

GRANT AGREEMENT

THIS GRANT AGREEMENT (the "Agreement") is made this _____, 2019 ("the "Effective Date"), between **AEON**, a Minnesota non-profit corporation ("Aeon"), and the **HOUSING AND REDEVELOPMENT AUTHORITY OF EDINA, MINNESOTA**, a public body corporate and politic organized and existing under the laws of the State of Minnesota (the "City").

RECITALS

Aeon is the managing member of Aeon Sandell LLC ("Owner") which as of the Effective Date acquired the 11 unit apartment complex (the "Project") on certain property located at 7008 Sandell Avenue, Edina, Minnesota and legally described in Exhibit A attached hereto (the "Property"). The City has agreed to make a grant to the Owner in the amount of \$350,000 (the "Grant").

In consideration for the Grant, Aeon will cause Owner to execute and deliver to the City a Declaration of Restrictive Covenants of even date herewith (the "Declaration"), setting forth the affordability covenants for the Project.

ACCORDINGLY, to induce the City to make the Grant to Aeon, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Grant Amount. Subject to and upon the terms and conditions of this Agreement, the City agrees to make the Grant to Aeon in the amount of Three Hundred Fifty Thousand and no/100ths Dollars (\$350,000), or so much thereof as is disbursed to Aeon in accordance with this Agreement.

2. Disbursement of Grant Proceeds.

(a) The Grant proceeds shall be paid to Aeon on the Effective Date or such other date as the parties hereto agree (the "Closing Date").

(b) The following events shall be conditions precedent to the payment of the Grant proceeds to Aeon on the Closing Date:

(i) Aeon having executed and delivered to the City on or prior to the Closing Date, without expense to the City, two (2) counterpart originals of this Agreement executed by Aeon and one (1) original Declaration of Restrictive Covenants in form attached hereto as Exhibit B (the "Declaration") executed by Owner;

(ii) Aeon shall have provided the City an executed copy of the Contribution Agreement between Aeon and Owner in form attached hereto as Exhibit C;

(iii) Aeon shall have executed and delivered to the City a Public Access Easement in form attached hereto as Exhibit D (the "Easement");

(iv) Aeon having provided a Certificate of Good Standing for Aeon and the Owner dated within thirty (30) days of the Effective Date;

(v) Aeon having executed and delivered Resolutions authorizing Aeon to execute, deliver, and perform this Agreement and the Contribution Agreement, and the

Owner to execute, deliver and perform the Declaration, the Public Access Agreement and the Contribution Agreement; and

(vi) Aeon having taken all steps necessary to cause the recording of the Declaration and the Easement and promptly provide a recorded copy of each such document to the City.

3. Representations and Warranties; Agreements.

Aeon represents and warrants to the City and agrees that:

(a) Aeon is a non-profit corporation duly organized and existing in good standing under the laws of the State of Minnesota.

(b) Aeon is duly authorized and empowered to execute, deliver, and perform this Agreement and the Contribution Agreement and Owner is duly authorized and empowered to execute, deliver and perform the Contribution Agreement, the Declaration and the Easement.

(c) The execution and delivery of this Agreement, and the performance by Aeon of its obligations hereunder, do not and will not violate or conflict with any provision of law or the operating agreement of Aeon and do not and will not violate or conflict with, or cause any default or event of default to occur under, any agreement binding upon Aeon.

(d) The execution and delivery of this Agreement has been duly approved by all necessary action of Aeon, and this Agreement has in fact been duly executed and delivered by Aeon and constitutes its lawful and binding obligation, legally enforceable against it.

(e) Aeon warrants and agrees that it shall keep and maintain books, records, and other documents relating directly to the receipt and disbursements of Grant proceeds and compliance by Aeon and Owner, as applicable, with the terms and conditions of the this Agreement, the Declaration, the Easement and the Contribution Agreement (collectively, the "Records"). Aeon agrees that any duly authorized representative of the City shall, at all reasonable times, have access to and the right to inspect, copy, audit, and examine all Records.

(f) Aeon warrants that it has fully complied with all applicable state and federal laws pertaining to its business and will continue said compliance throughout the term of this Agreement. If at any time Aeon receives notice of noncompliance from any governmental entity, Aeon agrees to take any necessary action to comply with the state or federal law in question.

4. Restrictions on the Property. Aeon agrees that the Project will be operated in accordance with the Declaration, including, without limitation, Section 2, Section 3, and Section 4. It is the intention of the parties that five (5) units in the Project will be occupied by and affordable to Qualifying Tenants (as defined in the Declaration) with incomes at or below 60% of Metro Area AMI (as defined in the Declaration) and six (6) units will be occupied by and affordable to Qualifying Tenants with incomes at or below 80% of Metro Area AMI.

5. Restrictions on Use of the Grant Proceeds. Aeon agrees that the Grant proceeds shall be used only for the following purpose: to repair and replace the existing improvements comprising the Project. Without prior written consent of the City, the Grant proceeds shall not be used to expand the existing structure or footprint of such improvements.

6. Event of Default by Aeon. The following shall be “Events of Default” under this Agreement:

(a) any breach or failure of Aeon or Owner, as applicable, to perform any term or condition of this Agreement, the Declaration, or the Contribution Agreement, and such failure continues for thirty (30) days after the City has given written notice to Aeon specifying such default or breach unless the City agrees in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the City will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Aeon within the applicable period and is being diligently pursued until the default is corrected, but no such extension shall be given for a default that can be cured by the payment of money (i.e., payment of taxes, insurance premiums, or other amounts required to be paid hereunder);

(b) any representation or warranty made by Aeon herein or in any document, instrument, or certificate given in connection with this Agreement, is materially false when made; or

(c) Aeon or Owner is dissolved, liquidated, or wound up, or fails to maintain its existence as a going concern in good standing (excepting, reorganizations, consolidations and/or mergers into or with affiliates owned by, owning or under common control of or with such entity or into the parent of such entity, provided the succeeding organization assumes and accepts such entity’s obligations hereunder).

7. The City’s Remedies upon Aeon’s Default. Upon an Event of Default by Aeon or Owner, as applicable, and after receipt of written notice from the City, the City shall have the right to exercise any or all of the following remedies (and any other rights and remedies available to it):

(a) suspend its performance under this Agreement;

(b) seek repayment of the Grant proceeds from Aeon and Owner, who shall be jointly and severally liable therefore, plus interest thereon at the rate of five percent (5%) at an accelerated rate, which amount shall be paid to the City within ten (10) days of written demand; and

(c) take any action provided for at law to enforce compliance by Aeon or Owner with the terms of this Agreement or the Declaration.

8. The City’s Costs of Enforcement of Agreement. If an Event of Default has occurred as provided herein, then upon demand by the City, Aeon will pay or reimburse the City for all expenses, including all reasonable fees and disbursements of legal counsel, incurred by the City in connection with the enforcement of this Agreement, or in connection with the protection or enforcement of the interests of the City in any litigation or bankruptcy or insolvency proceeding or in any action or proceeding relating in any way to the transactions contemplated by this Agreement.

9. Miscellaneous.

(a) Waiver. The performance or observance of any promise or condition set forth in this Agreement may be waived only in writing. No delay in the exercise of any power, right or remedy operates as a waiver thereof, nor shall any single or partial exercise of any other power, right or remedy.

(b) Assignment. This Agreement shall be binding upon Aeon and its successors and assigns and shall inure to the benefit of the City and its successors and assigns. All rights and powers specifically conferred upon the City may be transferred or delegated by the City to any of its successors and assigns. Aeon's rights and obligations under this Agreement may be assigned only when such assignment is approved in writing by the City.

(c) Law Governing; Other Matters. This Agreement shall be governed by the substantive laws of the State of Minnesota. If any provision or application of this Agreement is held unlawful or unenforceable in any respect, such illegality or unenforceability shall not affect other provisions or applications which can be given effect, and this Agreement shall be construed as if the unlawful or unenforceable provision or application had never been contained herein or prescribed hereby. All representations and warranties contained in this Agreement or in any other agreement between Aeon and the City shall survive the execution, delivery and performance of this Agreement and the creation and payment of any indebtedness to the City. Aeon waives notice of the acceptance of this Agreement by the City.

(d) Notice. All notices required hereunder shall be given by depositing in the U.S. mail, postage prepaid, certified mail, return receipt requested, to the following addresses (or such other addresses as either party may notify the other):

To the City: Housing and Redevelopment Authority of Edina, Minnesota
4801 West 50th Street
Edina, MN 55424
Attn: _____

To Aeon: Aeon
901 North 3rd Street, Suite 150
Minneapolis, MN 55401
Attn: Blake Hopkins

9. Indemnification. Aeon shall and does hereby agree to indemnify against and to hold the City, and its officers, agents, and employees, harmless of and from any and all liability, loss, or damage which it may or might incur by reason of or arising from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained herein. Should the City, or its officers, agents, or employees incur any such liability or be required to defend against any such claims or demands, or should a judgment be entered against the City, the amount thereof, including costs, expenses, and reasonable attorneys' fees, shall bear interest thereon at 8% per annum, shall be added to the Grant, and Aeon shall reimburse the City for the same immediately upon demand.

10. Cure Rights. Owner shall have the right, but not the obligation, to cure any Event of Default by Aeon under this Agreement or any default under the Declaration, and the City shall accept performance by Owner of any obligation of Aeon thereunder as though tendered by Aeon itself, provided such performance by the member or partner of Aeon has occurred during the applicable cure period, if any, provided to Aeon thereunder with respect to such default or Event of Default.

11. Term. The term of this Agreement shall run concurrently with the term of the Declaration.

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

IN WITNESS WHEREOF, the undersigned officers of the City and Aeon have executed this Grant Agreement as of the date and year first written above.

CITY:

**HOUSING AND REDEVELOPMENT
AUTHORITY OF EDINA, MINNESOTA**

By _____

Its _____

By _____

Its _____

AEON:

AEON:

By _____

Its _____

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

EXHIBIT B

DECLARATION OF RESTRICTIVE COVENANTS

[See Attached.]

EXHIBIT C
CONTRIBUTION AGREEMENT

[See Attached.]

EXHIBIT D
PUBLIC ACCESS EASEMENT
[See Attached.]