

ECONOMIC DEVELOPMENT AUTHORITY FOR THE
CITY OF SHAKOPEE, MINNESOTA

RESOLUTION NO. E2019-014

RESOLUTION APPROVING ASSIGNMENT AND ASSUMPTION
AGREEMENT

WHEREAS, the Economic Development Authority for the City of Shakopee, Minnesota (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 of Shakopee, Minnesota (the “City”); and

WHEREAS, the Authority and Enclave Development, LLC, a North Dakota limited liability company (“Enclave”), entered into a Contract for Private Redevelopment, dated May 1, 2019 (the “Contract”), pursuant to which Enclave agreed to acquire certain real property from the Authority (the “Redevelopment Property”) and construct thereon a building containing approximately 80 market-rate apartment units, including underground parking, and approximately 1,500 square feet of retail and restaurant space (the “Minimum Improvements”); and

WHEREAS, in order to make the Minimum Improvements economically feasible, the Authority agreed to provide a grant to Enclave in the amount of up to \$2,132,400 for the Public Redevelopment Costs (defined in the Contract); and

WHEREAS, pursuant to Section 8.2 of the Contract, Enclave is permitted to assign its rights and interests in the Contract and its obligations under the Contract to an affiliate thereof; and

WHEREAS, Enclave desires to assign to DECO Shakopee, LLC, a Minnesota limited liability company (“DECO Shakopee”), all of its rights and interests in the Contract and its obligations under the Contract, and DECO Shakopee desires to assume such rights and interests of Enclave in the Contract and such obligations of Enclave under the Contract; and

WHEREAS, there has been presented before this Board of Commissioners of the Authority (the “Board”) a form of Assignment and Assumption of Contract for Private Redevelopment (the “Assignment and Assumption Agreement”) proposed to be executed by the Authority, Enclave, as assignor, and DECO Shakopee, as assignee, pursuant to which the Authority will consent to Enclave’s assignment of, and DECO Shakopee’s assumption of, its rights and interests in and its obligations under the Contract to DECO Shakopee; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Economic Development Authority for the City of Shakopee, Minnesota that:

1. The Board approves the Assignment and Assumption Agreement in substantially the form on file in City Hall. The President and Executive Director are hereby authorized and directed to execute and deliver the Assignment and Assumption Agreement. All of the provisions of the Assignment and Assumption Agreement, when executed and delivered as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Assignment and Assumption Agreement shall be substantially in the form on file with the Authority which is hereby approved, with such omissions and

insertions as do not materially change the substance thereof, or as the President and the Executive Director, in their discretion, shall determine, and the execution thereof by the President and the Executive Director shall be conclusive evidence of such determination.

2. This resolution is effective upon the date of its adoption.

Sworn and Executed Under My Hand this 3rd day of September, 2019.

President

Executive Director