Redevelopment Agreement
(7200-7250 France Avenue)

by and among

City of Edina, Minnesota,

Housing and Redevelopment Authority of Edina, Minnesota,

and

7250 France Group, LLC

Dated as of:
April 18, 2023

THIS DOCUMENT WAS DRAFTED BY:
Dorsey & Whitney LLP
50 South Sixth Street, Suite 1500
Minneapolis, MN 55402-1498

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REDEVELOPMENT AGREEMENT
(7200-7250 France Avenue)

THIS REDEVELOPMENT AGREEMENT (this "Agreement") is made and entered into **April 18, 2023** ("Effective Date"), by and among the **City of Edina, Minnesota**, a Minnesota statutory city (the "City"), 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 "Authority"), and **7250 France Group, LLC**, a Minnesota limited liability company ("Developer").

RECITALS

A. Pursuant to and in accordance with Minnesota Statutes, Sections 469.174 to 469.1799, as amended (the "TIF Act"), the Authority is authorized to finance certain eligible redevelopment costs of redevelopment projects with tax increment revenues derived from a tax increment financing district established in accordance with the TIF Act.

B. The City and the Authority previously established the "Southeast Edina Redevelopment Project Area" pursuant to Sections 469.001 through 469.047, inclusive, of the TIF Act, in an effort to encourage the development and redevelopment of such designated area within the City (the "Redevelopment Area").

C. In accordance with the TIF Act, the Authority has analyzed the current use of that certain land within the Redevelopment Area located at 7200 France Avenue (the "7200 Parcel") and 7250 France Avenue (the "7250 Parcel", and collectively with the 7200 Parcel, the "Project Area"), as such Project Area is legally described on **Exhibit A** attached hereto, including a building-by-building structural analysis, and determined that the Project Area is currently underutilized, with obsolete structures and physical arrangements, substantial vacant areas, and potential contamination, with outdated and inadequate public infrastructure and circulation.

D. Developer is the current fee owner of the 7250 Parcel, and France Property Partners, LLC, a Minnesota limited liability company (together with its permitted successor and assigns, "7200 Parcel Owner"), a Related Party of Developer, is the current fee owner of the 7200 Parcel.

E. Having analyzed the current land use in the Project Area, consistent with the TIF Act, the Authority and the City held public hearings after appropriate notices to consider the need and desirability for adoption of a tax increment financing plan and the creation and establishment of the Project Area and certain other adjoining land as a tax increment financing district pursuant to the TIF Act, and determined that absent such authorization and the provision of certain funds to undertake various qualified redevelopment activities, the redevelopment contemplated herein would not be undertaken.

F. After such hearings, the Authority and the City, having determined that the creation and establishment of a tax increment financing district in the Project Area and such other adjoining land is in the public interest, the Authority and the City established the 72nd and France Tax Increment Financing District (a redevelopment district) (the "TIF District") under the TIF Act and adopted the Tax Increment Financing plan (the "TIF Plan") for the TIF District in accordance with Minnesota Statutes, Section 469.175, pursuant to Authority Resolution No. 2023-04 and City Resolution No. 2023-25.

G. Developer has requested, and the City has approved, pursuant to the Phase 1 City Approvals (defined herein), rezoning of the Project Area to a Planned Unit Development and a final development plan for the redevelopment of the Project Area.

H. Pursuant to and as described in the Phase 1 City Approvals, the previous two multi-tenant office buildings and parking ramp located on the Project Area have been demolished and Developer intends to redevelop the Project Area with new buildings and other improvements, as more particularly described herein as the "Phase 1 Minimum Improvements" and the "Phase 2 Minimum Improvements", and, collectively, referred to herein as the "Project" or the "Minimum Improvements", as such Project is generally depicted on the Project site plan attached as **Exhibit B** (the "Project Site Plan").

I. For purposes of this Agreement, the "Phase 1 Minimum Improvements" shall mean and include development and construction of the following improvements, all as generally depicted on the Project Site Plan and all to be constructed in accordance with the Phase 1 City Approvals and otherwise at the general scale and massing using the architectural quality, exterior finish materials and landscaping as shown in the Phase 1 Development Plan (as defined herein):

(i) A five-story mixed-use professional office/retail building with approximately 138,000 rentable square feet and two levels of underground parking (the "Phase 1 Building"), and related site improvements, all to be located on the 7250 Parcel;

(ii) a north/south public vehicular access road connecting Gallagher Drive to 72nd Street, located on the west side of the Project Area and parallel to France Avenue and such other related streetscape and other improvements (the "North/South Road"), which such North/South Road shall be subject to a City Easement, as provided herein;

(iii) a north/south public bike/pedestrian path and walkway connecting Gallagher Drive to 72nd Street, located on the west side of the North/South Road and such other related streetscape and other improvements (the "North/South Path"), which such North/South Path shall be subject to a City Easement, as provided herein;

(iv) An approximately 31,000 square foot public plaza (the "Public Plaza"), located on portions of both the 7200 Parcel and the 7250 Parcel, which shall include landscaping, hardscaping, public art, security cameras (and other public safety precautions in strategic locations), and other pedestrian amenities consistent with the Phase 1 City Approvals, which such Public Plaza shall be subject to a City Easement, as provided herein;

(v) the sidewalk, streetscape, and landscape improvements and amenities (the "Sidewalks and Streetscapes") along France Avenue, Gallagher Drive and 72nd Street adjoining the Project Area, as required under the terms of the Phase 1 City Approvals, which such Sidewalks and Streetscapes shall be subject to a City Easement, as provided herein;

(vi) storm water management improvements in accordance with the Phase 1 City Approvals;

(vii) the Public Art (defined herein); and

(viii) the Phase 2 Pad Site Preparation has been completed or the temporary surface parking on the 7200 Parcel permitted by the City Approvals has been constructed in accordance with the City Approvals and applicable Law.

J. For purposes of this Agreement, the "Phase 2 Minimum Improvements" shall mean and must include development and construction of either of the following buildings (as the case may be, the "Phase 2 Building") and related site improvements on the 7200 Parcel:

(i) a luxury/high end hotel with approximately 150 rooms with retail space for possible restaurant, fitness, other compatible retail businesses and rooftop restaurant patio (a "Phase 2 Hotel Project"); or

(ii) a multi-family residential building consisting of at least three (3) stories above grade but no larger (in terms of height and footprint area) than the Phase 1 Building and containing approximately 150 residential units and ground floor retail (with residential units leased at both market and affordable rates in accordance with City policy) (a "Phase 2 Residential Project");

in either case, as the same may be generally depicted in, and otherwise at the general scale and massing using the architectural quality, exterior finish materials and landscaping as shown in, the Phase 2 City Approvals (defined herein).

K. Upon completion, the Project is anticipated to deliver many benefits to the general public. In addition to the redevelopment of an underutilized building and long-term increase in the property tax base, the Project will deliver additional public benefits including, job creation, new mixed-use development with smaller blocks and mass consistent with the Southdale Experience Guidelines, stormwater improvements, environmental remediation, streetscape improvements, and permanent sustainability features. Upon completion, the Project will also enable several improvements to the local transportation network including improvements for pedestrians, bicyclists, and motorists. These improvements are intended to benefit the Project, the adjacent properties, the surrounding neighborhoods and the general public who travel to and through this area.

L. The Authority and the City have adopted findings which include a determination that (i) the redevelopment to occur through the proposed Project would not occur solely through private investment within the reasonably foreseeable future and that the increased market value of the Project Area that could reasonably be expected to occur without the use of the tax increment financing would be less than the increase in the market value estimated to result from the proposed development after subtracting the present value of the Project's tax increments for the duration of the TIF District, (ii) that the proposed Project conforms to the general plan for the development or redevelopment of the City as a whole, and (iii) that the proposed Project affords maximum opportunity consistent with the sound needs of the City as a whole, for the development or redevelopment of the TIF District by private enterprise, and, accordingly, the City and Authority believes the Project is in the best interest of the City and desire to assist in providing financial support for the Minimum Improvements with certain TIF Assistance (as defined herein) in accordance with Article III of this Agreement.

NOW, THEREFORE, in consideration of foregoing Recitals, which are incorporated into the provisions of this Agreement by this reference, and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the others as follows:

Article I
Recitals; Exhibits, Definitions

1.1 Recitals. The foregoing Recitals are incorporated into this Agreement by this reference, including the definitions set forth therein.

1.2 Exhibits. All Exhibits referred to in and attached to this Agreement upon execution are incorporated in and form a part of this Agreement as if fully set forth herein.

1.3 Definitions. Unless the context otherwise specifies or requires, the following terms have the following definitions. Certain other capitalized terms are defined elsewhere in this Agreement. All defined terms may be used in the singular or the plural, as the context requires.

"7200 Parcel" has the meaning set forth in Recital C.

"7200 Parcel Owner" has the meaning set forth in Recital D.

"7250 Parcel" has the meaning set forth in Recital C.

"Agreement" means this Redevelopment Agreement, as the same may be from time to time modified, amended or supplemented.

"Authority" means the Housing and Redevelopment Authority of Edina, Minnesota.

"Authorized Representative" means, with respect to the Authority, the Executive Director of the Authority or its designee, and, with respect to the City, the City Manager or its designee.

"Available Tax Increments" means up to **90%** of the Tax Increments received and retained by the Authority from the County during any applicable time frame.

"Board" means the Board of Commissioners of the Authority.

"Certificate of Completion" means a certificate in substantially the form attached as **Exhibit F**, signed by the Authorized Representative for the Authority, to be issued pursuant to the terms of Section 4.12.

"City" means the City of Edina, Minnesota.

"City Approvals" means, collectively, the Phase 1 City Approvals and the Phase 2 City Approvals.

"City Consultants" means the financial, engineering, legal, TIF eligibility and other similar advisors to the City and the Authority.

"City Council" means the City Council of the City.

"City Easement(s)" has the meaning set forth in Section 4.6(a).

"City Parties" means the City and the Authority, and their respective governing body members and elected officials, officers, employees, agents, independent contractors and attorneys.

"Commencement" means (i) with respect to pre-construction activities necessary for Commencement of the vertical construction of the Minimum Improvements (e.g., demolition, environmental remediation and site preparation), actual physical activity related to such pre-construction activity and (ii) with respect to vertical construction of the Minimum Improvements, the date on which actual physical construction of the building foundation begins.

"Completion" or "Completed" means (i) with respect to either the Phase 1 Minimum Improvements or the Phase 2 Minimum Improvements, Developer's receipt of the Certificate of Completion from the

Authority for the corresponding Phase of the Minimum Improvements and (ii) with respect to the individual aspects of the Minimum Improvements described in the Minimum Improvements timeline set forth in Section 4.1, substantial completion of such aspect or element such that Developer can proceed with Commencement of the next aspect or element in a manner consistent with normal construction practices

"County" means the County of Hennepin, Minnesota.

"Cure Rights" means the rights to cure a Default as specified in Section 9.4 before such Default is deemed to be an Event of Default.

"Default" means an act or omission by the City, the Authority or Developer which becomes an Event of Default under this Agreement if it is not cured following notice thereof from the other party pursuant to any applicable Cure Rights.

"Default Date" has the meaning set forth in Section 4.1(a).

"Developer" means **7250 France Group, LLC**, a Minnesota limited liability company, and any subsequent fee simple owners of the 7250 Parcel, and their permitted successors and assigns, all in accordance with this Agreement.

"Effective Date" means the date of this Agreement set forth in the preamble above.

"EIOP" means an equity and inclusion outreach plan, as more particularly described in Section 4.9(d) and **Exhibit K**.

"Environmental Law" means any federal, state or local law, rule, regulation, ordinance, or other legal requirement relating to (a) a release or threatened release of any Hazardous Material, (b) pollution or protection of public health or the environment or (c) the manufacture, handling, transport, use, treatment, storage, or disposal of any Hazardous Material.

"Event of Default" means any of the events by the City, the Authority or Developer described in Article IX.

"Financing Commitments" means financing commitments, term sheets and/or other evidence of financing commitments for the Phase 1 Minimum Improvements or the Phase 2 Minimum Improvements, as applicable, from debt and equity sources sufficient, with all other available sources of funding, to fund all costs to construct the Phase 1 Minimum Improvements or the Phase 2 Minimum Improvements, as applicable, all in a form reasonably satisfactory to the Authority and disclosing (i) the identity of the mortgage lender(s), (ii) mortgage rate and terms, and (iii) an organizational chart of Developer or 7200 Parcel Owner, as applicable, with the identity of all equity sources with greater than a 10% direct or indirect investment in the Phase 1 Minimum Improvements or the Phase 2 Minimum Improvements, as applicable. The Authority acknowledges and agrees that the Financing Commitments may be conditioned on items customarily required by institutional investors and lenders (including, without limitation, adequate financial statements, environmental review, appraisals, surveys and title).

"Go-Ahead Letter" means Developer's letter to the City and the Authority, substantially in the form attached as **Exhibit E**, and including the Financing Commitments and EIOP for the applicable Phase of the Minimum Improvements, and stating that Developer or 7200 Parcel Owner, as applicable, is prepared to close the Phase 1 Minimum Improvements or the Phase 2 Minimum Improvements financing, as applicable, and is prepared to proceed with the construction of the Phase 1 Minimum Improvements or the Phase 2 Minimum Improvements, as applicable.

"Hazardous Material" means petroleum, asbestos-containing materials, and any substance, waste, pollutant, contaminant or material that is defined as hazardous or toxic in any Environmental Law.

"Law" means federal, state, or local governmental or quasi-governmental laws, ordinances, rules, codes, regulations, directives, orders and/or requirements.

"Lookback Pro Forma" has the meaning set forth in Section 3.5(d)(i).

"Market Return Rate" has the meaning set forth in Section 3.5(c)(i).

"Memorandum of Agreement" means the document described in Section 10.16 and substantially in the form shown in **Exhibit G**.

"Minimum Improvements" has the meaning set forth in Recital H.

"Mortgage" has the meaning set forth in Section 5.1(a).

"North/South Path" has the meaning set forth in Recital I.

"North/South Road" has the meaning set forth in Recital I.

"Phase" means each of the Phase 1 Minimum Improvements or the Phase 2 Minimum Improvements.

"Phase 1 Approval Resolution" means City Council Resolution No. 2023-11.

"Phase 1 Building" has the meaning set forth in Recital I.

"Phase 1 City Approvals" means, collectively, the Phase 1 Approval Resolution, the Phase 1 Development Contract, the Phase 1 Development Plan, and the Phase 1 PUD Ordinance, and all other approvals, permits, licenses, and agreements issued by or entered into with the City, the Authority, or other governmental authority relating to the Phase 1 Minimum Improvements, the corresponding Project Area and/or Developer.

"Phase 1 Development Contract" means that certain Site Improvement Performance Agreement dated February 7, 2023 by and between the City and Developer and pertaining to the Phase 1 Minimum Improvements, as may be amended, supplemented, and/or otherwise modified from time to time, and to be recorded against the applicable portion of the Project Area.

"Phase 1 Development Plan" means the final development plans for the Phase 1 Minimum Improvements and the Project as approved by the City pursuant to the Phase 1 Approval Resolution and the Phase 1 PUD Ordinance, and attached hereto as **Exhibit C**.

"Phase 1 Minimum Improvements" has the meaning set forth in Recital I.

"Phase 1 PUD Ordinance" means City Ordinance No. 2022-13.

"Phase 1 TIF Note" has the meaning set forth in Section 3.4(a).

"Phase 2 Approval Resolution" means any authorizing resolution issued by the City Council means any City ordinance adopted by the City Council approving any final zoning, site plan, and site improvement

contract for the 7250 Parcel, but only to the extent such Phase 2 Approval Resolution authorizes the Phase 2 Minimum Improvements, as defined and described herein.

"Phase 2 Building" has the meaning set forth in Recital J.

"Phase 2 City Approvals" means, collectively, the Phase 2 Approval Resolution, the Phase 2 Development Contract, the Phase 2 Development Plan, and the Phase 2 PUD Ordinance, and all other approvals, permits, licenses, and agreements issued by or entered into with the City, the Authority, or other governmental authority relating to the Phase 2 Minimum Improvements, the corresponding Project Area and/or Developer.

"Phase 2 Development Contract" means any site improvement performance or other site development contract entered into by and between the City and Developer and pertaining to the Phase 2 Minimum Improvements, as may be amended, supplemented, and/or otherwise modified from time to time, and to be recorded against the applicable portion of the Project Area.

"Phase 2 Development Plan" means the final development plans for the Phase 2 Minimum Improvements and the Project as approved by the City pursuant to the Phase 2 Approval Resolution and the Phase 2 PUD Ordinance.

"Phase 2 Minimum Improvements" has the meaning set forth in Recital J.

"Phase 2 Pad Site Preparation" means the (i) removal of any temporary surface parking on the 7200 Parcel permitted by the City or otherwise located on the 7200 Parcel, and (ii) 7200 Parcel being prepared, in rough graded condition in accordance with the Phase 2 City Approvals or other applicable Law in preparation for construction of the Phase 2 Minimum Improvements.

"Phase 2 PUD Ordinance" means any City ordinance adopted by the City Council establishing the zoning, allowed and conditional uses, and related zoning requirements for the 7250 Parcel, but only to the extent such Phase 2 PUD Ordinance authorizes the Phase 2 Minimum Improvements, as defined and described herein.

"Phase 2 TIF Note" has the meaning set forth in Section 3.4(a).

"Project" means the construction and development of all Phases of the Minimum Improvements within the Project Area in accordance with the City Approvals and this Agreement.

"Project Area" has the meaning set forth in Recital C.

"Project Site Plan" means the site plan for the Project attached as **Exhibit B**.

"Public Art" has the meaning set forth in Section 4.7.

"Public Path Easement" has the meaning set forth in Section 4.6(a)(ii).

"Public Plaza" has the meaning set forth in Recital I.

"Public Plaza Easement" has the meaning set forth in Section 4.6(a)(iv).

"Public Road Easement" has the meaning set forth in Section 4.6(a)(i).

"Qualified Redevelopment Costs" has the meaning set forth in Section 3.2.

"Redevelopment Area" has the meaning set forth in Recital B.

"Related Party" means with respect to any person or entity (i) any other person or entity controlling, controlled by or under common control with such person or entity; or (ii) any other person or other entity in which the majority equity interest of such other person or entity is owned by the same parties that have a majority equity interest in the first person or entity.

"Sidewalk Easement" has the meaning set forth in Section 4.6(a)(iii).

"Sidewalks and Streetscapes" has the meaning set forth in Recital H.

"State" means the state of Minnesota.

"Tax Increments" means the tax increment (as defined in the TIF Act) derived from the Project Area which have been actually received and retained by the Authority in accordance with the provisions of the TIF Act, including without limitation Minnesota Statutes, Section 469.177.

"TIF" means tax increment financing pursuant to the TIF Act.

"TIF Act" has the meaning set forth in Recital A.

"TIF Assistance" means reimbursement of Qualified Redevelopment Costs through payments from the Authority to Developer of Available Tax Increments under the TIF Notes, pursuant to the terms and conditions of Article III of this Agreement, the TIF Notes, and the TIF Act.

"TIF District" has the meaning set forth in Recital F.

"TIF Notes" means, collectively, the Phase 1 TIF Note and the Phase 2 TIF Note.

"TIF Plan" has the meaning set forth in Recital F.

"TIF Pro Forma" means separate detailed financial pro formas for each of (i) the Phase 1 Minimum Improvements and (ii) the Phase 2 Minimum Improvements, and including, separately for each such Phase of the Minimum Improvements (and specifically not combined for the Phases), costs, sources and uses of financing, return calculations based on projected and/or actual (as applicable) income and expenses, in substantially the form of the projected pro formas attached hereto as **Exhibit D**, and all as updated by Developer from time to time in accordance with this Agreement based on actual and/or projected Minimum Improvements information, as the same becomes available during the development of the Minimum Improvements.

"Unavoidable Delays" means actual delays in the Commencement and Completion of the Minimum Improvements or any element thereof, outside the reasonable control of Developer, to extent such actual delays are a result of (i) unusually severe or prolonged bad weather, (ii) acts of God, acts of war, civil unrest, terrorism, criminal conduct of third parties, fire or other casualty to the Minimum Improvements, (iii) litigation commenced by third parties, (iv) actions or inactions of any federal, State, or local government unit which directly result in delays, including, but not limited to, a declared emergency under Minnesota Statutes, Chapter 12 or due to pandemic or quarantine restrictions imposed by applicable Law, (v) strikes, or other labor trouble, industry-wide material shortages and delays in delivery, labor shortages; (vi) concealed or unknown site conditions not revealed and not reasonably anticipated prior to the Effective Date; (vii) pandemic and outbreaks of Covid-19 and variants thereof; and/or (viii) other events beyond Developer's reasonable control which Developer could not reasonably foresee would occur and

which Developer would have been reasonably expected to take measures to avoid or minimize, in each case, not resulting from the act or omission of Developer (or its contractors, subcontractors, agents, or employees), and in each instance to the extent Developer gives written notice to the Authority and City within 30 days after either the occurrence of such event giving rise to each Unavoidable Delay or Developer's reasonable realization that the occurrence will cause an Unavoidable Delay.

Article II
Representations and Warranties

2.1 Representations and Warranties of the City. The City makes the following representations and warranties:

(a) The City is a Minnesota municipal corporation and has the power to enter into this Agreement and carry out its obligations hereunder. The City has duly authorized the execution, delivery and performance of this Agreement.

(b) There is not pending, nor to the best of the City's knowledge is there threatened, any suit, action or proceeding against the City before any court, arbitrator, administrative agency or other governmental authority that may materially and adversely affect the validity of any of the transactions contemplated hereby, the ability of the City to perform its obligations hereunder or as contemplated hereby, or the validity or enforceability of this Agreement.

(c) To the best of the City's knowledge and belief, no member of the City Council or officer of the City, has either a direct or indirect financial interest in this Agreement, nor will any City Councilmember or officer of the City, benefit financially from this Agreement within the meaning of Minnesota Statutes, Section 469.009, as amended.

(d) The execution, delivery and performance of this Agreement, and any other documents, instruments or actions required or contemplated pursuant to this Agreement by the City does not, and consummation of the transactions contemplated therein and the fulfillment of the terms thereof will not conflict with or constitute on the part of the City a breach of or default under any existing agreement or instrument to which the City is a party or violate any law, charter or other proceeding or action establishing or relating to the establishment and powers of the City or its officers, officials or resolutions.

2.2 Representations and Warranties of the Authority. The Authority makes the following representations and warranties:

(a) The Authority is a public body corporate and politic and a governmental subdivision of the State, duly organized and existing under State law and the Authority has the authority to enter into this Agreement and carry out its obligations hereunder.

(b) Except as provided in this Agreement, and provided that the Authority will fund fiscal disparities from within the TIF District, in accordance with Minnesota Statutes, Section 469.177, subdivision 3, the Authority agrees to retain all of the captured net tax capacity of the Project Area to finance the Qualified Redevelopment Costs as provided in this Agreement, and will elect that the duration of the TIF District will be the maximum duration permitted by the TIF Act. The Authority will not voluntarily take any action to reduce the amount of captured tax capacity retained to finance the Qualified Redevelopment Costs or to further reduce the duration of the District until the amount paid to Developer from Available Tax Increments reaches the maximum amount specified in Article III.

(c) The execution, delivery and performance of this Agreement and any other documents or instruments required pursuant to this Agreement by the Authority does not, and consummation of the transactions contemplated therein and the fulfillment of the terms thereof will not, conflict with or constitute on the part of the Authority 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, (ii) legislative act, constitution or other proceeding establishing or relating to the establishment of the Authority or its officers or its resolutions, or (iii) any Minnesota statute or any provisions of any bond, debenture, loan agreement, regulation or order of the United States of America or the State, or any agency or political subdivisions thereof or any court order or judgment in any proceeding to which the Authority is or was a party by which it is bound.

(d) 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 may materially and adversely affect the validity of any of the transactions contemplated hereby, the ability of the Authority to perform its obligations hereunder or as contemplated hereby, or the validity or enforceability of this Agreement.

(e) To the best of the Authority's knowledge and belief, no member of the Board of the Authority or officer of the Authority, has either a direct or indirect financial interest in this Agreement, nor will any Commissioner of the Authority or officer of the Authority, benefit financially from this Agreement within the meaning of Minnesota Statutes, Section 469.009, as amended.

2.3 Representations and Warranties of Developer. Developer represents and warrants that:

(a) Developer and 7200 Parcel Owner are each a limited liability company organized and in good standing under the laws of the state of Minnesota, are not in violation of any provisions of its operating agreement or other organizational documents or the laws of the State, have power to enter into this Agreement and has duly authorized the execution, delivery and performance of this Agreement by proper action of its members.

(b) Developer currently owns marketable fee title to the 7250 Parcel. 7200 Parcel Owner currently owns marketable fee title to the 7200 Parcel. 7200 Parcel Owner is a Related Party of Developer and shall remain a Related Party of Developer, subject to the applicable terms and conditions of this Agreement.

(c) The execution and delivery of this Agreement and the consummation of the transactions contemplated thereby, and the fulfillment of the terms and conditions thereof do not and will not conflict with or result in a breach of any material terms or conditions of Developer's organizational documents, any restriction or any agreement or instrument to which Developer is now a party or by which it is bound or to which any property of Developer is subject, and do not and will not constitute a default under any of the foregoing or to the best of Developer's knowledge be a violation of any order, decree, statute, rule or regulation of any court or of any state or Federal regulatory body having jurisdiction over Developer or its properties, including its interest in the Minimum Improvements, and do not and will not result in the creation or imposition of any lien, charge or encumbrance of any nature upon any of the property or assets of Developer contrary to the terms of any instrument or agreement to which Developer is a party or by which it is bound.

(d) To the best of Developer's knowledge and belief, the execution and delivery of this Agreement will not create a conflict of interest prohibited by Minnesota Statutes, Section 469.009, as amended.

(e) Developer would not construct the Phase 1 Minimum Improvements, but for the execution of this Agreement and the TIF Assistance for the Qualified Redevelopment Costs and other public assistance contemplated to be made available hereunder.

(f) There are no pending or to the best of Developer's knowledge, threatened legal proceedings, of which Developer has notice, contemplating the liquidation or dissolution of Developer or threatening its existence, or seeking to restrain or enjoin the transactions contemplated by the Agreement, or questioning the authority of Developer to execute and deliver this Agreement or the validity of this Agreement.

(g) Neither Developer nor any Related Party of Developer is currently delinquent in the payment of any business, occupation, sales, use, gross receipts, rental, real and personal property and other similar taxes imposed with respect to any real property owned or leased by any of such parties in the State.

(h) Developer has not received any notice from any local, state or federal official that the activities of Developer or the Authority with respect to the Project Area may or will be in violation of any Environmental Law, except as has been identified in any report, audit, inspection or survey, undertaken by or provided to the City and the Authority. Developer represents that to the best of Developer's knowledge: (i) it is not aware of any state or federal claim filed or planned to be filed by any party relating to any violation of any local, state or federal Environmental Law, regulation or review procedure, and (ii) it is not aware of any violation of any local, state or federal law, regulation or review procedure which would give any person a valid claim under any Environmental Law, including the Minnesota Environmental Rights Act or the Minnesota Environmental Policy Act.

(i) Developer reasonably expects that it and Parcel 7200 Owner will each be able to obtain private financing in an amount sufficient, together with funds provided by the Authority and any other public agencies, to enable Developer and Parcel 7200 Owner, as applicable, to successfully construct the Minimum Improvements, as provided herein.

Article III
TIF Assistance

3.1 Creation of TIF District; Certification. The Authority and City have taken all necessary actions to create and establish the TIF District as of the Effective Date. The TIF District has been created and established as a "redevelopment" district under the TIF Act. The Authority will cause the TIF District to be certified prior to **June 30, 2023**, such that Tax Increments will be available commencing in the calendar year **2026**. Developer acknowledges and agrees that the Authority and the City may take appropriate steps to modify the TIF District in the future, including, without limitation, incorporating additional land into the TIF District. Developer shall cooperate with the Authority and the City with any such future modification, including to execute and deliver any supplements or modifications to this Agreement that are reasonably required in connection therewith, provided that no such modification or supplement shall (a) increase any obligation of Developer hereunder or (b) adversely affect any right of or benefit of Developer hereunder. All TIF Assistance hereunder must be in accordance with the Authority's TIF policy.

3.2 Phase 1 Minimum Improvements Qualified Redevelopment Costs. Costs and expense for the items described below, initially paid by Developer from Developer's own sources and incurred in furtherance of the construction and development of the Phase 1 Minimum Improvements, shall be eligible for TIF Assistance under the terms and conditions of this Agreement (collectively, "Qualified Redevelopment Costs"):

	Qualified Redevelopment Costs for Phase 1 Minimum Improvements	Approx. Cost	
1.	Reimbursement for demolition of two obsolete structures, including remediation of environmental contamination	**$1,472,554**	
2.	Site improvements required under Phase 1 Development Plan including site preparation, utilities, and dewatering, excluding costs of Items #3, 4, 5, 7, 9, 10 and 11 (construction costs)	**$1,172,805**	
3.	Soil corrections (soil import/export, geo piers, shoring)	**$910,000**	
4.	North/South Road (construction costs)	$563,020	**$1,339,630**
5.	North/South Path (construction costs)	$234,431	
6.	Portion of land cost (50%) for North/South Road and North/South Path	$542,179	
7.	Public Plaza (construction costs)	$1,044,052	**$1,532,594**
8.	Portion of land cost (25%) for Public Plaza and Sidewalks and Streetscapes	$388,542	
9.	Public Art	$100,000	
10.	Sidewalks and Streetscapes	**$310,706**	
11.	Storm water holding area in northwest portion of Project Area (construction costs)	**$503,674**	
12.	Construction costs for upgrade from LEED certified to LEED Silver	**$1,309,701**	
13.	Costs reimbursable to the City and Authority as provided in Section 7.1.	**$300,000**	
14.	Professional design and engineering costs of Items #2, 3, 4, 5, 7, 10, 11, and 12 (estimated at 10% of Phase 1 Minimum Improvements hard costs)	**$604,838**	
	Total =	**$9,456,502**	

The actual amount of Qualified Redevelopment Costs within each of the foregoing categories may be allocated among such categories, subject to reasonable review and approval by the Authority, and provided

that Developer must provide reasonable evidence of the actual amounts of Qualified Redevelopment Cost actually incurred or committed in each such category.

3.3 No TIF Assistance for Phase 2 Minimum Improvements . Notwithstanding anything to the contrary herein, costs and expenses incurred by Developer in furtherance of the construction and development of the Phase 2 Minimum Improvements shall not be eligible for TIF Assistance under this Agreement.

3.4 TIF Notes.

(a) TIF Notes. In order for Developer to obtain the TIF Assistance contemplated by this Agreement, the Authority shall issue, subject to the terms and conditions of this Agreement, two (2) "pay-as-you-go" TIF notes (each a "TIF Note" and collectively, the "TIF Notes") to Developer in the aggregate principal amount of up to **$7,550,000** (the "Maximum Principal Amount"). One TIF Note shall be issued after the Completion of the Phase 1 Minimum Improvements ("Phase 1 TIF Note") and Developer's satisfaction of the other conditions to issuance of the Phase 1 TIF Note set forth in Section 3.4(d). The maximum original principal amount of the Phase 1 TIF Note shall be **$5,935,000**. The second TIF Note shall be issued upon the Completion of the Phase 2 Minimum Improvements ("Phase 2 TIF Note") and Developer's satisfaction of the other conditions to issuance of the Phase 2 TIF Note set forth in Section 3.4(e). The maximum original principal amount of the Phase 2 TIF Note shall be **$1,615,000**. Each TIF Note shall be issued in substantially the form attached as **Exhibit H**.

(b) TIF Note Interest. The TIF Notes shall bear simple interest on the unpaid principal balance thereof at a fixed rate equal to the lesser of:

(i) the rate of interest charged by the lender providing the initial permanent financing (including any mini-perm loan used to pay-off the initial construction financing) in place following Completion of the Phase 1 Minimum Improvements which is secured by a first priority Mortgage on the Phase 1 Building; and

(ii) **6.50%** per annum;

which rate shall be calculated for both TIF Notes once as of the date of the issuance of the Phase 1 TIF Note.

(c) Payments and Interest. Semi-annual payments on the TIF Notes from Available Tax Increment and accrual of interest on the unpaid principal balance of such TIF Note will commence upon the Authority's issuance of such TIF Note, all in accordance with terms and condition set forth in such TIF Note.

(d) Condition of Issuance of the Phase 1 TIF Note. The Authority's obligation to issue the Phase 1 TIF Note to Developer is subject to satisfaction of each of the following conditions:

(i) the Certificate of Completion for the Phase 1 Minimum Improvements shall have been issued by the Authority in accordance with Section 4.12;

(ii) Developer shall have provided evidence satisfactory to the Authority that Developer has actually incurred (A) Qualified Redevelopment Costs in an amount equal to at least the amount of the requested Phase 1 TIF Note and (B) total Phase 1 Minimum Improvements costs corresponding to the line item detail shown in the initial projected TIF Pro Forma attached as **Exhibit D**;

(iii) Developer shall have provided the updated TIF Pro Forma reflecting the actual costs of the Phase 1 Minimum Improvements to the Authority, and the Authority shall have completed their review, analysis, and audit of the same as necessary to determine the original principal amount of the Phase 1 TIF Note in accordance with Section 3.5(c);

(iv) Developer shall have provided the Authority with an updated accounting of all applicable actual contingency funds and/or escalation allowances for the corresponding Phase of the Minimum Improvements and the Authority shall have confirmed such funds were applied and allocated in a manner consistent with Section 3.5(c)(iii);

(v) Developer shall have submitted documentation necessary to secure all grant payments as well as other documents to administer the closing of all grant agreements;

(vi) Neither Developer, 7200 Parcel Owner, nor any other applicable owner of a portion of the Project Area shall have requested or received a waiver or reduction of any required park dedication fees; and

(vii) No Developer Default or Developer Event of Default exist under this Agreement and no default by Developer or default by 7200 Parcel Owner shall exist under any of the City Approvals, City Easements, or any other agreement pertaining to the Project, beyond any applicable notice and cure periods.

(e) Condition of Issuance of the Phase 2 TIF Note. The Authority's obligation to issue the Phase 2 TIF Note to Developer is subject to satisfaction of each of the following conditions:

(i) by no later than **December 31, 2025** Developer shall have caused the Phase 2 Pad Site Preparation to be Completed, or such later date that the Authority may agree to in writing, including, without limitation, by any extension of the applicable Default Date that may be granted by the Authority's Authorized Representative under Section 4.1;

(ii) the Certificate of Completion for the Phase 2 Minimum Improvements shall have been issued by the Authority in accordance with Section 4.12;

(iii) Developer shall have satisfied all the conditions to issuance of the Phase 1 TIF Note in accordance with Section 3.4(d).

(iv) Developer shall have provided the updated TIF Pro Forma reflecting the actual costs of the Phase 2 Minimum Improvements to the Authority, and the Authority shall have completed their review, analysis, and audit of the same as necessary to determine the original principal amount of the Phase 2 TIF Note in accordance with Section 3.5(c);

(v) Developer shall have provided the Authority with an updated accounting of all applicable actual contingency funds and/or escalation allowances for the corresponding Phase of the Minimum Improvements and the Authority shall have confirmed such funds were applied and allocated in a manner consistent with Section 3.5(c)(iii);

(vi) Developer shall have submitted documentation necessary to secure all grant payments as well as other documents to administer the closing of all grant agreements;

(vii) Neither Developer, 7200 Parcel Owner, nor any other applicable owner of a portion of the Project Area shall have requested or received a waiver or reduction of any required park dedication fees; and

(viii) No Developer Default or Developer Event of Default exist under this Agreement and no default by Developer or default by 7200 Parcel Owner shall exist under any of the City Approvals, City Easements, or any other agreement pertaining to the Project, beyond any applicable notice and cure periods.

(f) Combination of the TIF Notes. Upon the request of either the Authority or Developer to the other party, any such request to be made in connection with the issuance of the Phase 2 TIF Note or any time after issuance of the Phase 2 TIF Note, the TIF Notes issued by the Authority to Developer hereunder may be combined into a single TIF Note, in an amount equal to the then aggregate unpaid principal balance of the TIF Notes and otherwise containing the same terms and conditions of the then existing TIF Notes. If either party makes such request, Developer shall promptly surrender the original TIF Notes to the Authority and the Authority will reissue a single TIF Note in accordance with this section. Upon issuance of such a combined TIF Note, all references in this Agreement to the Phase 1 TIF Note, the Phase 2 TIF Note, or the TIF Note, shall thereafter refer to such combined TIF Note.

(g) No Representation or Warranty. Payments of principal and interest under the TIF Notes shall be payable solely from Available Tax Increments. The Authority does not represent or warrant the amounts of Available Tax Increments that will be available for payment principal and interest under the TIF Notes. The Authority will not reimburse Developer for Qualified Redevelopment Costs from Authority revenues, other than from Available Tax Increments, nor guaranty the amount of money which Developer will receive as a reimbursement, such amount being payable solely from the Available Tax Increments in accordance with this section, unless the Authority elects, in its sole and absolute discretion, with no obligation to do so, to pay down the TIF Notes from other funds.

3.5 TIF Assistance and Potential Adjustment.

(a) Generally. The financial assistance to Developer under this Agreement is based on certain assumptions regarding anticipated costs and expenses associated with constructing the Minimum Improvements. Specifically, the maximum aggregate principal amount of the TIF Notes have been determined based on the amount of assistance needed to make the Minimum Improvements financially feasible, as shown in the initial projected TIF Pro Forma attached as **Exhibit D**. The Authority and Developer agree that those assumptions will be reviewed at the times described in this section, and that the amount of TIF Assistance provided herein shall be adjusted in accordance with this Section 3.5.

(b) Definitions. For the purposes of this Agreement, the following terms have the following meanings:

(i) "7200 Parcel Sale" means a sale of the 7200 Parcel which occurs before the Completion of the Phase 2 Minimum Improvements.

(ii) "7200 Parcel Sale Net Proceeds" means the amount of net proceeds received by a 7200 Parcel Owner that is a Related Party of Developer from a 7200 Parcel Sale, which are in excess of (A) the 7200 Parcel land basis as shown in the initial projected

TIF Pro Forma attached hereto, plus (B) customary 7200 Parcel holding costs incurred after the date hereof and before any such sale, as reasonably determined by the Authority.

(iii) "Cash Flow" means Net Operating Income derived from the Project Area less debt service (principal and interest) with respect to the Mortgage loan(s) encumbering the Project Area.

(iv) "Cash-on-Cost Return" means Net Operating Income divided by the sum of the total actual cost of the Minimum Improvements (less any grants, forgivable loans, or City, Authority, federal or State funds received by Developer and/or the 7200 Parcel Owner for any Phase of the Minimum Improvements) as set forth in an updated actual TIF Pro Forma. For purposes of clarity, an example calculation of the Cash-On-Cost Return is included in the initial projected TIF Pro Forma attached as **Exhibit D**.

(v) "IRR" means the internal rate of return for the Minimum Improvements, where the IRR is calculated as the annualized return of the annual Cash Flow over the applicable period on Developer's or the 7200 Parcel Owner's, as applicable, actual utilization of equity for Project costs.

(vi) "Net Operating Income" means total income and other project-derived revenue from the Minimum Improvements, including payments under the TIF Notes, less Operating Expenses.

(vii) "Operating Expenses" means reasonable and customary expenses incurred in operating the Minimum Improvements, including, but not limited to all management and related expenses, all real estate taxes and special assessments for the Project Area.

(c) Confirmation of TIF Assistance Upon Completion of Each Phase.

(i) Market Return Rate. After Completion of the applicable Phase of the Minimum Improvements, Developer shall provide to the Authority an updated actual TIF Pro Forma based on actual, documented costs of the corresponding Phase of the Minimum Improvements completed and any reasonable and relevant information and documentation as the Authority requires in order to calculate the reasonably anticipated Cash-on-Cost Return for the Minimum Improvements and to otherwise confirm that the "but for" finding adopted by the City and the Authority continues to be satisfied. In the event that the Phase 2 Minimum Improvements have not been completed at the time of calculation, the assumed costs for the Phase 2 Minimum Improvements shown in the initial TIF Pro Forma attached as **Exhibit D** shall be used for the calculation. The Authority may retain a financial advisor, accountant, and/or other professional with similar expertise to audit the submitted TIF Pro Forma, at Developer's cost. If the submitted TIF Pro Forma demonstrates that the Cash-on-Cost Return for the Minimum Improvements exceeds **8.50%** (the "Market Return Rate"), then the amount of TIF Assistance provided herein, as reflected in the principal amount of the TIF Notes, shall be reduced based on the actual TIF Assistance that is sufficient to achieve the Market Return Rate based on the submitted TIF Pro Forma. In calculating the Market Return Rate, all hard and soft costs, including professional fees for the Minimum Improvements, will be limited to such the amount and nature of such costs comparable with industry standards for projects similar to the Minimum Improvements.

Notwithstanding anything herein the contrary and for avoidance of doubt, the Phase 1 TIF Note will not be reduced after its issuance if it is determined upon Completion of the Phase

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2 Minimum Improvements that the Cash-on-Cost Return for the Minimum Improvements exceeds the Market Return Rate. Instead, only the principal amount of the Phase 2 TIF Note will be subject to reduction in accordance with the foregoing paragraph as determined after any Completion of the Phase 2 Minimum Improvements. In the event that the reduction is greater than the principal amount of the Phase 2 TIF Note, no amounts shall be owed.

(ii) 7200 Parcel Sale Net Proceeds. Notwithstanding anything to the contrary in the foregoing:

(A) if there is a 7200 Parcel Sale before the issuance of the Phase 1 TIF Note, then the 7200 Parcel Sale Net Proceeds from such 7200 Parcel Sale shall be used to offset the documented costs of the Phase 1 Minimum Improvements to determine any TIF Assistance adjustment and sizing of the Phase 1 TIF Note based on the Market Return Rate in accordance with Section 3.5(c)(i), and

(B) if there is a 7200 Parcel Sale after the issuance of the Phase 1 TIF Note and before the issuance of the Phase 2 TIF Note, then the 7200 Parcel Sale Net Proceeds from such 7200 Parcel Sale shall be used to offset the previously documented costs of the Phase 1 Minimum Improvements to determine any TIF Assistance adjustment and sizing of the Phase 2 TIF Note based on the Market Return Rate in accordance with Section 3.5(c)(i).

(iii) Contingency Funds and Allowances. The maximum principal amount of the TIF Notes is currently calculated using the contingency funds and escalation allowances set forth in the initial projected TIF Pro Forma attached as **Exhibit D**. Developer shall provide the Authority documentation identifying the actual use of all contingency funds and escalation allowances and the same shall be identified in detail in the updated actual TIF Pro Forma delivered in accordance with Section 3.5(c)(i). For purposes of the TIF Assistance provided herein and the final principal amount of the TIF Notes, all contingency funds and escalation allowances shall be used only for costs related to actual, documented increased costs for the Minimum Improvements, and the principal amount of the TIF Notes may be reduced if any such contingency funds and/or escalation allowances have been used by Developer or the 7200 Parcel Owner, as applicable, (A) for material changes to the Minimum Improvements not approved by the Authority hereunder, (B) in a manner that enhances any private spaces of the Minimum Improvements, and/or (C) for costs or expenses unrelated to the Minimum Improvements.

(iv) Developer Fee. In no case shall the developer fee for either Phase exceed **5.0%** of the total actual costs of the Minimum Improvements for the applicable Phase, each as shown in an updated actual TIF Pro Forma prepared after Completion of each such Phase of the Minimum Improvements.

(v) Conservation Easement. Developer and/or 7200 Parcel Owner may pursue a conservation easement on the northwesterly portion of the Project Area. Developer will keep the Authority informed on this activity. All income or other economic benefit derived from or related to any such conservation easement shall be included the financial accounting for the Project and shall be taken into consideration by the Authority when the Authority reviews the updated actual TIF Pro Forma and other information under Article III prior to issuing the TIF Notes and in connection with any Lookback Pro Forma

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(d) Lookback; Excess Return; TIF Adjustment.

(i) Upon the earlier of:

(A) the **15th** anniversary of the date of issuance of the Phase 1 TIF Note if the Phase 2 Minimum Improvements are a Phase 2 Hotel Project, or the **10th** anniversary of the date of issuance of the Phase 1 TIF Note if the Phase 2 Minimum Improvements are a Phase 2 Residential Project, and

(B) 30 days prior to closing on a sale of all or a part of the Phase 1 Minimum Improvements to any party other than a Related Party of Developer occurring prior to the date upon which the TIF Notes are paid in full or terminated hereunder,

Developer shall submit to the Authority an updated TIF Pro Forma and any other reasonable and relevant information and documentation as the Authority requires in order to calculate the IRR for the Minimum Improvements as of such date (the "Lookback Date"), including, without limitation, a certified cost and revenue analysis, including for any applicable sale or then-current appraised value, in each case, prepared in accordance with generally accepted accounting principles (the "Lookback Pro Forma"). This analysis will include, without limitation all acquisition costs, Qualified Redevelopment Costs, and all other improvement and redevelopment costs incurred by Developer and/or the 7200 Parcel Owner for the Minimum Improvements identified within the Lookback Pro Forma, as well as historical Net Operating Income, debt service, and TIF Notes payments. This analysis will also include any 7200 Parcel Sale Net Proceeds if there has been a 7200 Parcel Sale. The Authority may retain a financial advisor, accountant, appraiser, and/or other professional with similar expertise to audit the submitted Lookback Pro Forma, at Developer's cost.

(ii) The Lookback Pro Forma and related information shall be used by the Authority to determine whether the Minimum Improvements as of the Lookback Date yielded an Excess Return (defined below). The IRR shall be used to measure any Excess Return in accordance with the following sliding scale:

Lookback Date	**IRR beyond which Excess Return is created**
Before the fourth (4th) anniversary of the date of the Go-Ahead Letter for the Phase 1 Minimum Improvements	**22.0%**
From fourth (4th) anniversary of the Go-Ahead Letter for the Phase 1 Minimum Improvements to the seventh (7th) anniversary of the Go-Ahead Letter for the Phase 1 Minimum Improvements	**19.0%**

After the seventh (7th) anniversary of the Go-Ahead Letter for the Phase 1 Minimum Improvements	**16.0%**

(iii) If the actual IRR on the Minimum Improvements as of the Lookback Date (including any applicable sale proceeds) exceeds the applicable IRR in the table above, then the dollar value of the proceeds and other cash flow received by Developer to cause the actual IRR to exceed the applicable IRR shall be the "Excess Return". If any Excess Return exists, then the outstanding principal balance of the TIF Notes will be reduced to eliminate such Excess Return. If any Excess Return exceeds the then outstanding principal balance of the TIF Notes, Developer shall pay such excess (the "TIF Adjustment") in lawful money of the United States within 30 days from the date on which the Authority gives Developer notice of the amount of the TIF Adjustment due to the Authority; provided, however, in no event shall the TIF Adjustment exceed the aggregate sum of all payments (both principal and interest) actually made by the Authority to Developer under the TIF Notes.

(iv) Until the Authority is paid the TIF Adjustment in full, the Authority shall have a lien in its favor upon the 7250 Parcel to secure the amount of the TIF Adjustment. Such lien shall attach and take effect from the date the Excess Return is calculated by the Authority as contemplated by this section. Any such lien may be foreclosed as a mortgage on real estate if the TIF Adjustment is not paid by the date required by this section. A lien under this section is prior to all other liens and encumbrances on the 7250 Parcel except (1) the first priority Mortgage on the 7250 Parcel; (2) liens for real estate taxes and other governmental assessments or charges against the Phase 1 Minimum Improvements; and (3) all leases executed prior to the date that the lien attaches and takes effect. The parties will reasonably cooperate with the sale process and work in good faith to promptly determine any TIF Adjustment such that any TIF Adjustment is paid by Developer at or before the closing of the sale of the Phase 1 Minimum Improvements so as to avoid any unreasonable delay to the closing of such sale.

(v) If the Minimum Improvements have not yielded an Excess Return as of the Lookback Date, then payments on the TIF Notes shall continue pursuant to the terms of the existing TIF Notes.

(vi) For purposes of clarity, example calculations of the TIF Adjustment pursuant to this Section 3.5(d) are attached hereto in **Exhibit I**.

3.6 Assignment of Note. Subject to Developer's compliance with the terms and conditions of this Section 3.6, the TIF Notes will transfer to Developer's successor at the time of any assignment of this Agreement by Developer made in accordance with Section 8.2. Except for such assignments, the TIF Notes shall not be assignable or transferable without the prior written consent of the Authority (which consent may be granted by the Authority's Authorized Representative in accordance with, and subject to the terms of, Section 10.9), and which consent shall not be unreasonably withheld (subject to, without limitation, the provisions of Section 8.2(b)); provided, however, Developer may, without the Authority's consent, but upon prior written notice to the Authority (a) assign the TIF Notes, together with Developer's rights and obligations under this Agreement to a Related Party or a joint venture entity pursuant to Section 8.2(a)(iv) hereof and/or (b) collaterally assign Developer's rights and obligations under this Agreement and the TIF Notes to the holder of any Mortgage that is permitted under the terms of Section 5.1. Notwithstanding anything herein to the contrary, as a condition to any transfer or assignment of the TIF Notes, any assignee

or transferee must execute and deliver to the Authority a certificate, in form and substance reasonably satisfactory to the Authority, pursuant to which, among other things, such assignee or transferee acknowledges and represents:

(i) the limited nature of the Authority's payment obligations under the TIF Notes;

(ii) that the TIF Notes is being acquired for investment for such assignee's or transferee's own account, not as a nominee or agent, and not with a view to the resale or distribution of any part thereof;

(iii) that the assignee or transferee has no present intention of selling, granting any participation in, or otherwise distributing the same;

(iv) that the assignee or transferee, either alone or with such assignee's or transferee's representatives, has knowledge and experience in financial and business matters and is capable of evaluating the merits and risks of the prospective investment in the TIF Notes and the assignee or transferee is able to bear the economic consequences thereof;

(v) that in making its decision to acquire the TIF Notes, the assignee or transferee has relied upon independent investigations made by the assignee or transferee and, to the extent believed by such assignee or transferee to be appropriate, the assignee's or transferee's representatives, including its own professional, tax and other advisors, and has not relied upon any representation or warranty from the Authority, or any of its officers, employees, agents, affiliates or representatives, with respect to the value of the TIF Notes;

(vi) that the Authority has not made any warranty, acknowledgment or covenant, in writing or otherwise, to the assignee or transferee regarding the tax consequences, if any, of the acquisition and investment in the TIF Notes;

(vii) that the assignee or transferee or its representatives have been given a full opportunity to examine all documents and to ask questions of, and to receive answers from, the Authority and its representatives concerning the terms of the TIF Notes and such other information as the assignee or transferee desires in order to evaluate the acquisition of and investment in the TIF Notes and all such questions have been answered to the full satisfaction of the assignee or transferee;

(viii) that the assignee or transferee has evaluated the merits and risks of investment in the TIF Notes and has determined that the TIF Notes is a suitable investment for the assignee or transferee in light of such party's overall financial condition and prospects;

(ix) that the TIF Notes will be characterized as "restricted securities" under the federal securities laws because the TIF Notes are being acquired in a transaction not involving a public offering and that under such laws and applicable regulations such securities may not be resold without registration under the Securities Act of 1933, as amended, except in certain limited circumstances; and

(x) for purposes of federal securities laws, that no market for the TIF Notes exists and no market for the TIF Notes is intended to be developed.

3.7 Action to Reduce Taxes.

Throughout the term of this Agreement, neither Developer nor 7200 Parcel Owner shall take any action, and suffer no circumstances to exist or action to be taken by others (to the extent Developer may prevent the same), the effect of which would be to render the Project Area or any portion thereof to be no longer generally subject to real property taxation. Before the expiration or termination of this Agreement, neither Developer nor 7200 Parcel Owner shall:

(a) seek administrative review or judicial review of the applicability of any tax statute relating to the taxation of the Project Area determined by any tax official to be applicable or raise the inapplicability of any such tax statute as a defense in any proceedings, including delinquent tax proceedings;

(b) seek administrative review or judicial review of the constitutionality of any tax statute relating to the taxation of the Project Area determined by any tax official, or raise the unconstitutionality of any such tax statute as a defense in any proceedings, including delinquent tax proceedings; or

(c) seek any tax deferral or abatement, either presently or prospectively authorized under any state or federal law, of the taxation of the Project Area.

Article IV
Project Requirements

4.1 Commencement and Completion of Minimum Improvements. The timeline for the Commencement and Completion of the Minimum Improvements is identified in this Section 4.1. Following Commencement, construction or other activity must continue in a sequence consistent with normal redevelopment and construction practices. Failure to meet any of the dates identified as "Default Date" shall be considered a Default, unless mutually determined to be the result of Unavoidable Delay. The Commencement and Completion timeline for the Minimum Improvements is as follow:

Phase 1 Minimum Improvements				
Description of Work	Commencement Date		Completion Date	
	Anticipated	Default Date*	Anticipated	Default Date*
Site Remediation	06/01/2023	12/1/2023	08/01/2023	02/01/2024
Specified Site Preparation	06/01/2023	12/1/2023	08/01/2023	02/01/2024
Foundation	08/01/2023	02/01/2024	10/01/2023	04/01/2024
Building Shell Construction	02/01/2024	08/01/2024	02/01/2025	12/31/2025
Public Benefit Improvements Construction	06/01/2023	12/01/2023	02/01/2025	12/31/2025
Completion of Phase 1 Minimum Improvements	Not applicable	Not applicable	02/01/2025	12/31/2025

Phase 2 Minimum Improvements Pad Site Preparations	6/1/2024	Not applicable	Not applicable	12/31/2025

Phase 2 Minimum Improvements				
Description of Work	Commencement Date		Completion Date	
	Anticipated	Default Date*	Anticipated	Default Date*
Phase 2 City Approvals	10/11/2023	04/11/2024	12/31/2023	12/31/2024
Phase 2 Pad Site Preparation	6/1/2024	Not applicable	Not applicable	12/31/2025
Building Shell Construction	8/1/2024	Not applicable	Not applicable	03/1/2026
Completion of Phase 2 Minimum Improvements	Not applicable	Not applicable	10/04/2024	05/1/2027

*Notwithstanding the foregoing or anything else in this Agreement to the contrary, in accordance with, and subject to the terms of, Section 10.9, the Authority's Authorized Representative is authorized to approve extensions of one or more of the above Default Dates, not to exceed one (1) year beyond the applicable above-stated Default Date(s), if and to the extent any such extension(s) is/are reasonably requested by Developer.

4.2 Zoning and Land Use Approvals. Nothing in this Agreement shall limit the authority of the City with respect to zoning and land use approvals. Subject to the foregoing, the staff of the Authority shall cooperate with Developer and assist Developer in the processing and obtaining of zoning and land use approvals. Developer shall be responsible for applying for and obtaining all land use and zoning approvals necessary for the Minimum Improvements, including, without limitation, any conditions contained in the City Approvals. All zoning and land use approvals shall be by the City Council or the City Planning Commission in accordance with the ordinances of the City. Notwithstanding the foregoing and for avoidance of doubt, in addition to the Authority's other rights and remedies hereunder, the Authority's consent shall be required for any material changes to the Minimum Improvements, specifically including, without limitation, changes to the scale, massing or exterior finish materials set forth in the original City Approvals that could reduce the taxable value of the Project Area

4.3 Building and Construction Permits. Nothing in this Agreement shall limit the governmental authority of the City with respect to its building and construction permitting process for the Project. Developer shall comply with, and cause 7200 Parcel Owner to comply with, all applicable City building codes and construction requirements and shall be responsible for obtaining all building permits prior to construction.

4.4 Restrictions on Development. Developer may not construct or permit construction of any of the Minimum Improvements until Developer satisfies, or causes satisfaction of, the following conditions:

(a) The Phase 1 Development Contract or Phase 2 Development Contract, as applicable, is executed and recorded against the applicable portion of the Project Area, and causes any lien holder affecting any of the Project Area to subject its interest as provided in this Agreement and in the Phase 1 Development Contract and/or the Phase 2 Development Contract, as applicable.

(b) Satisfaction all of the conditions precedent to construction of the applicable Phase of the Minimum Improvements established by the City in the applicable City Approvals; and

(c) Developer and 7200 Parcel Owner execute and record a Memorandum of Agreement in accordance with Section 10.16 hereof.

4.5 Submission and Approval of Evidence of Financing. No later than the issuance of the applicable construction or building permit for each Phase of the Minimum Improvements (but excluding demolition permits), Developer or 7200 Parcel Owner, as applicable, shall provide the Authority with a Go-Ahead Letter for the applicable Phase of the Minimum Improvements, including the Financing Commitments for both debt and equity Phase of the Minimum Improvements. If Developer or 7200 Parcel Owner, as applicable, fails to submit a Go-Ahead Letter and the foregoing information acceptable to the Authority within said period of time or any additional period to which the Authority may agree, the Authority may notify Developer of its failure to comply with the requirement of this Section 4.5, such failure being a Default hereunder.

4.6 Public Easements.

(a) Developer shall grant, and/or shall have caused the then-current owner of the applicable portion of Project Area to grant, to the City or the Authority (at City and Authority's discretion) the following easements with respect to the Minimum Improvements (each a "City Easement", and collectively the "City Easements"):

(i) A permanent, public easement for access and use of the North/South Road (the "Public Road Easement"). The Public Road Easement shall be granted pursuant to easement agreement(s) in the form as required in the Phase 1 City Approvals or City ordinances and to be prepared by the City attorney.

(ii) A permanent, public easement for access and use of the North/South Path (the "Public Path Easement"). The Public Path Easement shall be granted pursuant to easement agreement(s) in the form as required in the Phase 1 City Approvals or City ordinances and to be prepared by the City attorney.

(iii) A permanent, public easement for access and use of the Sidewalks and Streetscapes (the "Sidewalk Easement"). The Sidewalk Easement shall be granted pursuant to easement agreement(s) in the form as required in the Phase 1 City Approvals or City ordinances and to be prepared by the City attorney.

(iv) A permanent, public easement for access and use of the Public Plaza (the "Public Plaza Easement"). The Public Path Easement shall be granted pursuant to an easement agreement substantially the form attached as **Exhibit J**. As more particularly described in **Exhibit J**, the City may consent to Developer temporarily closing a portion of the Public Plaza and/or may consent to Developer temporarily delaying Completion of the Public Plaza, in each case, to the extent reasonably necessary for the 7200 Parcel Owner to construct the Phase 2 Minimum Improvements, which consent may be granted by the City's Authorized Representative in accordance with, and subject to the terms of, Section 10.9.

(b) Other Terms of City Easements. Neither the City nor the Authority will pay an acquisition cost to Developer for any of the City Easements or any maintenance costs related to the easement areas thereunder. Developer shall be responsible for maintenance within all easement areas under

the City Easements. Any of the City Easements may be combined into single easement agreement at the discretion of the City attorney. Developer shall, at Developer's sole cost and expense, cause a licensed surveyor to determine the final, actual legal description of the North/South Road, North/South Path, Sidewalks and Streetscapes, and Public Plaza for the purpose of the granting the City Easements with respect to such elements. Such legal descriptions will be consistent with the areas and boundaries of such areas as described and depicted in the Phase 1 City Approvals and the exhibits to this Agreement.

(c) Future Transit Easements. Developer and 7200 Parcel Owner shall grant future easements for future mass transit (e.g., bus) stops in open areas of the Project Area along portions of France Avenue and/or Gallagher Drive at no cost to the City or the Authority. The responsible transit agency(ies) shall be responsible for initial construction and maintenance, repair and replacement of the surface improvements in any future easement area.

4.7 Public Art. The Phase 1 Minimum Improvements shall include at least two (2) or three (3) installations of public art in the west and east ends of the Public Plaza or the France Avenue frontage generally depicted on the Phase 1 Development Plan (the "Public Art"), such Public Art shall be a permanent sculpture, fountain, mural or equivalent art installation. Developer shall engage a professional art consultant or a landscape architect experienced in public art visioning, commissioning, and implementation in connection with the creation of the Public Art, subject to a public engagement process approved by the City within 30 days after identification of the art consultant. Within such 30-day period, the City Manager may also designate up to three people to provide input and guidance to the art consultant. Developer will reasonably consider the recommendations of the consultant and the public engagement process in its final selection of the Public Art. The Public Art shall have a value of no less than **$100,000.00**, in the aggregate (including artist commissions and artist materials, labor, and installation charges, but exclusive of fees paid to such professional art consultant, costs related to the public engagement process, and costs for other aspects of the Minimum Improvements which are installed in connection with or ancillary to such Public Art, but which do not directly form a part of such Public Art). Developer shall at all times maintain the Public Art in good, first class condition, at no cost to the City or the Authority. Developer shall permit additional pieces of public art to be installed in the Public Easement Areas in the future; however, Developer shall not be responsible for the cost or maintenance of such additional pieces of public art. Additional decorative artwork is anticipated to be included in the Minimum Improvements building facades, as generally depicted in the Phase 1 Development Plans. Such additional artwork in encouraged in the public realm areas, but is not required under this Agreement, but may be required under the City Approvals.

4.8 Environmental Sustainability. Both the Phase 1 Building and the Phase 2 Building (in each case, both the shell buildings and the tenant improvements constructed therein) must be designed and certified to at least LEED Silver certification (most recent edition for new construction) as prepared by United States Green Building Council (USGBC), or equivalent standard that complies with the City's sustainability policy and the Authority's TIF policy and approved in advance by the Authority's Designated Representative. During the term of the TIF District, Developer shall cause such certification to be renewed as required by USGBC or governing body of the applicable certification. The failure of Developer to cause either of the Phase 1 Building or the Phase 2 Building to be so designed and certified upon their respective Completion and/or the failure of Developer to cause such certification to be continually renewed during the term of the TIF District, shall be Default hereunder.

4.9 Equity and Inclusion.

(a) Developer's Efforts/Contribution. Developer is committed to partnering with contractors, vendors and investors that meaningfully support diversity, equity and inclusion and/or community engagement and that meet the goals of this Section. One of the important criteria considered

before partnering with contractors, vendors and investors is whether or not such parties have diversity, equity and inclusion programs and/or outreach plans that impact lives in the community. Developer is committed to fostering a healthy culture that embraces and promotes diversity, equity and inclusion and that continually improves as it grows. As Developer grows, Developer is committed to hiring based on skill and experience regardless of race, nationality, gender, sexual orientation, age, disability, age or religion.

(b) Workforce Goals. Developer shall, and shall cause 7200 Parcel Owner and the general contractor for each Phase of the Minimum Improvements to, use good faith efforts as defined by Minnesota Department of Human Rights to include businesses that are majority owned by under-represented groups including minorities, women, veterans and people with disabilities in the development and construction of both Phases of the Minimum Improvements. Developer shall, and shall cause 7200 Parcel Owner and the general contractor for each Phase of the Minimum Improvements to, use good faith efforts to employ under-represented people on the construction site for both Phases of the Minimum Improvements. Such good faith efforts include endeavoring to achieve the following workforce goals to maximize participation opportunities for the local workforce, including women and minorities for each Phase of the Minimum Improvements:

(i) Minority – **25%** of the total labor hours for the Minimum Improvements.

(ii) Female – **12%** of the total labor hours for the Minimum Improvements.

(iii) **15%** of the total subcontracted work will be awarded to businesses that qualify as minority and women owned business enterprises.

(iv) These goals are expressed as a percentage of the total craft hours on the Minimum Improvements. Minorities includes African American (not of Hispanic origin), Hispanics, Asians, Pacific Islanders, Native Americans and Alaskan Natives.

Notwithstanding the foregoing, in accordance with, and subject to the terms of, Section 10.9, the Authority's Authorized Representative is authorized to approve reasonable changes to the above goals for the Phase 2 Minimum Improvements which may be requested by Developer, which request must be made by no later than upon Developer's submission of the Go-Ahead Letter for the Phase 2 Minimum Improvements.

(c) Good Faith Efforts. For the purpose of this section, "good faith efforts" shall be defined by compliance with the following:

(i) At the Project site

- Post EEO policy and anti-harassment policies prominently on employee bulletin boards and job sites. Update at least once a year with new contact information and signature of the contractor's chief executive officer.

- Post all government-mandated posters (Minnesota, federal, local) in areas available to employees and applicants and on all job sites.

- All job sites to the extent possible should be accessible to people with disabilities, specifically people with mobility impairments (restrooms, break-rooms, etc.). If all restrooms are not accessible, provide comparable facilities for people with disabilities.

- Check employee locker rooms, break rooms, restrooms, and work areas (job sites) for potentially offensive cartoons, etc.

(ii) Recruiting

- All personnel involved in hiring, selection, promotion, disciplinary and related processes should be trained to ensure the elimination of bias (implicit bias training) in personnel actions.

- Include an EEO tagline or similar statement in all want ads or other external job announcements. If you post jobs on your web site, include an EEO tagline.

- Communicate to the union to ensure that the union accepts people for membership in a nondiscriminatory way and that they refer people to jobs fairly.

- Make formal and informal contact with community organizations, apprenticeship training organizations, and unions, and other recruitment organizations (specifically those organizations that focus on women, people of color, Indigenous people, and people with disabilities) that may be able to refer qualified applicants for jobs you have available.

- Provide training, preparation and workplace accommodations so that people with disabilities can have rewarding careers.

- Contact the Department of Employment and Economic Development (DEED) Vocational Rehabilitation Services unit for the purpose of forming partnerships to help prepare people with disabilities for meaningful employment opportunities.

- Participate in construction community job fairs or other construction-related events.

- When using paid advertising, include news media or websites geared toward women, communities of color, and/or people with disabilities.

(iii) Selection and Hiring

- Review your application form and remove any questions that are not job-related. Include an EEO statement on the form itself. Review the application to make sure no illegal/potentially illegal information is requested.

- Review EEO/Applicant tracking surveys: they should ask for necessary tracking information only and should be clearly marked as voluntary. Remove the forms from the application itself before the selection process begins.

- Make sure supervisors are using legal criteria in their hiring decisions.

- If you use any pre-employment tests (math tests, typing tests, skill tests, "personality" or "integrity" tests), these tests should directly relate to the jobs for which they're used.

(iv) Termination of Employment

- Develop a written termination policy and/or progressive discipline policy. All supervisors should implement your process consistently.

- If appropriate, conduct exit interviews or administer exit surveys.

(v) Employee Files and Record-Keeping

- Retain all information that could reveal age, race, disability, religion, etc. as confidentially as possible. (I-9 forms, insurance forms, medical leave requests, etc.)

- An employee's file should tell the complete story of this employee's history with your company: orientation, training, performance evaluations, wage increases, promotion information, disciplinary notices, etc. All pay increases should be documented, and nondiscriminatory reasons for pay should be obvious. (Some companies create a checklist for each employee file so that they can be certain that all important documentation is retained.)

- Retain applications for at least a year. Develop an applicant flow log or similar tracking system. Make sure that you can track each applicant back to their EEO survey or affirmative action data page, if completed. (You cannot conduct a meaningful analysis of your selection process without this information.)

- All files of terminated employees should show the reason for termination, whether voluntary or involuntary.

(i) Other

- Conduct training for all employees of your EEO and anti-harassment policies in safety meetings at the beginning of each project and additionally throughout the year for new hires. Emphasize reporting procedures.

- Make reasonable efforts to solicit people of color, Indigenous, and female-owned businesses to participate in subcontracts or vendor contracts.

(d) Developer shall, and shall cause 7200 Parcel Owner and the general contractor for each Phase of the Minimum Improvements to, implement an equity and inclusion outreach plan (an

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"EIOP") reasonably approved by the Authority, which consent shall not be unreasonably withheld or delayed. Attached as **Exhibit K** is the current EIOP for the Phase 1 Minimum Improvements. Developer must submit the EIOP for the Phase 2 Minimum Improvements for the Authority's prior approval by no later than with issuance of the Go-Ahead Letter for the Phase 2 Minimum Improvements.

(e) Promptly after Completion of each Phase of the Minimum Improvements, Developer shall submit the Equity and Inclusion Report in substantially the form attached as **Exhibit L** with respect to the applicable Phase of the Minimum Improvements. This report shall summarize the actual percentages attained after implementation of the EIOP. This report shall include, without limitation:

(i) business name, trade category, contact name and business address of each MBE, WBE, or VBE firm engaged in the Project;

(ii) total hours worked for each construction trade;

(iii) hours worked for each construction trade by minority workers including women workers, and workers considered BIPOC;

(iv) employer of the BIPOC and women workers; and

(v) calculation of percentage.

(f) In the event that the Authority reasonably determines that Developer has not used, and/or has not caused 7200 Parcel Owner and/or the general contractor for either Phase or both Phases of the Minimum Improvements to use, good faith effort to achieve these goals (by failing to cause the general contractor for each Phase of the Minimum Improvements to comply with the approved EIOP), the Authority may assess a penalty against Developer for such failure(s) pertaining to the applicable Phase or Phases. The penalty shall be a cash payment made by Developer to a workforce training organization selected by the Authority that actively trains underrepresented people in the construction trades in the Twin Cities region. The penalty shall be no more than **$175,000** per Phase. For avoidance of doubt, the payment of any such penalty shall be the obligation of Developer regardless of which Phase any such failure relates to, and the Authority may only enforce such payment from Developer, not from 7200 Parcel Owner.

4.10 Effect of Delay. Developer acknowledges that if construction of the Minimum Improvements is delayed due to Unavoidable Delays or for any other reason, this could affect the amount of Available Tax Increments and thus the total amount which may be available to pay the TIF Notes. Developer acknowledges that if the Completion of the Minimum Improvements is delayed due to Unavoidable Delays or for any other reason, there will be no compensation to Developer or any other party for any reduction in the amount available to pay or refund the TIF Notes.

4.11 Additional Responsibilities of Developer.

(a) Developer shall cause each Phase of the Minimum Improvements to be constructed, operated and maintained in substantial accordance with the terms of this Agreement, the applicable City Approvals, and all applicable Law (including, without limitation, zoning, building code and public health laws and regulations).

(b) Developer and 7200 Parcel Owner shall obtain, in a timely manner, all required permits, licenses, and approvals, and will meet, in a timely manner, all requirements of all applicable Law that must be obtained or met before the Minimum Improvements may be lawfully constructed.

(c) Neither Developer nor 7200 Parcel Owner shall construct any building or other structures on, over, or within the boundary lines of any public utility easement unless such construction is provided for in such easement, approved by the utility involved, or approved by the City if no utility is then utilizing the easement area.

(d) Prior to delivery of a Certificate of Completion for a Phase of the Minimum Improvements, upon the request of the Authority, Developer and 7200 Parcel Owner shall, after reasonable advance notice from the Authority, provide the Authority and the City with reasonable access to Project Area to inspect the applicable Phase of the Minimum Improvements for compliance with this Agreement.

(e) Prior to delivery of a Certificate of Completion for a Phase of the Minimum Improvements, upon the request of the Authority from time to time, but not more than quarterly, Developer shall deliver progress reports to the Authority. The progress reports shall include: summary of progress to date, percent construction completion, identification of any Unavoidable Delays, and projected occupancy date.

(f) Developer shall comply with, and cause 7200 Parcel Owner, and each of their respective Related Parties contractors and subcontractors to comply with all applicable Law, including, without limitation, labor and wage laws, and all applicable Environmental Law as it relates to the Project Area and the Minimum Improvements.

4.12 Certificate of Completion. Developer shall notify the Authority and request a Certificate of Completion for each Phase of the Minimum Improvements in accordance with this section. Developer shall request a Certificate of Completion for both Phases of the Minimum Improvements promptly after substantial completion of the corresponding Phase of the Minimum Improvements.

(a) Phase 1 Minimum Improvements. Developer's satisfaction of the following shall also be a condition to the Authority's obligation to issue a Certificate of Completion for the Phase 1 Minimum Improvements hereunder:

(i) The Phase 1 Minimum Improvements shall have been substantially completed in accordance with this Agreement and the Phase 1 City Approvals, and any punchlist items for those portions and/or components of the Phase 1 Minimum Improvements that are eligible for TIF Assistance hereunder shall have been fully completed, subject to any temporary delay in Completion of the Public Plaza authorized by the City's Authorized Representative in accordance with the Public Plaza Easement agreement and in accordance with, and subject to the terms of, Section 10.9, and in the event of any such delay in Completion of the Public Plaza, the Authority may require as a further condition to issuance of the Phase 1 TIF Note that sufficient funds for Completion of the Public Plaza be placed in to escrow and other reasonable assurances necessary to assure such Completion and final reconciliation of the related Qualified Redevelopment Costs;

(ii) Developer shall have provided evidence satisfactory to the Authority that all parties have been paid for work related to the completion of the Phase 1 Minimum Improvements (e.g., lien waivers or similar);

(iii) Developer shall (A) have obtained from the City a temporary certificate of occupancy for the Phase 1 Building shell, (B) have obtained from the City a final certificate of occupancy for at least **25%** of the Phase 1 Building's occupiable space and such space

is actually occupied by a single tenant, and (C) Developer is actively marketing the remainder of the occupiable space in the Phase 1 Building (e.g., listed on MNCAR, LoopNet, etc.);

(iv) Developer shall have met all requirements of the City under the Phase 1 Development Contract, including, without limitation, completion of all required infrastructure thereunder (and corresponding approval and/or acceptance by the City engineer);

(v) Developer shall have provided the Authority with evidence that all necessary private easements and operating agreements required for the Phase 1 Minimum Improvements are in place, including, without limitation, a permanent easement over the storm water ponding area, joined by all property owners whose storm water will be treated in or otherwise directed to such pond;

(vi) Developer shall have granted, and/or shall have caused the then-current owner of the applicable portion of Project Area to grant, to the City and/or the Authority, as applicable, each of the City Easements; Developer shall have obtained all applicable mortgagee consents to such City Easements; and each of the City Easements and mortgagee consents shall have been recorded against the applicable portion of the Project Area; and the North/South Road, North/South Path, Public Plaza, and Sidewalks and Streetscapes shall have been opened pursuant to the terms of each applicable City Easement agreement, subject to any temporary closure of a portion of the Public Plaza authorized by the City's Authorized Representative in accordance with the Public Plaza Easement agreement;

(vii) The City and Developer shall have entered into the Public Crossing Agreement in accordance with Section 4.13, unless waived by the City in accordance with Section 4.13;

(viii) Developer shall have satisfied the Environmental Sustainability requirements set forth in Section 4.8 pertaining to the Phase 1 Minimum Improvements and Developer has delivered such reasonable and relevant information and documentation as the Authority requires in order to confirm the same;

(ix) Developer shall have delivered to the Authority a final report and certificate detailing and certifying as to Developer's activities and final outcomes of Developer's efforts to achieve the Equity and Inclusion goals under Section 4.9 of this Agreement for the Phase 1 Minimum Improvements; and

(x) No Developer Default or Developer Event of Default exist under this Agreement and no default by Developer or default by 7200 Parcel Owner shall exist under any of the City Approvals, City Easements, or any other agreement pertaining to the Project, beyond any applicable notice and cure periods.

(b) Phase 2 Minimum Improvements. Developer's satisfaction of the following shall also be a condition to the Authority's obligation to issue a Certificate of Completion for the Phase 2 Minimum Improvements hereunder:

(i) The Phase 2 Minimum Improvements shall have been substantially completed in accordance with this Agreement and the Phase 2 City Approvals;

(ii) Developer shall have provided evidence satisfactory to the Authority that all parties have been paid for work related to the completion of the Phase 2 Minimum Improvements (e.g., lien waivers or similar);

(iii) Developer shall have obtained from the City a temporary certificate of occupancy for the Phase 2 Building;

(iv) Developer shall have met all requirements of the City under the Phase 2 Development Contract, including, without limitation, completion of all required infrastructure thereunder (and corresponding approval and/or acceptance by the City engineer);

(v) Developer shall have provided the Authority with evidence that all necessary private easements and operating agreements required for the Phase 2 Minimum Improvements are in place, including, without limitation, a permanent easement over the storm water ponding area, joined by all property owners whose storm water will be treated in or otherwise directed to such pond;

(vi) Developer shall have satisfied the Environmental Sustainability requirements set forth in Section 4.8 pertaining to the Phase 2 Minimum Improvements and Developer has delivered such reasonable and relevant information and documentation as the Authority requires in order to confirm the same;

(vii) Developer shall have delivered to the Authority a final report and certificate detailing and certifying as to Developer's activities and final outcomes of Developer's efforts to achieve the Equity and Inclusion goals under Section 4.9 of this Agreement for the Phase 2 Minimum Improvements; and

(viii) No Developer Default or Developer Event of Default exist under this Agreement and no default by Developer or default by 7200 Parcel Owner shall exist under any of the City Approvals, City Easements, or any other agreement pertaining to the Project, beyond any applicable notice and cure periods.

Within 30 days after receipt of such request, the Authority shall inspect the applicable Phase of the Minimum Improvements to determine if such Minimum Improvements have been completed in accordance with the terms and conditions of this Agreement. An example of the Authority's Completion checklist is included as part of the form of Certificate of Completion attached as **Exhibit F**. Following such inspection the Authority shall either furnish Developer with (A) an appropriate, recordable Certificate of Completion or (B) a written statement, indicating in adequate detail in what respects Developer has failed to complete the relevant portion of the Minimum Improvements or otherwise satisfy the conditions precedent to issuance of such Certificate of Completion and what measures or acts will be necessary, in the opinion of the Authority, for Developer to take or perform in order to obtain such certification. If the Authority issues a written statement in accordance with clause (B) above, Developer shall thereafter take such actions necessary to cure such deficiencies in the applicable Minimum Improvements. After such deficiencies have been cured, Developer shall notify the Authority and the Authority will re-inspect the applicable Minimum Improvements and take one of the actions described in clauses (A) and (B) hereof, and such process will continue until the Authority issues the applicable recordable Certificate of Completion. Issuance of a Certificate of Completion by the Authority shall be a conclusive determination of satisfaction and termination of the agreements and covenants in this Agreement with respect to the obligations of Developer to construct, or cause to be constructed, the Minimum Improvements.

4.13 Future Public Crossing.

(a) City Right to Install Public Crossing. The City currently believes it is in the best interest of the public to construct a public underpass or bridge to allow pedestrians to cross France Avenue above or below grade (the "Public Crossing") in the area of the Project, and the City is currently analyzing the feasibility of and design options for any such Public Crossing. Subject to the terms and conditions of this Section 4.13, if the City elects to construct a Public Crossing, one end of the Public Crossing may be located in the area of the Public Plaza and the City and Developer shall enter into (and, as necessary, Developer shall cause 7200 Parcel Owner to be party to) a definitive, recordable agreement (the "Public Crossing Agreement") to provide the City (and its agents, contractors, and employees) access to the Project Area for purposes of constructing and operating the Public Crossing and to otherwise set forth the terms upon which the City will build and maintain the Public Crossing. Developer's execution of the Public Crossing Agreement shall be condition to issuance of the Certificate of Completion for the Phase 1 Minimum Improvements, unless such condition is waived by City, which waiver may be granted by the City's Authorized Representative; provided, however, any such waiver shall not be deemed a waiver of the City's rights under this Section 4.13.

(b) Public Crossing Agreement. Promptly following the City's election to proceed with a Public Crossing to be located in the Public Plaza area, the City and Developer shall negotiate the Public Crossing Agreement and any required amendment or modification to the Public Plaza Easement agreement with all reasonable diligence and in good faith, and such agreements shall include terms and conditions acceptable to Developer and the City, in each of their commercially reasonable discretion, and including, without limitation, the following:

(i) Subject to Section 4.13(c), the City shall be responsible for the design, construction, maintenance, and operation of the Public Crossing, at its sole cost and expense, but Developer shall continue to be responsible for the maintenance of the Public Plaza at no cost to the City or Authority.

(ii) Modification of the Public Plaza shall be addressed as provided in Subject to Section 4.13(c). Developer shall continue to be responsible for the maintenance of the Public Plaza (as may be modified) and any area of the Public Plaza where the Public Crossing commences/terminates, all at no cost to the City or Authority and otherwise in accordance with the terms and condition of the Public Plaza Easement agreement.

(iii) Developer shall grant to the City permanent public access easement(s), permanent stormwater easement(s), and temporary construction easement(s) as necessary for construction, installation and use of the Public Crossing and other public access over the Project Area to allow public access to and from the Public Crossing, all at no cost to the City, and provided that all such permanent easements will only required to be within the City Easement areas shown herein, the Phase 1 Development Plan, the Phase 2 Development Plan, and/or, as described below, the stormwater basin on the 7200 Parcel. The City shall be responsible to restore any areas within such permanent and temporary easement areas that are disturbed by the City's construction of the Public Crossing to the condition existing immediately preceding the City's commencement of construction (normal wear and tear excepted).

(iv) Stormwater discharge related to the Public Crossing shall be allowed to be directed into the stormwater basin on the 7200 Parcel, provided that the City shall be responsible for any modifications necessary to the stormwater basin to accommodate such stormwater, but Developer and/or 7200 Parcel Owner shall continue to be responsible for

the maintenance of the stormwater basin, as may be modified, at no cost to the City or Authority. Developer and/ 7200 Parcel Owner shall grant to the City all necessary permanent stormwater easements in connection with foregoing.

(v) The construction of the Public Crossing may involve customary construction noise, dust, vibration, and detours. The City (and its agents, contractors, and employees) shall not be liable to Developer or any of its Project tenants or other occupants for any such permitted disruptions. Neither the City nor its agents, contractors, and employees will make payments for any business interruptions which may arise from any such permitted disruptions.

(vi) The City shall make reasonable efforts to limit disruption during the construction of the Public Crossing, including, providing reasonable advance notice of construction activities to the building owners and building property managers in the Project Area, posting detours for through traffic, and expanding work hours beyond the typical 7 AM to 3 PM to endeavor to expedite construction and minimize interference.

(vii) the City will engage with Developer (and other Project and public stakeholders) during the design phase of the Public Crossing to consider input to address the safety, security, durability, and usability of the Public Crossing.

(viii) The City, its successors and assigns, may assign or otherwise transfer all or a portions of its rights under the Public Crossing Agreement to any other public entity (including, without limitation, the Authority and/or any Hennepin County) to facilitate the construction, ownership, and operation of the Public Crossing, in each case, without the consent of Developer or 7200 Parcel.

(ix) Customary rights, obligations, and requirements regarding insurance, indemnification, casualty, and reasonable rules and regulations for the Public Crossing.

(c) Modifications to Public Plaza. If the City elects to proceed with the construction of the Public Crossing, the City may, in its sole discretion, determine whether to construct the Public Crossing (i) before Developer commences construction or installation of any permanent Project improvements in the area of the Public Plaza (such permanent Project improvements may include, without limitation, underground utilities, retaining walls, and sidewalks, but specifically exclude grading and excavation work) ("Near Term Construction") or (ii) after Developer commences construction or installation of any such permanent Project improvements in the area of the Public Plaza ("Far Term Construction"). As provided below, the rights and obligations of Developer and the City shall be different based whether the City proceeds with Near Term Construction of the Public Crossing or Far Term Construction of the Public Crossing, and any of the following shall be incorporate into the Public Crossing Agreement as reasonably necessary or desired by any party.

(i) Near Term Construction. For any Near Term Construction of the Public Crossing the following shall apply:

(A) Developer shall, at Developer's cost and expense, modify the plans for the Public Plaza to allow for the Public Crossing to located in the area of the Public Plaza, such modifications shall be subject to (1) the Authority's approval, such approval not to be unreasonably withheld or delay and (2) any applicable City regulatory approvals.

(B) As part of the Phase 1 Minimum Improvements, Developer shall construct the Public Plaza in accordance with the plans, as modified.

(C) Developer may request that the deadline for Developer's Completion of the Public Plaza be reasonably extended as a result of any such design modifications, without a corresponding delay of the issuance of the Certificate of Completion (but subject to the cost escrow requirements set forth in Section 4.12(a)(i)), and the Authority will not unreasonably withhold or delay is approval of such extension and such approval may be granted by the Authority's Authorized Representative.

(D) Developer's design and construction costs for the Public Plaza, as modified, shall continue to be Qualified Redevelopment Costs.

(ii) Far Term Construction. For any Far Term Construction of the Public Crossing the following shall apply:

(A) If the Public Plaza is currently under construction, Developer will continue such construction or terminate such construction, in either case, as requested by the City.

(B) The City shall be responsible for all design modifications and construction costs and expenses incurred in the redesign and modification of the Public Plaza to accommodate the Public Crossing, including, without limitation, removal and replacement of Public Plaza improvements previously installed and/or constructed by Developer.

(C) If the Certificate of Completion for the Phase 1 Minimum Improvements has not been issued yet, Developer shall no longer be required to Complete the Public Plaza as a condition of such issuance.

(D) Developer's design and construction costs for the Public Plaza, as modified, shall continue to be Qualified Redevelopment Costs.

(d) Relationship to Minimum Improvements Design. Developer shall cause the foundation systems of the Phase 1 Building and Phase 2 Building to be designed in consideration of, and to accommodate, the Public Crossing being located in the Public Plaza area, and Developer shall promptly and diligently communicate with City staff regarding such design to ensure that such foundations do not interfere with the City's Public Crossing construction plans.

Article V
Encumbrance of the Project Area

5.1 Mortgage of the Project Area.

(a) Until the Completion of the Minimum Improvements for an applicable Phase, neither Developer nor 7200 Parcel Owner shall engage in any financing or any other transaction creating any mortgage or other security interest in or lien upon the Phase not Completed, whether by express agreement or operation of law (a "Mortgage"), or suffer any Mortgage to be made on or attach to the Phase not Completed except for the purpose of obtaining funds necessary for constructing the Minimum

Improvements and paying other costs of the Minimum Improvements whether or not set forth in the TIF Pro Forma. This restriction on encumbrance shall not apply to a Completed Phase.

(b) This restriction on encumbrance shall terminate upon Completion of the applicable Phase of the Minimum Improvements. Developer, 7200 Parcel Owner, or either of their respective successors 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 portion thereof after the Certificate of Completion has been obtained with respect to the applicable Phase of the Minimum Improvements, without obtaining the prior written approval of the Authority.

(c) Notwithstanding anything in this Agreement to the contrary, Developer and 7200 Parcel Owner are authorized, without the approval of the Authority, to obtain construction financing to cover the costs of construction of the Minimum Improvements and other costs of the Minimum Improvements whether or not set forth in the TIF Pro Forma and to mortgage any portion of the Project Area to provide security for construction financing.

5.2 Copy of Notice of Default to Mortgagee. If the City or the Authority delivers any notice or demand to Developer with respect to any Default under this Agreement, the City or the Authority, as applicable, will endeavor to also deliver a copy of such notice or demand to the mortgagee of any Mortgage at the address of such mortgagee provided in the recorded Mortgage or any other address thereafter provided to the Authority in a written notice from Developer or the mortgagee, provided that failure of the City or the Authority to give any such notice shall not limit the City's or the Authority's ability to exercise any of its remedies hereunder.

5.3 Mortgagee's Option to Cure Events of Default. Upon the occurrence of an Event of Default, the mortgagee under any Mortgage will have the right at its option, to cure or remedy such Event of Default within the cure periods set forth herein.

5.4 Rights of a Foreclosing Mortgagee. Except as provided in Section 5.6, an individual or entity who acquires title to all or a portion of the Minimum Improvements through the foreclosure of a mortgage or deed in lieu of foreclosure on such portion of the Project Area remains subject to each of the restrictions set forth in this Agreement and remains subject to all of the obligations of Developer, or any successor in interest to Developer, under the terms of this Agreement, but neither the purchaser at a foreclosure sale, the grantee under a deed in lieu of foreclosure, nor any subsequent transferee from a mortgagee shall have any personal liability for a breach of such obligations under this Agreement so long as:

(a) The party acquiring title through foreclosure or deed in lieu of foreclosure observes all of the restrictions set forth in the Agreement;

(b) The party who acquired title through foreclosure or deed in lieu of foreclosure does not undertake or permit any other party to undertake any Minimum Improvements on the portion of the Project Area it owns;

(c) The City has no obligation to approve any plans for Minimum Improvements or a portion of the Minimum Improvements the foreclosing mortgagee (or mortgagee obtaining a deed in lieu of foreclosure) owns or to issue any related building permits.

The purpose of this section is to permit a foreclosing lender (or mortgagee or purchaser obtaining a deed in lieu of foreclosure or a subsequent transferee) to hold title to the portion of the Project Area it acquires through foreclosure or deed in lieu of foreclosure, subject to, but without personal liability for the

obligations under this Agreement, until it can sell the portion it holds to a third party who will assume the obligations of Developer under the terms of this Agreement and proceed with the construction of the Minimum Improvements pursuant to the terms of this Agreement. If, rather than passively holding title to the portion of the Project Area it acquires through foreclosure or deed in lieu of foreclosure, the foreclosing lender (or mortgagee obtaining a deed in lieu of foreclosure or subsequent transferee) or other purchaser at a foreclosure sale desires to construct the Minimum Improvements, the purchaser at the foreclosure sale must assume and perform each of the obligations of Developer, or the applicable successor to the interest of Developer, under this Agreement as to the portion of the Minimum Improvements subject to foreclosure. This section does not restrict the authority of the Authority to pursue its rights under any outstanding security, exercise remedies otherwise available under this Agreement or suspend the performance of the obligations of the Authority or Developer under this Agreement as otherwise allowed. The Authority agrees to reasonably cooperate with any foreclosing lender (or mortgagee obtaining a deed in lieu of foreclosure) or other purchaser at a foreclosure sale in pursuing the Minimum Improvements in accordance with this Agreement.

5.5 Events of Default Under Mortgage. Developer shall use commercially reasonable efforts to obtain an agreement from any mortgagee under a Mortgage that in the event Developer or 7200 Parcel Owner is in default under any Mortgage, the mortgagee will use commercially reasonable efforts, within 30 days after it becomes aware of any such default and prior to exercising any remedy available to it due to such default, to notify the Authority in writing of (i) the fact of default; (ii) the elements of default; and (iii) the actions required to cure the default. Developer shall use its commercially reasonable efforts to obtain an agreement in any such Mortgage, that if, within the time period required by the Mortgage, the Authority cures any default under the Mortgage, the mortgagee will pursue none of its remedies under the Mortgage based on such default, provided that failure of Developer to obtain such an agreement from any such mortgagee shall not constitute a breach of this Agreement.

5.6 Subordination of Agreement. The City and the Authority will, upon the request of the holder of a Mortgage, execute and record a subordination agreement pursuant to which the City and the Authority agree that, upon a default by Developer under a Mortgage, the holder of the Mortgage may elect, in an instrument to be recorded in the Hennepin County land records and delivered to the City and the Authority before the commencement of proceedings to foreclose the Mortgage, to either (1) treat this Agreement as being subordinate to the lien of the Mortgage such that the foreclosure of the Mortgage and the failure to redeem from such foreclosure will extinguish and terminate this Agreement and the TIF Notes will automatically be cancelled and rescinded; or (2) to treat this Agreement as having priority over the Mortgage in which case this Agreement and the TIF Notes will survive the foreclosure of the Mortgage and this Agreement will be binding upon the holder of the Sheriff's Certificate issued in conjunction with the foreclosure of the Mortgage, subject to the terms and conditions of Section 5.4. If the holder of the Mortgage fails to notify the City and the Authority of its election under this Section 5.6 on or before the commencement of foreclosure proceedings, the holder of the Mortgage shall be deemed to have elected to treat this Agreement as being subordinate to the lien of the Mortgage such that the foreclosure of the Mortgage and the failure to redeem from such foreclosure will extinguish and terminate this Agreement and the TIF Notes will automatically terminate. The City and Authority each further agree that if the holder of a Mortgage elects to treat this Agreement as having priority over the Mortgage, the City and Authority, upon the completion of the foreclosure without redemption, agree that the time for the completion of the Minimum Improvements is extended to a date 12 months following the expiration of all applicable redemption periods or such later date the City and Authority approve in writing.

Article VI
Insurance and Indemnification

6.1 Insurance.

(a) Developer shall, and shall cause 7200 Parcel Owner to, obtain and continuously maintain insurance on each parties' corresponding Phase of the Minimum Improvements and, from time to time at the request of the Authority, furnish proof to the Authority that the premiums for such insurance have been paid and the insurance is in effect. The insurance coverage described below is the minimum insurance coverage that Developer and7200 Parcel Owner must obtain and continuously maintain, provided that Developer and7200 Parcel Owner shall obtain the insurance described in clause (i) below with respect to the corresponding Phase of the Minimum Improvements prior to the Commencement of construction thereof and is only obligated to maintain the insurance described in clause (i) until a Certificate of Completion is issued by the Authority with respect to the corresponding Phase of the Minimum Improvements:

(i) Builder's risk insurance, written on the so-called "Builder's Risk-Completed Value Basis," in an amount equal to 100% of the insurable value of the Minimum Improvements at the date of Completion, and with coverage available in non-reporting form on the so-called "all risk" form of policy.

(ii) Comprehensive general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations and contractual liability insurance) together with an Owner's/Contractor's Policy naming the Authority, and the City as an additional insured, with limits against bodily injury and property damage of not less than $5,000,000 for each occurrence (to accomplish the above-required limits, an umbrella excess liability policy may be used), written on an occurrence basis.

(iii) Workers compensation insurance, for employees of Developer or 7200 Parcel Owner if and to the extent required by Law.

(b) All insurance required in this Article shall be obtained and continuously maintained by responsible insurance companies selected by Developer and 7200 Parcel Owner which are authorized under the laws of the State to assume the risks covered by such policies. If available on commercially reasonable terms, each policy must contain a provision that the insurer will not cancel nor modify the policy without giving written notice to the insured at least 30 days before the cancellation or modification becomes effective. Not less than 15 days prior to the expiration of any policy, Developer and 7200 Parcel Owner must renew the existing policy or replace the policy with another policy conforming to the provisions of this Article. In lieu of separate policies, Developer and/or 7200 Parcel Owner may maintain a single policy, blanket or umbrella policies, or a combination thereof, having the coverage required herein.

6.2 Indemnification.

(a) Developer releases and covenants and agrees that the City Parties shall not be liable for and agrees to indemnify and hold harmless the City Parties 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, except to the extent attributable to the negligence or intentional misconduct of any City Party.

(b) Except to the extent of the negligence or intentional misconduct of any City Party, Developer shall indemnify the City Parties, now and forever, and further agrees to hold the aforesaid harmless from any claims, demands, suits, costs, expenses (including reasonable attorney's fees), actions or other proceedings whatsoever by any person or entity whatsoever arising or purportedly arising from the actions or inactions of Developer, 7200 Parcel owner, or any of their respective owners, agents, contractors, or employees, under this Agreement or the transactions contemplated hereby, including, without limitation, the construction, installation, ownership, and operation of the Minimum Improvements.

Article VII
Other Developer Covenants

7.1 Developer Reimbursement Obligations. Developer shall pay all reasonable out of pocket costs of the City and the Authority in connection with the Minimum Improvements and the TIF Assistance provided to Developer, including, but not limited, the costs and expenses of the City Consultants, the costs of the development and negotiation of this Agreement and any amendments or modifications to this Agreement, the development of the TIF Plan, the creation of the TIF District, the blight study of the existing buildings, fiscal analysis, legal fees, and all other costs and expenses related thereto. Sufficient monies must be provided to the Authority along with the request for TIF Assistance. These monies shall be held in escrow. Any unused monies shall be returned to Developer. These monies shall not bear interest. After the escrowed monies have been used, Developer shall pay such costs monthly upon presentation of invoices and other documentation of such costs, not more than 30 days after the request for payment is delivered to Developer. All such costs will be Qualified Redevelopment Costs pursuant to the TIF Pro Forma.

7.2 Maintenance and Operation of the Improvements. Developer shall, at all times during the term of this Agreement, cause the Minimum Improvements to be maintained and operated in a safe and secure way and in compliance with this Agreement and applicable Law. Developer shall be responsible for the timely payment of all reasonable and necessary expenses of the operation and maintenance of the Minimum Improvements, including all premiums for insurance insuring against loss or damage thereto and adequate insurance against liability for injury to persons or property arising from the construction of the Minimum Improvements as required pursuant to this Agreement. During construction of the Minimum Improvements, Developer shall not knowingly cause any person working in or attending the Minimum Improvements for any purpose, or any tenant of the Minimum Improvements, to be exposed to any hazardous or unsafe condition; provided that such party shall not be in Default hereunder if it has required the contractors employed to perform work on the Minimum Improvements to take such precautions as may be available to protect the persons in and around the Minimum Improvements from hazards arising from the work, and has further required each such contractor to obtain and maintain liability insurance protecting against liability to persons for injury arising from the work. The expenses of operation and maintenance of the Minimum Improvements shall be borne solely by Developer.

7.3 Cooperation with Litigation. Developer shall, and shall cause 7200 Parcel Owner to, reasonably cooperate with the Authority with respect to any litigation commenced by third parties with respect to the Project Area; however, this provision does not obligate Developer to incur costs, except as otherwise provided in this Agreement or elsewhere.

7.4 Condemnation, Damage, or Destruction. In the event that title to and possession of the Minimum Improvements or any material part thereof shall be taken in condemnation or by the exercise of the power of eminent domain by any governmental body or other person (except the Authority or the City) or the Minimum Improvements is damaged or destroyed, Developer shall, with reasonable promptness after

such damage or taking, notify the Authority as to the nature and extent of such damage or taking, as applicable. Upon receipt of any condemnation award or insurance proceeds Developer or 7200 Parcel Owner, as applicable, shall elect to either: (a) use the entire condemnation award or insurance proceeds to reconstruct the Minimum Improvements (or, in the event only a part of the Minimum Improvements has been taken or damaged, then to reconstruct such part) upon the remaining property to the extent necessary to maintain and continue operations of Minimum Improvements for its intended purpose; or (b) in the event that the condemnation affects or taking or damage or destruction affects the Project Area but not the Minimum Improvements thereon, retain, for the account of Developer or 7200 Parcel Owner, as applicable, all of the condemnation award or insurance proceeds.

7.5 Business Subsidy Agreement. The Authority and Developer have determined that a business subsidy agreement within the meaning of the Minnesota Business Subsidy Act, Minnesota Statutes, Sections 116J.993 through 116J.995 is not required in accordance with the exception contained in the Minnesota Business Subsidy Act, Minnesota Statutes, Section 116J.993, subd. 3(17), because Developer's investment in the purchase of the 7250 Parcel and site preparation thereon is 70% or more of the assessor's current year's estimated market value for the 7250 Parcel.

7.6 Developer/Authority Grant Applications. Developer and the Authority will cooperate in efforts to obtain available public grant funding to undertake the Minimum Improvements, including but not limited to grants from funding from metropolitan, state, county, and federal sources identified by the Authority or Developer as reasonably available. Costs of preparing the grant applications and preparing required reports shall be borne by Developer. City staff shall have the final authority to review and submit the grant applications to the applicable agency. To the extent additional grant funds not reflected in the TIF Pro Forma are obtained, any such amounts shall be taken into consideration by the Authority when the Authority reviews the updated TIF Pro Formas and other information under Article III prior to issuing the TIF Notes. Developer shall reasonably cooperate with the City and the Authority with respect to the administration of any grants received from Hennepin County, Metropolitan Council, or State of Minnesota to support the construction of the Minimum Improvements.

7.7 Mitigation of Construction Disruption. Developer shall, and cause 7200 Parcel Owner to, comply with directions set and regulations enforced by the City Engineering and Building Inspection Departments regarding on site construction activities. All construction work shall be limited to the standard hours determined by the City. Deliveries to and from the jobsite shall also occur within allowable hours. Heavy trucks must follow routes established by the City. Provision shall be made for on-site or dedicated off-site parking on private property for all workers employed on the jobsite. Employee parking is prohibited on local streets and elsewhere where prohibited by lawfully installed regulatory signs. Developer shall, and cause 7200 Parcel Owner to, make best efforts to mitigate construction disruption to surrounding properties.

7.8 Parcel 7200 Temporary Parking; Phase 2 Pad Site Preparation. By no later than **October 1, 2024**, and in any event at least 60 days before Developer and/or 7200 Parcel Owner intends to construct any temporary surface parking on the 7200 Parcel as permitted under the City Approvals, Developer shall notify the City and the Authority that Developer and/or 7200 Parcel Owner intends to commence construction of said temporary surface parking. For avoidance of any doubt, any costs incurred in connection with construction of such temporary parking shall not be Qualified Redevelopment Costs, shall not be eligible for TIF Assistance, and shall not be included in the TIF Pro Forma for the Phase 1 Minimum Improvements. Developer shall maintain, or cause to be maintained, any such temporary parking or building pad site prepared in connection with the Phase 2 Pad Site Preparation in good condition and repair, free of garbage and weeds, and otherwise in accordance with the City Approvals and applicable Law until such Commencement of the Phase 2 Minimum Improvements.

7.9 Project Information.

(a) Project Ownership. Developer shall provide the City and Authority with the final organizational structure for the ownership of the Phase 1 Minimum Improvements and the Phase 2 Minimum Improvements, and the identity of all parties with an ownership interest in the Phase 1 Minimum Improvements or the Phase 2 Minimum Improvements of 10% or greater as required to be disclosed in the Financing Commitments. Developer shall confirm such organizational and ownership information at the time Developer submits each Go-Ahead Letter, and periodically thereafter in accordance with clause (b) below. Prior to delivery of information regarding firm financing commitment or delivery of a Go-Ahead Letter, Developer will provide additional financing updates as requested by the Authority, whether by oral or written request, within two (2) business days after the request.

(b) Other Information. In addition to the other Project information required to be provided by Developer hereunder, Developer shall provide or make available for review at Developer's offices to the City and/or Authority such information regarding Developer and the Project as the City and/or Authority may reasonably request in writing from time to time in order for the City and Authority to monitor Developer's progress on the Minimum Improvements and the financing thereof, the prospects of the Minimum Improvements, and/or the status of Developer's obligations hereunder, in each case, promptly upon request in writing and in no event later than two (2) days following such request, including without limitation the following:

(i) Updated TIF Pro Formas for each of the Phases of the Minimum Improvements based on then-current actual and/or projected Minimum Improvements information, as the same becomes available during the development of the Minimum Improvements;

(ii) market studies and/or market data used by Developer to make decision regarding the financing, design, and development of the Minimum Improvements;

(iii) organizational structures for 7200 Parcel Owner for the ownership of the Phase 2 Improvements, and the identity of all parties with an ownership interest in 7200 Parcel Owner and the Phase 2 Minimum Improvements of 10% or greater, and other such information to confirm Developer and 7200 Parcel Owner are Related Parties;

(iv) the status of Minimum Improvements ownership, organizational structure, financing, leasing, occupancy, and sales, and information pertaining to the jobs and corresponding wages attributable to the Minimum Improvements, in each case, no more frequently than monthly.

The City and Authority will treat all such information which Developer includes a caption stating that the same is proprietary or trade secret information as nonpublic data under and in accordance with the Minnesota Data Practices Act, Minnesota Statutes chapter 13.

Article VIII
Transfer Limitations

8.1 Representation as to the Minimum Improvements. Developer represents to the City and the Authority that its undertakings under this Agreement are for the purpose of developing the Minimum Improvements and not for the purpose of speculation in land holding. Developer acknowledges that, in view of the importance of the Minimum Improvements to the general welfare of the City and the Authority, and the substantial financing and other public aids that have been made available by the City and the Authority

for the purpose of making such Minimum Improvements possible, the qualifications and identity of Developer are of particular concern to the Authority. Developer further acknowledges that the City and the Authority are willing to enter into this Agreement with Developer because of the qualifications and identity of Developer.

8.2 Limitation on Transfers.

(a) Until the Authority's issuance of the Certificate of Completion for each of the Phase 1 Minimum Improvements and the Phase 2 Minimum Improvements, as applicable, Developer shall not, and shall cause 7200 Parcel Owner to not, sell, assign, convey, lease or transfer in any other mode or manner any of its right, title, and interest in and to this Agreement, all or any part of the Project Area, or the Minimum Improvements, without the express written consent of the Authority (which consent may be granted by the Authority's Authorized Representative in accordance with, and subject to the terms of, Section 10.9), provided that the consent of the Authority shall not be required for any of the following:

(i) granting of a mortgage or other security interests in the Project Area and/or the Minimum Improvements as provided in Article V hereof;

(ii) collaterally assigning Developer's rights and obligations under this Agreement and the TIF Notes to the holder of any Mortgage that is permitted under the terms of Section 5.1;

(iii) leasing the Minimum Improvements in the normal course of business in a manner consistent with this Agreement and the City Approvals;

(iv) assigning this Agreement (in full, but not in part) in connection with a transfer of the 7200 Parcel or the 7250 Parcel to: (A) a Related Party of Developer or (B) a joint venture entity in which Developer or a Related Party thereof will hold at least a **10%** ownership interest and be responsible for the day-to-day management of the Minimum Improvements, and a reputable, institutional investor will hold up to a **90%** ownership interest; provided, in any case: (1) such permitted assignee party executes an agreement in a form reasonably approved by the Authority pursuant to which such permitted assignee party, as applicable, assumes and agrees to perform the obligations of Developer under this Agreement, and (2) Developer provides the Authority with such information and documentation required by the Authority to confirm the completion of such transfer and that the such transfer meets the requirements of this subsection; or

(v) any subsequent transfer of the 7200 Parcel and/or the Phase 2 Minimum Improvements after the Authority has granted its consent to any initial transfer of the 7200 Parcel and/or the Phase 2 Minimum Improvements.

(b) If the Authority's consent to a transfer of the TIF Notes or this Agreement, pursuant to Section 3.6 and/or Section 8.2, as applicable, is required, then the Authority shall be entitled to require, as conditions to its approval of any sale, assignment, conveyance, use or transfer of any rights, title, and interest in and to this Agreement, the TIF Notes, the Project Area or the Minimum Improvements that:

(i) Any proposed transferee shall not be exempt from the payment of real estate taxes and shall have the qualifications and financial responsibility, as determined by the Authority, necessary and adequate to fulfill the obligations undertaken in this Agreement by Developer;

(ii) Any proposed transferee, by instrument in writing satisfactory to the Authority and in form recordable among the land records shall, for itself and its successors and assigns, and expressly for the benefit of the Authority have expressly assumed all of the obligations of Developer (or such obligations of Developer as are applicable to the portion of the Minimum Improvements acquired) under this Agreement and agree to be subject to all the conditions and restrictions to which Developer is subject;

(iii) Developer must submit all instruments and other legal documents involved in effecting transfer to the Authority; and

(iv) Developer and the transferee must comply with such other reasonable conditions as the Authority may find desirable in order to achieve and safeguard the purposes of the TIF Act, the Authority, this Agreement, the Minimum Improvements, and/or the Project; and

(v) The transferee must demonstrate, in a manner satisfactory to the Authority, its ability to perform all assumed obligations in this Agreement.

(c) In the absence of specific written agreement by the City and the Authority to the contrary, neither the transfer of the Minimum Improvements, or any portion thereof, prior to the issuance of the Certificate of Completion for the corresponding Phase of the Minimum Improvements or the City's or the Authority's consent to such a transfer will relieve Developer of its obligations under this Agreement; provided, however, in the event of a transfer to a permitted assignee party under Section 8.2(a)(iii), the Authority and the City will release Developer of its obligations under this Agreement accruing after the date of such permitted transfer.

(d) After the Authority's issuance of the Certificate of Completion for the corresponding Phase of the Minimum Improvements, Developer and 7200 Parcel Owner, as applicable, may freely transfer the corresponding portion of the Project Area and Developer may freely assign or transfer this Agreement (and the TIF Notes, subject to the requirements of Section 3.5), in each case, without the Authority's or the City's consent; provided, however, Developer must promptly notify the Authority and the City in writing of the name and contact information of the successor Developer under this Agreement and the effective date of such assignment or transfer.

Article IX
Events of Default and Remedies

9.1 Events of Default Defined. "Events of Default" under this Agreement include any one or more of the events listed in Sections 9.2 and 9.3.

9.2 Developer Events of Default. The following shall be Events of Default for Developer:

(a) subject to Unavoidable Delays and Cure Rights, Developer's or 7200 Parcel Owner's failure to achieve Commencement and Completion of any aspect of the Minimum Improvements by the applicable "Default Date" set forth in Section 4.1, provided that if the Authority issues a Certificate of Completion, any such failure related to the Phase of the Minimum Improvements for which such Certificate of Completion applies shall no longer be an Event of Default;

(b) subject to Unavoidable Delays and Cure Rights, Developer shall Default in its obligations with respect to the construction of the Minimum Improvements (including the nature and the date for the completion of the various elements thereof), or either Developer or 7200 Parcel Owner shall

abandon or substantially suspend construction work on the Minimum Improvements, and any such Default, violation, abandonment or suspension is not cured, ended or remedied within 30 days after written notice to do so, provided that if the Authority issues a Certificate of Completion, such failure shall no longer be an Event of Default;

(c) there is, in violation of this Agreement, any conveyance or other transfer of the Project Area and/or the Minimum Improvements or any part thereof, and such violation is not cured within 30 days after written notice to do so;

(d) subject to Unavoidable Delay and Cure Rights, failure by Developer or 7200 Parcel Owner, as applicable, to observe or perform any other covenant, condition, obligation or agreement on its part to be observed or performed under this Agreement, any of the City Easements, the City Approvals, or any other agreements regarding the Minimum Improvements, and the continuation of such failure for a period of 30 days after written notice of such failure from any party hereto;

(e) if, prior to the delivery of the Certificate of Completion for either Phase of the Minimum Improvements, either Developer or 7200 Parcel Owner shall (i) file any petition in bankruptcy or for any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the United States Bankruptcy Act of 1978, as amended or under any similar federal or State law; or (ii) make an assignment for the benefit of its creditors; or (iii) become insolvent or adjudicated a bankrupt; or if a petition or answer proposing the adjudication of Developer or 7200 Parcel Owner, as a bankrupt or its reorganization under any present or future Federal bankruptcy act or any similar Federal or State law shall be filed in any court and such petition or answer shall not be discharged or denied within 90 days after the filing thereof; or a receiver, trustee or liquidator of Developer or 7200 Parcel Owner, or of the Minimum Improvements, or part thereof, shall be appointed in any proceeding brought against Developer or 7200 Parcel Owner, and shall not be discharged within 90 days after such appointed, or if Developer or 7200 Parcel Owner shall consent to or acquiesce in such appointment.

9.3 City and Authority Events of Default. Subject to Cure Rights and events beyond the City's and/or the Authority's control, the failure of the City or the Authority to observe or perform any covenant, condition, obligation or agreement on its part to be observed or performed under this Agreement, and the continuation of such failure for a period of 30 days after written notice of such failure from any party hereto shall be an Event of Default for the City or the Authority.

9.4 Cure Rights. If a Default occurs under this Agreement which reasonably requires more than 30 days to cure, such Default shall not constitute an Event of Default, provided that the curing of the Default is promptly commenced upon receipt by the defaulting party of the written notice of the Default, and with due diligence is thereafter continuously prosecuted to completion and is completed within a reasonable period of time, and provided that the defaulting party keeps the non-defaulting party informed at all times of its progress in curing the Default; provided, however in no event shall such additional cure period for any Default extend beyond 180 days.

9.5 Authority Remedies on Developer Events of Default. Whenever any Event of Default occurs by Developer, the Authority may take any one or more of the following actions:

(a) Termination. Terminate this Agreement (but not either TIF Note if then issued by the Authority);

(b) Withhold TIF Assistance. Only for any uncured material Event of Default, the Authority may suspend interest accrual and/or withhold payments due under the TIF Notes until Developer has cured any Default which gave rise to such Event of Default; provided, however,

(i) the Authority may not suspend interest accrual and/or withhold payments due under the Phase 1 TIF Note due to an Event of Default of Developer arising from 7200 Parcel Owner's failure to achieve Commencement and Completion of any aspect of the Phase 2 Minimum Improvements by the applicable "Default Date" set forth in Section 4.1, and

(ii) if the Phase 2 TIF Note has been issued and there is an Event of Default of Developer due to any failure by Developer and/or the 7200 Parcel Owner to perform any act or fulfill any other obligation hereunder relating solely to the 7200 Parcel, the Phase 2 Minimum Improvements, and/or the 7200 Parcel Owner (e.g., _____), then the Authority may only suspend interest accrual and/or withhold payments due under the Phase 2 TIF Note as a remedy under this subsection as a result to any such Event of Default of Developer, and the Authority may not suspend payments or accrual of interest under the Phase 1 TIF Note as a remedy under this subsection as a result to any such Event of Default;

(c) Suspend Performance. Suspend performance under this Agreement until it receives assurances from Developer or the holder of any Mortgage, deemed adequate by the Authority, that Developer or the holder of any Mortgage will cure the Event of Default and continue its performance under this Agreement,

(d) Withhold Certificate of Completion. Withhold a Certificate of Completion where such Event of Default relates to Completion of a Phase of the Minimum Improvements or the issuance of a Certificate of Completion;

(e) Other Remedies. All other remedies available at law or in equity that may appear necessary or desirable to the Authority to collect any payments due under this Agreement, or to enforce performance and observance of any obligation, agreement, or covenant of Developer under this Agreement, including, without limitation, a right to specific performance.

For avoidance of doubt, and except as may be provided in any separate agreement relating to the Project under which the 7200 Parcel Owner is a party (e.g., the Public Plaza Easement agreement), upon an Event of Default of Developer, the Authority's and City's rights and remedies shall be against Developer, and neither the Authority nor the City shall have any right to pursue any such remedy against the 7200 Parcel Owner for such Event of Default of Developer.

9.6 City Remedies on Developer Events of Default. Whenever any Event of Default of Developer occurs, the City may suspend performance of its obligations under this Agreement and take whatever action at law or in equity may appear necessary or desirable to the City to enforce performance and observance of any obligation, agreement, or covenant of Developer under this Agreement, including an action for specific performance.

9.7 Developer Remedies on City or Authority Events of Default. Whenever any Event of Default of the City or the Authority occurs, Developer, may take whatever action at law or in equity may appear necessary or desirable to enforce performance and observance of any obligation, agreement, or covenant of the City or the Authority under this Agreement, including, without limitation, an action for specific performance.

9.8 No Remedy Exclusive. No remedy herein conferred upon or reserved to the City, the Authority or Developer is intended to be exclusive of any other available remedy or remedies unless otherwise expressly stated, 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, the City or Developer to exercise any remedy reserved to it, it shall not be necessary to give notice, other than such notice as may be required in this Article IX.

9.9 No Additional Waiver Implied by One Waiver. If any agreement contained in this Agreement should be breached by any party and thereafter waived by another 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.

9.10 Reimbursement of Attorneys' Fees. Whenever a Default occurs and the non-defaulting party shall employ 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 under this Agreement, the defaulting party shall, within 10 days of written demand by the non-defaulting party pay to such non-defaulting party the reasonable fees of such attorneys and such other expenses so incurred by the non-defaulting party. In the event of any enforcement action hereunder following a Default, the prevailing party, in addition to other relief, shall be entitled to an award of attorney's fees and costs. The City, Authority and Developer waive their right to a jury trial on the issues of who is the prevailing party and the reasonable amount of attorneys' fees and costs to be awarded to the prevailing party. Those issues will be decided by the trial judge upon motion by one or both parties, such motion to be decided based on the record as of the end of the jury trial augmented only by the testimony and/or affidavits from the attorneys and their staff. The parties agree that, subject to the trial judge's discretion, the intent of this clause is to have all issues related to the award of attorneys' fees and costs decided by the trial judge as quickly as practicable.

Article X
Additional Provisions

10.1 Conflicts of Interest. No member of the Board or other official of the Authority shall have any financial interest, direct or indirect, in this Agreement, the TIF District or the Minimum Improvements, or any contract, agreement or other transaction contemplated to occur or be undertaken thereunder or with respect thereto, nor shall any such member of the governing body or other official participate in any decision relating to the Agreement which affects his or her personal interests or the interests of any corporation, partnership or association in which he or she is directly or indirectly interested. No member, official or employee of the City or the Authority shall be personally liable to the City or the Authority in the event of any Default or breach by Developer of any obligations under the terms of this Agreement.

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

10.3 Notices and Demands. Except as otherwise expressly provided in this Agreement, a notice, demand or other communication under this Agreement by any party to any other shall be in writing and shall be sufficiently given or delivered if it is dispatched by reputable overnight courier, sent registered or certified mail, postage prepaid, return receipt requested, or delivered personally, and addressed to:

Developer at: 7250 France Group, LLC
c/o Orion Investments
Attention: Ted Carlson
6550 York Avenue South, Suite 207
Edina MN 5543

DRAFT

The Authority at:	Housing and Redevelopment Authority of Edina, Minnesota Attention: Executive Director 4801 West 50th Street Edina, MN 55424
with a copy to:	Dorsey & Whitney LLP Attention: Jay R. Lindgren 50 South Sixth Street, Suite 1500 Minneapolis, MN 55402
The City at:	City of Edina Attention: City Manager 4801 West 50th Street Edina, MN 55424
with a copy to:	Dorsey & Whitney LLP Attention: Jay R. Lindgren 50 South Sixth Street, Suite 1500 Minneapolis, MN 55402

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

10.4 Governing Law, Jurisdiction, Venue and Waiver of Trial by Jury. All matters, whether sounding in tort or in contract, relating to the validity, construction, performance, or enforcement of this Agreement shall be controlled by, interpreted and determined in accordance with the laws of the state of Minnesota without regard to its conflict and choice of law provisions. Any litigation arising out of this Agreement shall be venued exclusively in Hennepin County District Court, Fourth Judicial District, state of Minnesota and shall not be removed therefrom to any other federal or state court. The Authority and Developer hereby consent to personal jurisdiction and venue in the foregoing court. The Authority and Developer hereby waive trial by jury for any litigation arising out of this Agreement.

10.5 Severability. If any term or provision of this Agreement is determined to be invalid or unenforceable under applicable Law, the remainder of this Agreement shall not be affected thereby, and each remaining term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by applicable Law.

10.6 Consents and Approvals. Whenever the terms "consent," "approve," or "approval" are used herein, they shall mean consent or approval in a party's sole discretion, unless specifically provided otherwise. All consents or approvals must be delivered in writing in order to be effective.

10.7 Additional Documents. When reasonably requested to do so by another party, each party shall execute or cause to be executed any further documents as may be reasonably necessary or expedient and within their lawful obligation in order to consummate the transactions provided for in, and to carry out the purpose and intent of, this Agreement.

10.8 Limitation. All covenants, stipulations, promises, agreements and obligations of the Authority or Developer contained in this Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Authority and Developer, and not of any governing body member, officer, agent, servant, manager or employee of the Authority or Developer in the individual capacity thereof.

10.9 City/Authority Approval. Unless the City Council or the Board, as applicable, determines otherwise in its discretion, all approvals and other actions required of or taken by the Authority or the City shall be effective upon action by the Authorized Representative of the Authority or City, as applicable (or in either case his/her designee), unless (a) this Agreement explicitly provides for approval by the City Council or the Board of the Authority, (b) approval by the Council or Board is required by law or (c) the approval, in the opinion of the City Manager or the Executive Director, would result in a material change in the terms of this Agreement.

10.10 Superseding Effect. This Agreement reflects the entire agreement of the parties with respect to the items covered by this Agreement, and supersedes in all respects all prior agreements of the parties, whether written or otherwise, with respect to the items covered by this Agreement.

10.11 Relationship of Parties. Nothing in this Agreement is intended, or shall be construed, to create a partnership or joint venture among or between the parties hereto, and the rights and remedies of the parties hereto shall be strictly as set forth in this Agreement.

10.12 Survival of Terms. The following Sections will survive the expiration or earlier termination of this Agreement: Section 6.1 [Insurance]; Section 6.2 [Indemnification]; Section 7.1 [Developer Reimbursement Obligations]; Sections 9.5 through 9.10 [Remedies on Default, etc.] to the extent of any Event of Default arising prior to such termination or expiration; Section 10.3 [Notices and Demands]; Section 10.4 [Governing Law, Jurisdiction, Venue and Waiver of Trial by Jury]; Section 10.14 [No Waiver of Governmental Immunity and Limitations on Liability]; and Section 10.17 [Limited Liability].

10.13 Data Practices Act. Developer acknowledges that all of the data created, collected, received, stored, used, maintained, or disseminated by Developer with regard to the performance of its duties under this Agreement are subject to the requirements of Chapter 13, Minnesota Statutes.

10.14 No Waiver of Governmental Immunity and Limitations on Liability. Nothing in this Agreement shall in any way affect or impair the City's or Authority's immunity or the immunity of the City's and Authority's employees, consultants and contractors, whether on account of official immunity, legislative immunity, statutory immunity, discretionary immunity or otherwise. Nothing in this Agreement shall in any way affect or impair the limitations on the City's or Authority's liability or the liability of the City's and Authority's employees, consultants and independent contractors. By entering into this Agreement, the Authority does not waive any rights, protections, or limitations as provided under law and equity for the Authority, or of their respective employees, consultants and contractors.

10.15 City and Authority Regulatory Authority. Nothing in this Agreement shall be construed to limit or modify the City's or Authority's regulatory authority.

10.16 Memorandum of Agreement. Neither party shall cause this Agreement to be recorded or filed in the real estate records of the County. However, Developer shall cause a memorandum of this Agreement to be so recorded or filed in the form attached as **Exhibit G**, and hereby incorporated herein by reference upon execution of this Agreement upon the Project Area. At the time of execution of this Agreement the parties hereto and 7200 Parcel Owner will also execute and acknowledge the Memorandum of Agreement.

10.17 Limited Liability. Notwithstanding anything to contrary provided in this Agreement, it is specifically understood and agreed, such agreement being the primary consideration for the execution of this Agreement by Developer, that (a) there should be absolutely no personal liability on the part of any director, officer, manager, member, employee or agent of Developer or the City or Authority with respect to any terms, covenants and conditions in this Agreement; (b) Developer and the Authority waive all claims,

demands and causes of action against the other parties' directors, officers, managers, members, employees and agents in any Event of Default, by either party, as the case may be, of any of the terms, covenants and conditions of this Agreement to be performed by either party; and (c) Developer and the Authority, as the case may be, shall look solely to the assets of the other party for the satisfaction of each and every applicable remedy in the Event of Default by any party, as the case may be, of any of the terms, covenants and conditions of this Agreement such exculpation of liability to be absolute and without any exception whatsoever.

10.18 Time is of the Essence. Time is of the essence of this Agreement and each and every term and condition hereof; provided, however, that if any date herein set forth for the performance of any obligations by Developer or the Authority or for the delivery of any instrument or notice as herein provided should not be on a business day, the compliance with such obligations or delivery shall be deemed acceptable on the next following business day.

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

10.20 Amendments. This Agreement shall not be amended unless in writing and executed by the parties hereto. Developer shall be responsible for obtaining any necessary consent to an amendment to this Agreement from the Construction Lender or Permanent Lender, as applicable.

10.21 Term. The term of this Agreement shall be effective from the Effective Date above written until the earlier of (a) the date this Agreement is terminated pursuant to the terms and conditions hereof, (b) payment in full of the TIF Notes, or (c) the date of termination of the TIF District. Upon termination, the parties agree to execute and record a document terminating this Agreement and providing for the release of the obligations under this Agreement.

10.22 Estoppel Certificate. Each party shall, within fifteen (15) days after request from the other party hereto, deliver a written statement which may be relied upon by the requesting party, or any lender or transferee of the requesting party, setting forth (a) whether, to the best knowledge of the party providing the written statement, that the requesting party is not in default and there exists no circumstance which with the giving of notice or lapse of time, or both, would constitute a default (or if such party is aware of any such default or circumstance specifying the same); and (b) such other factual certifications as may be reasonably requested by the requesting party.

10.23 Relationship to 7200 Parcel and 7200 Parcel Owner. Notwithstanding anything herein to the contrary, and for avoidance of doubt, Developer is responsible hereunder for all obligations related to both Phases of the Minimum Improvements and, in that connection, Developer shall cause 7200 Parcel Owner to timely and fully comply with all obligations and requirements hereunder pertaining to or related to the 7200 Parcel Owner and/or the 7200 Parcel, and failure by Developer to do so will be a Default of Developer hereunder, subject to the applicable terms and conditions hereof.

[SIGNATURES APPEAR ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the City, the Authority and Developer have caused this Agreement to be duly executed in their names and on their behalf, all on or as of the date first above written.

City of Edina, Minnesota

By: _____
James B. Hovland, Mayor

By: _____
Scott H. Neal, City Manager

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by James B. Hovland and Scott H. Neal, the Mayor and City Manager, respectively, of the City of Edina, Minnesota, on behalf of the City of Edina.

_____
Notary Public

DRAFT

Housing and Redevelopment Authority of Edina, Minnesota

By: _____
James B. Hovland, Chair

By: _____
James Pierce, Secretary

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by James B. Hovland and James Pierce, the Chair and Secretary, respectively, of the Housing and Redevelopment Authority of Edina, Minnesota, on behalf of said Authority.

_____
Notary Public

DRAFT

7250 France Group, LLC,
a Minnesota limited liability company

By: _____

Name: _____

Its: _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____, 2023, by _____, the _____ of 7250 France Group, LLC, a Minnesota limited liability company, on behalf of the company.

_____
Notary Public

DRAFT

Acknowledgement and Consent of 7200 Parcel Owner

The undersigned, **France Property Partners, LLC**, a Minnesota limited liability company, as the current owner of the 7200 Parcel, as defined and legally described in the foregoing Redevelopment Agreement dated April 18, 2023 (as may be amended, supplemented, restated, and/or otherwise modified from time to time, the "Redevelopment Agreement"), by and among the **City of Edina Minnesota**, a Minnesota statutory city (the "City"), 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 ("Authority"), and **7250 France Group, LLC**, a Minnesota limited liability company ("Developer"), hereby consents to the Redevelopment Agreement and hereby acknowledges and agrees that (i) it has reviewed the Redevelopment Agreement in effect as of the date hereof, (ii) the Redevelopment Agreement contains certain restrictions pertaining to the 7200 Parcel and the 7200 Parcel Owner, (iii) that 7200 Parcel must perform certain actions in order for Developer to comply with the terms of the Redevelopment Agreement, including, without limitation, constructing the Phase 2 Minimum Improvements, granting certain City Easements encumbering the 7200 Parcel, and providing certain financial and ownership information regarding the 7200 Parcel and the 7200 Parcel Owner all upon the terms and conditions of the Redevelopment Agreement, and (iv) the City and/or the Authority, as applicable, may take any action under the Redevelopment Agreement, including, without limitation, agreeing to any alteration, modification, altering, amendment, and/or restatement the Redevelopment Agreement, in each case, without notice to or assent of 7200 Parcel Owner.

Unless otherwise defined herein or unless context requires otherwise, undefined terms used in the foregoing paragraph shall have the meanings set forth in the Redevelopment Agreement.

Dated: April 18, 2023

France Property Partners, LLC,
a Minnesota limited liability company

By: _____

Name: _____

Its: _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____, 2023, by _____, the _____ of France Property Partners, LLC, a Minnesota limited liability company, on behalf of the company.

_____
Notary Public

EXHIBIT D - INITIAL TIF PRO FORMA

PHASE I AND 2 PROJECT SOURCES AND USES

Phase 1: Project Site Redevelopment and Multi-Tenant Office Building

Phase 2: Hotel Building

.

SOURCES	Ph. 1 Amount	Ph. 2 Amount	Combined
First Mortgage	59,889,140	48,120,044	108,009,184
Other Loans	0	0	0
Equity	25,666,775	28,872,026	54,538,801
TOTAL SOURCES	**85,555,915**	**76,992,070**	**162,547,985**

USES	Ph. 1 Amount	Ph. 2 Amount	Combined
Acquisition Costs	5,100,000	6,100,000	11,200,000
Building Construction and Overhead	58,583,514	59,326,000	117,909,514
Hard Cost Contingency	1,970,547	2,627,500	4,598,047
Site Improvements / Demolition	5,855,358	250,000	6,105,358
Permits / Fees	383,288	0	383,288
Professional Services	3,689,260	2,558,713	6,247,973
Soft Cost Contingency	455,943	342,425	798,368
Financing Costs	5,161,328	2,800,744	7,962,072
Developer Fee	4,250,000	2,736,688	6,986,688
Cash Accounts / Reserves	106,677	250,000	356,677
TOTAL USES	**85,555,915**	**76,992,070**	**162,547,985**

PHASE I MINIMUM IMPROVEMENTS

Multi-Tenant Office Operating Assumptions

Commercial Rent and Income		Annual Revenue	Sq. Ft / Units	
Commercial Office and Retail Rent (NNN)				
Office Type 1		**$3,254,292**	**90,397**	rsf
Office Type 2		**$1,195,636**	**22,993**	rsf
Office Type 3		**$847,590**	**22,305**	rsf
Parking		**$397,800**	**170**	leased stalls
Gross Revenue		**$5,695,318**	**135,695**	rsf
Vacancy Loss	5.00%	($264,876)		
Expense on Vacancy (CAM & Property Taxes)	5.00%	($85,146)		
Effective Gross Income		**$5,345,296**		

Net Operating Income (NOI)	**$5,345,296**
Requested Tax Increment Assistance	**$667,000**
Net Operating Income (with Assistance)	**$6,012,296**

	No Assistance		***W/ Assistance***	
Commercial NOI:	$5,345,296		$6,012,296	
Total Development Cost:	85,555,915		85,555,915	
Less 7200 France Proceeds:	0		0	
Adjusted Total Development Cost:	85,555,915		85,555,915	
Cash on Cost Return ("Market Return Rate"):	**6.25%**		**7.03%**	
NOI:	$5,345,296	Coverage	$6,012,296	Coverage
Less Debt Service:	($4,852,509)	1.10	($4,852,509)	1.24
Net Cashflow:	$492,787		$1,159,787	
Cash on Cash Annual Return on Equity:	1.92%		4.52%	

PHASE 2 MINIMUM IMPROVEMENTS

Hotel Operating Assumptions

Commercial Rent and Income	Annual Revenue	Sq. Ft / Units	
Operating Revenue			
Rooms	**$11,032,125**	**150**	rooms
Food & Beverage	**$5,770,650**		
Other Facilities	**$331,632**		
Miscellaneous	**$149,094**		
Total Operating Revenue	**$17,283,501**	**150**	rooms
Gross Revenues	**$17,283,501**		

Expenses	Amount	% Gross
Departmental Expenses		
Rooms	$1,332,657	
Food & Beverage	$2,930,671	
Other Operated Departments	$157,484	
Total Departmental Expenses	**($4,420,812)**	
General Expenses		
Administration	$1,071,577	
IT Systems	$276,536	
Sales & Marketing	$734,549	
Franchise Fees	$959,234	
Property & Maintenance	$604,923	
Utilities	$362,954	
Total General Expenses	**($4,009,773)**	
Non-Operating Income (Expense)		
Misc. Income	$204,000	
Management (4.0%)	($691,340)	
Rent	($25,793)	
Property and Other Taxes	($275,000)	
Insurance	($390,000)	
Replacement Reserves	($172,835)	
Total General Expenses	**($1,350,968)**	
Total Net Inccome	**$7,501,948**	**43.4%**
Tax Increment	**$0**	
Net Operating Income (NOI)	**$7,501,948**	**43.4%**

	Phase 2		***Combined with Phase 1***	
Commercial NOI:	$7,501,948		$12,847,244	
Total Development Cost:	76,992,070		162,547,985	
Less 7200 France Proceeds:	0		0	
Adjusted Total Development Cost:	76,992,070		162,547,985	
Cash on Cost Return (NOI/Cost):	9.74%		7.90%	
Commercial NOI:	$7,501,948	Coverage	$12,847,244	Coverage
Less Debt Service:	($3,989,603)	1.88	($8,842,112)	1.45
Net Cashflow:	$3,512,345		$4,005,131	
Cash on Cash Annual Return on Equity:	12.17%		7.34%	
		Tax Increment:	$667,000	
Adjusted Cash on Cost Return ("Market Return Rate"):			**8.31%**	

EXHIBIT I - Sample Lookback Calculation
7200-7250 France Avenue Redevelopment
City of Edina
Sales and Cashflow Analysis for Sample IRR Calculation and TIF Adjustment

		2027			2030			2038		
SALE ANALYSIS END OF YEAR:		Year 4			Year 7			Year 15		
		Phase 1	Phase 2	Total	Phase 1	Phase 2	Total	Phase 1	Phase 2	Total
Net Operating Income End of Year		5,561,246	7,501,948	13,063,194	5,901,639	7,961,127	13,862,766	6,914,710	9,327,729	16,242,440
Divided By Cap Rate		6.00%	6.75%		6.00%	6.75%		6.00%	6.75%	
Gross Sale Price		92,687,433	111,139,970	203,827,403	98,360,645	117,942,626	216,303,271	115,245,172	138,188,584	253,433,756
Less: First Mortgage		57,291,523	47,355,168	104,646,691	53,564,295	44,725,909	98,290,204	39,230,285	34,467,522	73,697,807
Net Sale Amount		35,395,910	63,784,802	99,180,712	44,796,350	73,216,717	118,013,067	76,014,887	103,721,062	179,735,949
Less: Sales Expense	2.00%	(1,853,749)	(2,222,799)	(4,076,548)	(1,967,213)	(2,358,853)	(4,326,065)	(2,304,903)	(2,763,772)	(5,068,675)
NET SALES PROCEEDS:		**33,542,161**	**61,562,003**	**95,104,164**	**42,829,137**	**70,857,864**	**113,687,002**	**73,709,984**	**100,957,290**	**174,667,274**

		2027			2030			2038		
IRR ANALYSIS END OF YEAR:		Year 4			Year 7			Year 15		
Year	Sample Net Sales Proceeds	Phase 1 Cash Flow	Phase 2 Cash Flow	Total Cash Flow	Phase 1 Cash Flow	Phase 2 Cash Flow	Total Cash Flow	Phase 1 Cash Flow	Phase 2 Cash Flow	Total Cash Flow
Initial Go-Ahead		(25,666,775)	0	(25,666,775)	(25,666,775)	0	(25,666,775)	(25,666,775)	0	(25,666,775)
2024		0	0	0	0	0	0	0	0	0
2025		246,393	(28,872,026)	(28,625,633)	246,393	(28,872,026)	(28,625,633)	246,393	(28,872,026)	(28,625,633)
2026		1,126,409	0	1,126,409	1,126,409	0	1,126,409	1,126,409	0	1,126,409
2027	95,104,164	34,777,614	65,074,348	99,851,961	1,235,453	3,512,345	4,747,798	1,235,453	3,512,345	4,747,798
2028					1,486,962	3,662,384	5,149,346	1,486,962	3,662,384	5,149,346
2029					1,600,411	3,815,424	5,415,835	1,600,411	3,815,424	5,415,835
2030	113,687,002				44,545,267	74,829,388	119,374,655	1,716,130	3,971,524	5,687,654
2031								1,834,162	4,130,747	5,964,909
2032								1,954,556	4,293,154	6,247,709
2033								2,077,357	4,458,809	6,536,166
2034								2,202,614	4,627,777	6,830,391
2035								2,330,377	4,800,125	7,130,501
2036								2,460,695	4,975,919	7,436,614
2037								2,593,619	5,155,230	7,748,848
2038	174,667,274							76,439,185	106,295,416	182,734,601
2039										
	Total	10,483,641	36,202,322	46,685,963	24,574,120	56,947,515	81,521,634	73,637,547	124,826,826	198,464,373
	INTERNAL RATE OF RETURN:			**22.68%**			**17.39%**			**14.08%**
	Section 3.5(d) Excess Return IRR:			22.00%			19.00%			16.00%
	PROJECT RETURN EXCEEDED?			**Yes**			**No**			**No**
	A) EXCESS RETURN:			**1,759,300**			**0**			**0**
	B) Remaining TIF Notes Balance:			$7,550,000			$7,215,843			$5,180,793
	C) Adjusted TIF Notes Balance (B less A):			**$5,790,700**			$7,215,843			$5,180,793
	D) Remaining Excess Return (A less B):			$0			$0			$0
	E) Cumulative TIF Notes P&I Payments:			$790,074			$2,720,932			$8,056,932
	TIF Adjustment (Lesser D or E):			$0			$0			$0

Notes:

Sample Internal Rate of Return (IRR) calculation of the Initial TIF Proforma project cashflows and potential sales of the Minimum Improvements through year 15. Hypothetical sales proceeds assume onetime sale of the Minimum Improvements using valuation based on Initial TIF Proforma Net Operating Income and cap rate estimates for local office and hotel properties. Annual cash flows include Net Operating Income less annual debt service and reserve allowance. Hypothetical sales are provided solely for purposes of providing an example of the Lookback and its Excess Return and TIF Adjustment provisions.

Phase I Assumptions:		**Phase 2 Assumptions:**			
Sample Office Cap Rate:	6.00%	Sample Hotel Cap Rate:	6.75%	Stabilized TIF Note:	$7,550,000
Sales Expense:	2.00%	Sales Expense:	2.00%	TIF Note Rate:	6.50%
Development Cost:	$85,555,915	Development Cost:	$76,992,070	Initial Annual TIF P&I:	$667,000
Equity Investment	$25,666,775	Equity Investment	$28,872,026		
Initial First Mortgage	$59,889,140	Initial First Mortgage	$48,120,044		
Additional Debt:	$0	Additional Debt:	$0		