fees of Assignee's counsel) to which Assignee becomes exposed, or which Assignee incurs, in exercising any of its rights under this Assignment or in any manner connected with the Contract.

8. Failure by Assignee to exercise any right that it may have hereunder shall not be deemed a waiver thereof unless so agreed in writing by Assignee, and the waiver by Assignee of a default by Assignor hereunder shall not constitute a continuing waiver or a waiver of any other default or of the same default on any other occasion.

9. The rights and remedies of Assignee under this Assignment are cumulative and are not in lieu of, but are in addition to, any other rights or remedies which Assignee shall have under the other Loan Documents, or at law or in equity, or otherwise.

10. Assignor hereby agrees to execute such other documents and perform such other acts as may be necessary to enforce the rights assigned hereunder.

11. This Assignment constitutes the granting by Assignor of a security interest under the Uniform Commercial Code—Secured Transactions in the right, title, and interest of Assignor in and to the Contract, including, without limitation, any claims under written, oral, or statutory warranties or guaranties from Authority or any agents, vendors, consultants, representatives or

contractors furnishing labor, services, or materials for the work covered by the Contract, and Assignor agrees to execute documents perfecting or evidencing such security interest as reasonably requested by Assignee.

12. Assignor consents to the jurisdiction of the courts and service of process in the same manner and to the same extent agreed to in the Loan Agreement.

13. This Assignment shall be governed by and construed in accordance with the internal laws of the state in which the Premises are located (without regard to principles of conflicts of law applicable under the law of such state) and any applicable laws of the United States.

14. All notices, requests, demands, consents, approvals, and other communications which may or are required to be given hereunder or in connection herewith shall be given in the same manner agreed to in the Loan Agreement.

15. This Assignment shall terminate if and when all of Assignor's obligations hereunder and under the Loan Documents have been fully performed, whereupon Assignee shall, at Assignor's request but without charge to Assignee, execute and deliver to Assignor an appropriate release of Assignment.

16. The provisions of this Assignment shall be binding upon Assignor and its successors and assigns and shall inure to the benefit of Assignee and its successors and assigns.

17. If any provision under this Assignment shall be invalid, illegal or unenforceable, it shall not affect or impair the validity, legality and enforceability of any other provision of this Assignment or of the other Loan Documents.

18. This Assignment may not be amended, modified or changed, nor shall any waiver of any provision hereof be effective, except by an instrument in writing and signed by the party against whom enforcement of the waiver, amendment, change, modification or discharge is sought.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, this Collateral Assignment of Contract has been executed by Assignor as of the day and year first written above.

Shakopee Apartments, LLC,
a Minnesota limited liability company

By: _____
Name: _____
Title: _____

STATE OF _____)
) ss.
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2024, by _____, the _____ of **Shakopee Apartments, LLC** a Minnesota limited liability company, on behalf of the limited liability company.

Notary Public
My commission expires:_____

THE UNDERSIGNED HEREBY ACKNOWLEDGES RECEIPT OF THE FOREGOING COLLATERAL ASSIGNMENT OF CONTRACT FOR PRIVATE REDEVELOPMENT. THE UNDERSIGNED CONSENTS TO ASSIGNOR'S ASSIGNMENT OF THE COLLATERAL ASSIGNMENT OF CONTRACT FOR PRIVATE REDEVELOPMENT AND AGREES TO BE BOUND BY THE TERMS, CONDITIONS AND PROVISIONS OF THE COLLATERAL ASSIGNMENT OF CONTRACT FOR PRIVATE REDEVELOPMENT. THE UNDERSIGNED FURTHER COVENANTS AND AGREES THAT THE UNDERSIGNED SHALL HEREAFTER CAUSE ALL NOTICES AND PAYMENTS REQUIRED TO BE MADE BY THE UNDERSIGNED PURSUANT TO THE TERMS OF THE CONTRACT TO BE SENT AND MADE DIRECTLY TO ASSIGNEE, ITS SUCCESSORS OR ASSIGNS, IN ACCORDANCE WITH WRITTEN INSTRUCTIONS (BUT SUBJECT TO THE TERMS OF THE COLLATERAL ASSIGNMENT OF CONTRACT FOR PRIVATE REDEVELOPMENT) TO BE DELIVERED BY ASSIGNEE, ITS SUCCESSORS OR ASSIGNS, TO THE UNDERSIGNED AT THE ADDRESS SET FORTH BELOW. THE UNDERSIGNED FURTHER AGREES THAT ALL SUCH PAYMENTS SHALL BE MADE TO ASSIGNEE WITHOUT SET-OFF, DEFENSE OR COUNTERCLAIM. THE UNDERSIGNED AGREES THAT IT SHALL NOT AMEND, MODIFY, ALTER, CHANGE, CANCEL OR TERMINATE THE CONTRACT WITHOUT THE PRIOR WRITTEN CONSENT OF ASSIGNEE, ITS SUCCESSORS OR ASSIGNS. THE UNDERSIGNED CONFIRMS THAT THERE ARE NO DEFAULTS UNDER THE CONTRACT. FURTHER, THE UNDERSIGNED AGREES THAT ASSIGNEE SHALL HAVE THE RIGHT, BUT NOT THE OBLIGATION, TO CURE ANY ASSIGNOR DEFAULT UNDER THE CONTRACT WITHIN THE TIME PERIOD SET FORTH THEREIN.

THE UNDERSIGNED HEREBY SUBORDINATES THE CONTRACT TO THE LOAN, THE LOAN DOCUMENTS AND THE RIGHTS OF ASSIGNEE, ITS SUCCESSORS OR ASSIGNS AND AGREES THE CONTRACT IS SUBJECT TO AND SUBORDINATE IN ALL RESPECTS TO THE LOAN, THE LOAN DOCUMENTS AND THE RIGHTS OF ASSIGNEE, ITS SUCCESSORS OR ASSIGNS.

**Economic Development Authority
for the City of Shakopee, Minnesota,
a public body corporate and politic
under the laws of the State of Minnesota**

By: _____
Name: _____
Title: _____
Date: _____, 2024

Address: Shakopee EDA
Attention: Dan Hebert, SVP Commercial Account
56 East Broadway, Suite 200
Forest Lake, Minnesota 55025

STATE OF _____)
) ss.
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2024, by _____, the _____ of **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 public body corporate and politic under the laws of the State of Minnesota.

Notary Public
My commission expires: _____

*Prepared by and after
recording, please return to:*
A10 Capital, LLC
Attn: Jackie Cox
800 W. Main Street, Suite 1100
Boise, Idaho 83702

EXHIBIT A

Legal Description of Land

Lot 1, Block 1, River Bluff Addition, Scott County, Minnesota.

Part of which is registered property described as:

That part of Lot 1, Block 1, River Bluff Addition, as formerly contained in Lots 8, 9 and 10, Block 7, in the City of Shakopee, Scott County, Minnesota.

Torrens property

Abstract/Torrens Property

Tax Parcel ID: 274940010

Street Address: 125 Scott Street North & 304 Levee Drive, Shakopee, Minnesota