

Agenda
Edina Housing and Redevelopment Authority
City of Edina, Minnesota
VIRTUAL MEETING

Thursday, September 10, 2020

7:30 AM To make live testimony: 800-374-0221, the conference ID number is 4823889. Watch meeting: <https://www.edinamn.gov/746/Watch-a-City-Meeting> or Facebook Live at <https://www.facebook.com/edinamn/>.

- I. Call to Order
- II. Roll Call
- III. Pledge of Allegiance
- IV. Approval of Meeting Agenda
- V. Community Comment

During "Community Comment," the Edina Housing and Redevelopment Authority (HRA) will invite residents to share new issues or concerns that haven't been considered in the past 30 days by the HRA or which aren't slated for future consideration. Individuals must limit their comments to three minutes. The Chair may limit the number of speakers on the same issue in the interest of time and topic. Generally speaking, items that are elsewhere on today's agenda may not be addressed during Community Comment. Individuals should not expect the Chair or Commissioners to respond to their comments today. Instead the Commissioners might refer the matter to staff for consideration at a future meeting.

- VI. Adoption of Consent Agenda

All agenda items listed on the consent agenda are considered routine and will be enacted by one motion. There will be no separate discussion of such items unless requested to be removed from the Consent Agenda by a Commissioner of the HRA. In such cases the item will be removed from the Consent Agenda and considered immediately following the adoption of the Consent Agenda. (Favorable rollcall vote of majority of Commissioners present to approve.)

- A. Draft Minutes of Regular Meeting July 30, 2020
- B. Amendment to Pentagon Village Tax Increment Financing Redevelopment Agreement

- VII. Public Hearings

During "Public Hearings," the Chair will ask for public testimony after City staff members make their presentations. If you wish to testify on the topic,

you are welcome to do so as long as your testimony is relevant to the discussion. To ensure fairness to all speakers and to allow the efficient conduct of a public hearing, speakers must observe the following guidelines:

Individuals must limit their testimony to three minutes. The Chair may modify times, as deemed necessary. Try not to repeat remarks or points of view made by prior speakers and limit testimony to the matter under consideration.

In order to maintain a respectful environment for all those in attendance, the use of signs, clapping, cheering, booing, or any other form of verbal or nonverbal communication is not allowed.

A. PUBLIC HEARING: Resolution 2020-04 Authorizing the Sale of Land to The Sound on 76th Limited Partnership and Approve Redevelopment Agreement

VIII. Reports/Recommendations: (Favorable vote of majority of Commissioners present to approve except where noted)

A. Resolution No. 2020-05 Adopting the Proposed Budget and Establishing the Proposed Tax Levy Payable in 2021

IX. Correspondence

A. Correspondence

X. HRA Commissioners' Comments

XI. Executive Director's Comments

XII. Adjournment

The Edina Housing and Redevelopment Authority wants all participants to be comfortable being part of the public process. If you need assistance in the way of hearing amplification, an interpreter, large-print documents or something else, please call 952-927-8861 72 hours in advance of the meeting.



Edina Housing and Redevelopment
Authority
Established 1974

CITY OF EDINA
HOUSING & REDEVELOPMENT
AUTHORITY
4801 West 50th Street
Edina, MN 55424
www.edinamn.gov

Date: September 10, 2020

Agenda Item #: VI.A.

To: Chair & Commissioners of the Edina HRA

Item Type:
Minutes

From: Liz Olson, Administrative Support Specialist

Item Activity:
Action

Subject: Draft Minutes of Regular Meeting July 30, 2020

ACTION REQUESTED:

Approve the regular minutes of July 30, 2020.

INTRODUCTION:

See attached meeting minutes of July 30, 2020.

ATTACHMENTS:

Minutes: Draft Minutes of Regular Meeting July 30, 2020

**MINUTES
OF THE REGULAR MEETING OF THE
EDINA HOUSING AND REDEVELOPMENT AUTHORITY
JULY 30, 2020
7:30 A.M.**

I. CALL TO ORDER

Chair Hovland called the meeting to order at 7:30 a.m. and noted the meeting was being held virtually to comply with the Governor's Stay at Home Order due to the COVID-19 pandemic then explained the processes created for public comment.

II. ROLL CALL

Answering roll call were Commissioners Anderson, Fischer, Staunton, and Chair Hovland.

Absent: Commissioner Brindle.

III. PLEDGE OF ALLEGIANCE

IV. MEETING AGENDA APPROVED - AS PRESENTED

Motion by Commissioner Fischer, seconded by Commissioner Anderson, approving the meeting agenda as presented.

Roll call:

Ayes: Anderson, Fischer, Staunton, and Hovland

Motion carried.

V. COMMUNITY COMMENT

No one appeared.

VI. APPROVAL OF CONSENT AGENDA – AS PRESENTED

VI.A. Approve minutes of June 25, 2020, Regular meeting

VI.B. Request for Purchase; awarding the bid to the recommended low bidder, Grandview Preliminary Engineering Services.

Approve Payment of Claims for HRA Check Register from June 25-July 23, 2020, totaling \$15,913.91.

VI.C. Request for Purchase; awarding the bid to the recommended low bidder, Grandview 2 TIF District, Preliminary Engineering Services, SEH, Barr Engineering, and Kimley-Horn totaling \$216,174.

Motion by Commissioner Fischer, seconded by Commissioner Anderson, approving the consent agenda as presented.

Rollcall:

Ayes: Anderson, Fischer, Staunton, and Hovland

Motion carried.

VII. REPORTS/RECOMMENDATIONS

VII.A. RECOMMENDATION PERTAINING TO AMUNDSON AVENUE TIF DISTRICT INCREMENT – RECEIVED

Affordable Housing Development Manager Hawkinson shared that on December 12, 2019 the City Council approved the creation of the Amundson Avenue TIF District as required in order to use Southdale 2 "Special Legislation" pooling for the acquisition of 7075-7079 Amundson Avenue. The proposed affordable housing development did not require the captured increment to complete the construction of the apartment therefore the HRA could decide to either decertify the District early or capture the increment to fund future affordable housing developments. She shared an example of potential funding available and anticipated the Amundson increment balance would be approximately \$317,000 after 5 years and \$650,000 at ten years and that staff recommended

retaining the use of increment from the Amundson District to use it for project related expenses, such as the bike path, and the remainder to help facilitate additional affordable housing development.

The Commission asked questions regarding if funds would go away, past expenses, and if an easement would be granted and any compensation and asked for caution using this tool in the current economic climate. Ms. Hawkinson explained the sunset period for funds to be returned for distribution and negotiations occurring on the land easement.

Nick Anhut, Ehlers and Associates, spoke about the direction of whether or not to pursue opportunities on this site and retaining the tool to provide affordable housing here or elsewhere then noted the project would hit tax base in 2022 and potentially last for 20 years if no termination action was taken. He explained the district could be utilized to assist the development of the Amundson site as long as it maintained its affordability but referred to the sunset of 2021.

Motion by Commissioner Fischer, seconded by Commissioner Staunton, Extending the Amundson TIF District for the purpose of pooling funds for potential future use at the Amundson site or other future sites.

Rollcall:

Ayes: Anderson, Fischer, Staunton, and Hovland

Motion carried.

VII.B. APPROVE A REVOLVING LINE OF CREDIT AGREEMENT WITH WEST HENEPIN AFFORDABLE HOUSING LAND TRUST – APPROVED

Ms. Hawkinson shared this item would approve a revolving line of credit with West Hennepin Affordable Housing Land Trust (WHAHLT) for the expansion of their Homes Within Reach program in Edina. She shared background on the program that included a \$1,300,000 line of credit loan for the acquisition and rehabilitation of three houses placed into a land trust and that of these funds, approximately \$840,000 would permanently be placed with the homes and function as a grant. She said the program was designed to remove funding limitations through the creation of an Edina Revolving Loan program (ERLP) and explained how Edina was confronted with the fact entry-level properties were overpriced for most work-force households and how the program expanded homeownership opportunities and brought younger households into a community.

The Commission confirmed funds in Item VII.A were eligible for this source and asked about other tools for the Southdale II District fund. Ms. Hawkinson said she was unaware of other tools then explained the Southdale II or TIF funds could not be used because this was a home ownership program and not a rental housing program but noted the Affordable Housing Trust Fund had a balance of \$1.9 million.

Motion by Commissioner Staunton, seconded by Commissioner Fischer, approving a revolving line of credit agreement with HRA and WAHLT to expand the Land Trust Program as presented.

Rollcall:

Ayes: Anderson, Fischer, Staunton, and Hovland

Motion carried.

VIII. CORRESPONDENCE

VIII.A. CORRESPONDENCE - RECEIVED

Chair Hovland acknowledged the Council's receipt of various correspondence.

IX. HRA COMMISSIONERS' COMMENTS – Received

X. EXECUTIVE DIRECTOR'S COMMENTS – Received

Minutes/HRA/July 30, 2020

XA. 6600-6800 FRANCE - PROJECT UPDATE – Received

XB. PENTAGON VILLAGE - PROJECT UPDATE – Received

XI. ADJOURNMENT

Motion made by Commissioner Anderson, seconded by Commissioner Fischer, to adjourn the meeting at 8:20 a.m.

Roll call:

Ayes: Anderson, Brindle, Fischer, Staunton, and Hovland

Motion carried.

Respectfully submitted,

Scott Neal, Executive Director



Edina Housing and Redevelopment
Authority
Established 1974

CITY OF EDINA
HOUSING & REDEVELOPMENT
AUTHORITY
4801 West 50th Street
Edina, MN 55424
www.edinamn.gov

Date: September 10, 2020

Agenda Item #: VI.B.

To: Chair & Commissioners of the Edina HRA

Item Type:
Report / Recommendation

From: Bill Neuendorf, Economic Development Manager

Item Activity:

Subject: Amendment to Pentagon Village Tax Increment
Financing Redevelopment Agreement

Action

ACTION REQUESTED:

Approve Amendment #2 to the Pentagon Village Tax Increment Financing Redevelopment Agreement.

INTRODUCTION:

The Amendment to the TIF Redevelopment Agreement pertains to start and completion dates for upcoming phases at the site. The two anticipated hotels have been delayed due in large part to the economic decline related to the COVID-19 pandemic. This Amendment only addresses the deadlines for upcoming phases. It is possible that additional amendments are necessary depending on the pace of the economic recovery.

The Amendment was prepared by special legal counsel Dorsey & Whitney and is agreeable to the developer. This Amendment was also approved by the Edina City Council at their September 1, 2020 meeting.

Staff recommends approval of the Amendment to the TIF Redevelopment Agreement.

ATTACHMENTS:

TIF Amendment #2

SECOND AMENDMENT

to

REDEVELOPMENT AGREEMENT

by and among

CITY OF EDINA, MINNESOTA,

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

and

PENTAGON VILLAGE, LLC

**Dated as of
September 1, 2020**

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

**SECOND AMENDMENT TO
REDEVELOPMENT AGREEMENT
(Pentagon South)**

THIS SECOND AMENDMENT TO REDEVELOPMENT AGREEMENT (“Amendment”) is made and entered into as of September 1, 2020 (the “Second Amendment 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 PENTAGON VILLAGE, LLC, a Delaware limited liability company (“Redeveloper”).

RECITALS

A. The City, the Authority, and Redeveloper are parties to a Redevelopment Agreement dated October 16, 2018 (the “Original Agreement”), as amended by that certain First Amendment to Redevelopment Agreement dated February 5, 2019 (the “First Amendment”, together the Original Agreement, collectively with the, the “Existing Agreement”).

B. Upon the terms and conditions set forth in the Existing Agreement, the Authority agreed to provide Redeveloper with certain TIF Assistance in connection with Redeveloper’s redevelopment of certain property located within in the City’s Pentagon Park Tax Increment Financing District, as such property more particularly described in the Agreement.

C. As set forth in the Original Agreement, in order for the Authority to provide Redeveloper with TIF Assistance, Redeveloper must construct certain Minimum Improvements on or before corresponding Completion dates and satisfy other conditions, all as set forth in the Existing Agreement.

D. As of the date hereof, Redeveloper has completed the Retail Element, the Plaza Element, the Project Site Work, and the Initial Parking Element, each in accordance with the Existing Agreement, but due to current economic conditions, Redeveloper is unable to meet other required Completion dates and other conditions to the Authority’s TIF Assistance set forth in the Existing Agreement.

E. Upon the terms and conditions set forth in this Amendment, the Authority and the City have agreed to extend certain Completion dates and otherwise modify certain conditions to the Authority’s TIF Assistance set forth in the Existing Agreement, and otherwise amend the Existing Agreement as set forth herein.

NOW, THEREFORE, in consideration of the promises and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

1. Recitals; Definitions. The Recitals are true and correct statements of fact and are incorporated into this Amendment by this reference, including the definitions set forth therein. Each capitalized term used herein and the Recitals, unless otherwise defined, shall have the respective meaning ascribed to such term in the Existing Agreement. The “Agreement” is the Existing Agreement as amended by this Amendment.

2. Commencement and Completion of Minimum Improvements. Section 6.1 of the Original Agreement, as amended and restated in the First Amendment, is hereby deleted in its entirety and replaced as set forth below in this Section 2. Further, the parties acknowledge and agree that Redeveloper has (subject to receipt of a Certificate of Completion) achieved Completion of the Minimum Improvements associated with the Commencement and Completion dates noted as “**COMPLETED**” in the table set forth below,

each in accordance with the terms and conditions of the Agreement.

“Section 6.1 Commencement and Completion of Minimum Improvements.

The chart below is Redeveloper’s current anticipated timeline for the Commencement and Completion of the Minimum Improvements and the remaining Projected Phase 2 Improvements. The Commencement and Completion dates for the Minimum Improvements shall be substantially in accordance with the below timeline, and failure to meet such dates shall be a Default as described in Section 6.2. The actual completion of the remaining Phase 2 Minimum Improvements will be driven by market conditions and failure to meet the below dates for the remaining Projected Phase 2 Minimum Improvements will not be a Default under this Agreement. Redeveloper shall notify the Authority of material changes to the following Commencement and Completion dates. Redeveloper shall periodically provide the Authority with written notification related to meeting proposed construction benchmarks.

Minimum Improvements Timeline			
Minimum Improvements		Commencement	Completion
Phase 1A	Retail Element	No later than July 31, 2019	No later than December 31, 2020 COMPLETED
	Plaza Element	No later than March 1, 2019	No later than 12 months following Completion of the Project Site Work COMPLETED
	Project Site Work	No later than December 1, 2018	No later than December 31, 2019 COMPLETED
Phase 1B	Second Element (Hotel Element 1 anticipated)	No later than July 1, 2023	No later than June 30, 2024
Phase 1C	Initial Parking Element	No later than April 15, 2019	No later than July 31, 2020 COMPLETED
	Third Element (Hotel Element 2 anticipated)	No later than July 1, 2023	No later than December 31, 2024
Phase 2	Fourth Element	No later than October 1, 2024	No later than October 1, 2026
Projected Phase 2 Improvements			
Projected Phase 2 Improvements		Commencement	Completion
	Fifth Element	No later than October 1, 2025	N/A
	Expansion Parking Element	No later than October 1, 2025	N/A

	Sixth Element	No later than October 1, 2025	N/A
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Notwithstanding anything to the contrary set forth in the foregoing Minimum Improvements timeline, the following Completion dates shall apply to those certain portions of the Project Site Work described in clauses (a) through (c) below (collectively, the “Future Project Site Work”):

(a) Redeveloper has completed the following aspects of the Project Site Work:

(i) any item of Project Site Work identified on the Final Civil Plans as “future” work, including the Public Infrastructure Improvements on W. 77th Street and Computer Avenue, the sidewalk improvements and trees adjacent to the retail buildings on W. 77th Street (i.e., the Retail Element), and the curb, sidewalks and trees adjacent to the Plaza Element and the surface parking lot; and

(ii) rough-grading and seeding (without any perimeter landscaping or sidewalk) for that portion of Lot 5 that will contain the Phase 2 Minimum Improvements (expected to be the first office Element).

(b) Redeveloper shall cause the Completion of the installation of the perimeter sidewalk and trees along Computer Avenue and Viking Drive to occur by the later of (i) 60 days after the Completion of an Element of Minimum Improvements on either Lot 3 or Lot 4 or (ii) June 30th of the year after said improvements are completed.

(c) Redeveloper shall cause the Completion of the installation of the Perimeter sidewalk and trees along Normandale Road to occur by the later of (i) 60 days after the Completion of an Element of Minimum Improvements on that portion of Lot 5 (or formerly described as Lot 5) adjoining Normandale Road or (ii) June 30th of the year after said improvements are completed.”

(d) Redeveloper shall cause the Completion of the installation of the perimeter sidewalk improvements and trees adjacent to the Element of Minimum Improvements projected to be an approximately 19,000 square foot retail/office Element with associated parking located at the intersection of West 77th and Computer Avenue as shown on the Project Area Map to occur by the later of (i) 60 days after the Completion of such an Element of Minimum Improvements on Lot 4 or (ii) June 30th of the year after said improvements are completed.”

3. Accrual of Interest under TIF Note A. Notwithstanding any provision in the Agreement to the contrary, accrual of interest on the unpaid principal balance of TIF Note A (but not payments to Redeveloper of Available Tax Increment) shall commence on **August 1, 2020**; provided, however, if Redeveloper fails to deliver to the Authority a final, updated TIF Pro Forma (with all final costs and no estimated costs for work completed on or prior to August 1, 2020) by **Friday, November 6, 2020**, then the Authority may suspend accrual of interest under TIF Note A until such final, updated TIF Pro Forma and supporting documentation required by the Agreement are delivered to the Authority.

4. Preconditions to Payments under TIF Note A. Notwithstanding any provision in the Agreement to the contrary, commencement of payment of Available Tax Increment under TIF Note A is

subject to Redeveloper's satisfaction of each of the following conditions:

- (a) Redeveloper is not in Default under the terms of this Agreement;
- (b) Redeveloper has issued any applicable Go-Ahead Letter with respect to any additional Element and/or Phase to be constructed;
- (c) Redeveloper has not allowed a Material Deviation (as such term is defined below) from the Pentagon South Final Development Plan which remains uncured. A "Material Deviation" for purposes of this clause (b) equates to an objective deviation from the Pentagon South Final Development Plan, and not a subjective determination that the intent of the Pentagon South Final Development Plan is not met or there are minor variations to the final architecture or the color of building materials, excluding any deviation or amendment to the Pentagon South Final Development Plan that is approved by the City;
- (d) Completion of the Project Site Work, but excluding the Future Project Site Work, all in accordance with the Pentagon South City Approvals (including, specifically, the Final Civil Plans); provided, however, Redeveloper shall cause the Completion of the Future Project Site Work to occur by no later than the dates set forth in Section 6.1(a) through (c); and further provided that if Completion of the Future Project Site Work as provided above has not occurred by such applicable Completion dates, it shall be an automatic Event of Default until the timely Completion of the applicable Future Project Site Work, and, notwithstanding anything to the contrary regarding the remedies afforded to the Authority following an Event of Default, the Authority's sole remedy for the failure to meet the applicable Completion Dates for the Future Project Site Work shall be the suspension of payments and accrual of interest under TIF Note A until such Event of Default is so cured; and
- (e) if, by the date on which the conditions set forth in Sections 4(a) through (d) of this Amendment have been satisfied, the improvements to the Project Area which have reached completion have not, collectively, increased the Market Value of the Project Area to the Minimum Valuation as demonstrated by an updated TIF Pro Forma, then, as a final condition to commencement of payment of Available Tax Increment under TIF Note A, Redeveloper must enter into one or more Minimum Assessment Agreements in accordance with Section 8.3 of the Original Agreement until such time as the Minimum Valuation is achieved by additional improvements to the Project Area.

5. Redeveloper Events of Default. Section 13.2 of the Original Agreement, as amended and restated in the First Amendment, is hereby deleted in its entirety and replaced as set forth below in this Section 5.

"Section 13.2 Redeveloper Events of Default. The following shall be Events of Default for Redeveloper:

- (a) subject to Unavoidable Delays and Cure Rights, Redeveloper's failure to achieve Commencement and Completion of any the Phase 1 Minimum Improvements by the applicable dates set forth in accordance with Section 6.1;
- (b) if Redeveloper is obligated to convey the Plaza Easement and/or Parking Facilities Easement to the City in accordance with this Agreement, failure by Redeveloper to so convey the Plaza Easement and/or Parking Facilities Easement to the City for a period of 10 business days after

written notice of such failure from the City or the Authority;

- (c) subject to Cure Rights, failure by Redeveloper to observe or perform any other 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;
- (d) prior to the delivery of a Certificate of Completion with respect to any Element or Phase of the Minimum Improvements owned by Redeveloper, Redeveloper 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 Redeveloper, 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 Redeveloper, or of the Minimum Improvements, or part thereof, shall be appointed in any proceeding brought against Redeveloper, and shall not be discharged within 90 days after such appointed, or if Redeveloper shall consent to or acquiesce in such appointment; and
- (e) Redeveloper's failure to maintain the Project Site Work in a safe and secure way in compliance with Section 11.1, and said failure is not cured within thirty (30) days after receipt of written notice from the City specifying in detail such failure.

6. Authority Remedies on Redeveloper Events of Default. Section 13.5 of the Original Agreement, as amended and restated in the First Amendment, is hereby deleted in its entirety and replaced as set forth below in this Section 6.

“Section 13.5 Authority Remedies on Redeveloper Events of Default. Whenever any Event of Default occurs by Redeveloper, the Authority may take any one or more of the following actions: terminate this Agreement (but not any previously issued TIF Note, as regards that Element or Phase), **except the Authority will have no right to terminate this Agreement as a result of a default under Sections 4.6 and 11.1,** except as otherwise provided herein;

- (b) exercise its rights under Section 8.2(a)(ii)(3), Section 8.2(a)(iii)(3), and/or Section 8.4 of this Agreement regarding Redeveloper's TIF eligibility;
- (c) suspend performance under this Agreement until it receives assurances from Redeveloper, deemed adequate by the Authority, that Redeveloper will cure the Event of Default and continue its performance under this Agreement, withhold the Certificate of Completion for any Element or Phase of the Minimum Improvements not yet delivered, and take whatever action at law or in equity 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 Redeveloper under this Agreement;
- (d) with regard to an Event of Default under Section 13.2(e), the Authority may, in addition to any other rights afforded it, suspend the accrual of interest under TIF Note A until the Default is cured; and

(e) the Authority shall have all remedies normally available at law and in equity to enforce performance of this Agreement including a right to specific performance.

7. Ratification. Except as specifically modified by this Amendment, the terms and provisions of the Existing Agreement shall remain in full force and effect.

8. Binding Effect. This Amendment amends and supplements the Agreement. If there is a conflict between the provisions of the Existing Agreement and this Amendment, the provisions of this Amendment shall control. This Amendment shall be binding upon and inure to the benefit of the City, the Authority, Redeveloper, and their respective successors and assigns.

9. Counterparts. This Amendment may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Facsimile or email copies shall be deemed originals.

[Remainder of page intentionally left blank; signature pages follow]

IN WITNESS WHEREOF, the City, the Authority and Redeveloper have caused this Amendment 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 _____, 2020, 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

HOUSING AND REDEVELOPMENT
AUTHORITY OF EDINA, MINNESOTA

By: _____
James B. Hovland, Chair

By: _____
Michael Fischer, Secretary

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2020,
by James B. Hovland and Michael Fischer, the Chair and Secretary, respectively, of the Housing and
Redevelopment Authority of Edina, Minnesota, on behalf of said Authority.

Notary Public

PENTAGON VILLAGE, LLC
a Minnesota limited liability company

By: _____

Name: _____

Its: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ___ day of _____, 2020,
by _____, the _____ of PENTAGON VILLAGE, LLC, a Minnesota
limited liability company, on behalf of the limited liability company.

Notary Public



Edina Housing and Redevelopment
Authority
Established 1974

CITY OF EDINA
HOUSING & REDEVELOPMENT
AUTHORITY
4801 West 50th Street
Edina, MN 55424
www.edinamn.gov

Date: September 10, 2020

Agenda Item #: VII.A.

To: Chair & Commissioners of the Edina HRA

Item Type:
Report / Recommendation

From: Stephanie Hawkinson, Affordable Housing
Development Manager

Item Activity:

Subject: PUBLIC HEARING: Resolution 2020-04
Authorizing the Sale of Land to The Sound on 76th
Limited Partnership and Approve Redevelopment
Agreement

Action

ACTION REQUESTED:

Adopt Resolution 2020-04 and approve Redevelopment Agreement.

INTRODUCTION:

On August 29, 2019 the Edina HRA bought 4100 W. 76th Street and entered into a Purchase Agreement with 4100 Edina, LLC for sale of the property once all necessary financing was secured. The HRA agreed to sell the property for \$2,900,000.

Since that time, Aeon, as the sole member of 4100 Edina LLC, has secured financing and site plan approval to complete this development. Rather than conveying the property to 4100 Edina LLC, the property will be conveyed to The Sounds on 76th, Limited Partnership, of which 4100 Edina LLC is the General Partner.

The Redevelopment Agreement spells out the requirements that the land will be developed into 70 units of affordable housing that will remain affordable for 40 years. There is a Right of reversion of the property is not developed.

The Staff Report, Resolution, and Redevelopment Agreement are attached.

ATTACHMENTS:

Staff Report

Resolution 2020-04

Redevelopment Agreement

106 Review Final Determination



Date: September 10, 2020

To: Chair and Commissioners of the Edina HRA

From: Stephanie Hawkinson, Affordable Housing Development Manager

Subject: PUBLIC HEARING: Resolution No. 2020-04 Authorizing Sale of Land to The Sound on 76th, LP and Approve Redevelopment Agreement

Information / Background:

On November 29, 2018 the Edina Housing and Redevelopment Authority authorized Staff to work with outside counsel to prepare legal documents for the acquisition and future conveyance of 4100 West 76th Street (the “Parcel”). The HRA acquired the Parcel on August 30, 2019 and entered into a Purchase Agreement with 4100 Edina, LLC, (“General Partner”) of which Aeon is the sole Member.

Aeon is proposing a 100% workforce housing development containing 70 units with a combination of 1-, 2- and 3-bedrooms to serve households with incomes ranging from less than 30% of Area Median Income (AMI) to at or below 60% of AMI. Parking for residents and guests would be provided on site.

The HRA acquired the Parcel for \$2,900,000 and initially agreed to sell it to the General Partner for \$500,000. The difference (\$2.4M) being the HRA’s contribution to the development. Now however, due to Minnesota Housing’s funding system and Metropolitan Council requirements, it is better if the HRA conveys the Parcel for the full \$2,900,000 and separately enter into a Redevelopment Agreement for \$2,400,000 plus the previously approved \$798,000 TIF award.

Aeon was awarded full funding in April and is working towards an autumn financial closing. Weather permitting, construction will start soon thereafter.

Sale of 4100 West 76th Street

With financing and land use approvals secured, Aeon is seeking to acquire the property. Resolution 2020-04 authorizes the sale of 4100 W. 76th St. to The Sound on 76th, Limited Partnership, of which Aeon is the sole member of the General Partner.

Low Income Housing Tax Credit developments are structured whereby a Limited Partnership is formed that will own the development. The Tax Credit investor, in this case US Bank, becomes the Limited Partner and Aeon is a member of the General Partner, 4100 Edina, LLC. The sale of the land will be to the Limited Partnership.

Redevelopment Agreement Highlights

To secure the intent of the land-sale for the development of affordable housing, Staff is also seeking approval of a Redevelopment Agreement between the HRA and The Sound on 76th LP. The complete Redevelopment Agreement is attached with a summary of key terms below.

- The development will provide 70 units of affordable housing.
- The HRA will sell the Parcel to The Sound on 76th LP for \$2,900,000.
- The HRA will provide \$2,400,000 as a 40-year deferred loan using Southdale 2 Special Legislation TIF pooled funds.
- The HRA will provide \$798,000 in TIF secured through a Pay-Go Note.
- TIF expenditures will be reviewed after completion with the option to reduce based on actually TIF expenditures needed.
- The Redevelopment Agreement is secured by a Declaration of Covenants and Restrictions that will be in place for 40-years.
- A Right of Reverter clause is included whereby if construction does not commence by May 1, 2021, the HRA may require that the property be transferred back to the HRA.
- Development must be completed by July 1, 2022.
- 100% of the units must be affordable: Eight units affordable to households with incomes at or below 30% of Area Median Income (AMI); 35 units affordable to households with incomes at or below 50% of AMI; and 27 units affordable to households with incomes at or below 60% of AMI.
- The Sound on 76th LP may assign their rights and obligations under the Redevelopment Agreement to US Bank, the construction lender.
- The Limited Partner has the right to cure any defaults.

Section 106 Review

Due to the use of HUD funds for this project, a Section 106 review was required to determine if there were any historical significance to the building that would make it eligible to be placed on the National Registry of Historic Places. An analysis was completed and submitted to Aeon on February 1, 2019 determining that the building did not meet the criteria to be listed on the National Registry. On February 21, 2020, the State Historic Preservation Office (SHPO) informed Minnesota Housing that they concurred with the findings allowing for the building to be demolished. This determination was brought into question in August, causing the file to be re-opened. After a second review by HUD and SHPO, the earlier determination stands, and the development may proceed.

Approved Budget Action

Special Legislation TIF	Estimated Balance	Requests	Repayments
Starting Pooling Capacity	\$7,485,831		
4100 Edina		(\$2,400,000)	
Amundson Flats		(\$1,300,000)	\$600,000
Future Funding Capacity	\$4,385,831		

Previous Approvals

- HRA Resolution No. 2018-03, up to \$925,000 in tax increment financing to facilitate the financing of Aeon's proposed affordable housing development (of this, only \$798,000 is needed).
- HRA Resolution No. 2018-04, the HRA approved \$2,400,000 in financing the development.
- Planning Commission Resolution No. 2018-02 finding that the proposed development plans for the affordable housing project proposed by Aeon is consistent with the Comprehensive Plan.
- HRA Resolution No. 2018-11 establishing West 76th Street Tax Increment Financing District and Modify Southdale 2 Tax Increment Financing Plan.
- City Council Resolution No. 2020-20 authorized Metropolitan Council LCDA and LHIA Grant Agreements.
- March 4, 2020 City Council approved final rezoning and final Development Plan.
- June 2, 2020 City Council approved Site Plan Improvement Agreement.

Public Purpose/Comprehensive Plan Conformance

The Greater Southdale District Plan calls for additional infill development of a similar or higher intensity. The presence of jobs, retail and services, transit, and public amenities means this area contains the elements for a complete community, which can leverage these advantages for a convenient and accessible lifestyle for a range of household types.

Affordable housing is a necessary component of the housing mix. This is especially true given the demographic future of Greater Southdale. The expected growth in the senior population and the desire to attract young workers and families both point to the need to have more affordable housing, including options for those that might choose to move here from other parts of the community. Supporting the vision of an Edina where residents can find housing options at all life stages will require a deliberate approach to affordability.

The proposed Aeon development also complies with Land Use Goal #4, which states: "Provide for housing choices (housing and unit types, rental and ownership, and costs) to accommodate a wide range of individuals, including youth, singles, couples, families with children, seniors, and people with special needs."

The proposed project fulfills many of the aspirations and visions found within the Greater Southdale District Plan and the Greater Southdale Design Guidelines. Not only will this project allow lower-income residents to take advantage of a redeveloping area, it will add pedestrian and community amenities that will contribute to making these plans a reality. This includes the following:

- Creating public spaces and activating the public realm, which this project would accomplish through the public plaza.
- Encouraging multi-modal transportation through the creation of the North-South trail usable by both pedestrians and bicyclists, the enhanced, integrated bus stop and bike racks.

Staff Recommendation

Approve Resolution No. 2020-04 Authorizing Sale of Land to The Sound on 76th, LP and Approve Redevelopment Agreement

**HOUSING AND REDEVELOPMENT AUTHORITY OF EDINA, MINNESOTA
HENNEPIN COUNTY
STATE OF MINNESOTA**

RESOLUTION NO. 2020-04

**RESOLUTION AUTHORIZING SALE OF LAND TO
THE SOUND ON 76TH, LIMITED PARTNERSHIP**

WHEREAS, the Board of Commissioners (the "Board") of the Housing and Redevelopment Authority of Edina, Minnesota (the "HRA"), after proper public notice, held a hearing at approximately 7:30 A.M. on September 10, 2020 with regard to the sale of the following parcels of land (the "Land"):

Tract J, Registered Land Survey No. 1129, Hennepin County, Minnesota. Torrens Property

WHEREAS, the HRA has approved entering into a Purchase Agreement (the "Purchase Agreement"), pursuant to which the HRA will sell the Land to The Sound on 76th Limited Partnership, a Minnesota limited partnership ("The Sound"); and

WHEREAS, the HRA has approved entering into a Redevelopment Agreement with The Sound, pursuant to which the HRA will provide certain financial assistance in connection with The Sound's redevelopment of the Land with a four-story, 70-unit, 100% affordable, "workforce" housing community, known as "The Sound on 76th" (the "Redevelopment Agreement"); and

WHEREAS, the Purchase Agreement and the Redevelopment Agreement (collectively, the "Agreements") include all the relevant terms regarding the sale of the Land; and

WHEREAS, the HRA hereby concludes that all the requirements of Minnesota Statutes, Section 469.029 regarding the sale of the Land have been satisfied.

NOW, THEREFORE, BE IT RESOLVED by the Board as follows:

The HRA authorizes the sale of the Land to The Sound under the terms and conditions of the Agreements and the Chair and Executive Director are authorized to execute the documents required to complete the sale.

Approved by the Board on September 10, 2020.

James B. Hovland, Chair

ATTEST:

Michael Fischer, Secretary

STATE OF MINNESOTA)
COUNTY OF HENNEPIN) SS
CITY OF EDINA)

CERTIFICATE OF EXECUTIVE DIRECTOR

I, the undersigned duly appointed and acting Executive Director for the Housing and Redevelopment Authority of Edina, Minnesota, do hereby certify that the attached and foregoing Resolution is a true and correct copy of the Resolution duly adopted by the Housing and Redevelopment Authority of Edina, Minnesota at its Meeting of September 10, 2020, and as recorded in the Minutes of said Meeting.

WITNESS my hand and seal of said City this _____ day of September, 2020.

Scott Neal, Executive Director

RESOLUTION NO. _____

Redevelopment Agreement

by and between

Housing and Redevelopment Authority of Edina, Minnesota,

and

The Sound on 76th Limited Partnership

**Dated as of
September 10, 2020**

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

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<u>Exhibit A</u>	Legal Description of the Property
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<u>Exhibit D</u>	Form of TIF Note
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<u>Exhibit F</u>	Form of TIF Loan Agreement
<u>Exhibit G</u>	Form of Release of Reverter
<u>Exhibit H</u>	Form of Project Funding Certificate
<u>Exhibit I</u>	Form of Affordable Housing Restrictive Covenant
<u>Exhibit J</u>	Memorandum of Redevelopment Agreement

Redevelopment Agreement
(The Sound on 76th)

This Redevelopment Agreement (this “Agreement”) is made and entered into September 10, 2020 (“Effective Date”), by and between 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 **THE SOUND ON 76TH LIMITED PARTNERSHIP**, a Minnesota limited partnership, (“Developer”).

RECITALS

A. Pursuant to Minnesota Statutes, Sections 469.001 to 469.047 and Sections 469.174 to 469.1794, inclusive, as amended (the “TIF Act”), the City of Edina, Minnesota, a Minnesota statutory city (the “City”) and the Authority previously established the “Southeast Edina Redevelopment Plan” for the “Southeast Edina Redevelopment Project Area” in order to encourage the development and redevelopment of such designated area within the City, including increasing the availability of affordable housing.

B. To further support the creation of new affordable housing in the City, the Authority and the City secured special modifications to the TIF Act from the Minnesota Legislature, set forth in Minnesota Session Laws 2014, Chapter 308, Article 6, Section 8, as amended by Minnesota Session Laws 2017, First Special Session Chapter 1, Article 6, Sections 11 and 16 and Minnesota Session Laws 2019, First Special Session Chapter 6, Article 7, Section 3 (the “Special TIF Housing Legislation”).

C. In accordance with the Special TIF Housing Legislation, the City and the Authority may create new housing tax increment financing (TIF) districts within the Southeast Edina Redevelopment Project Area and use the new tax increment and/or the tax increment generated from the existing Southdale 2 TIF District to support the creation of new affordable housing in the City.

D. Pursuant to Authority Resolution No. 2018-11, adopted November 15, 2018, and City Council Resolution 2019-120 adopted November 20, 2018 (collectively, the “Authorizing Resolutions”), the Authority and the City adopted a Tax Increment Financing Plan (the “TIF Plan”) for the establishment of the West 76th Street Tax Increment Financing District (the “TIF District”), a housing TIF district pursuant to and in conformity with the TIF Act and the Special TIF Housing Legislation.

E. The TIF District encompasses that certain property located at 4100 West 76th Street, Edina Minnesota and legally described on the attached **Exhibit A** (the “Property”).

F. Developer has proposed a project to redevelop and improve the Property with a four-story, 70-unit, 100% affordable, housing community, known as “The Sound on 76th” (as more particularly described in this Agreement, the “Project”).

G. Pursuant to City Council Resolution 2020-32, adopted March 4, 2020, the City approved the final rezoning, final plat, and final development plan for the Project.

H. In order to facilitate the construction of the Project and development of new affordable housing in accordance with the Authorizing Resolutions and the TIF Plan, the Authority is willing to (i) provide TIF Assistance to Developer by issuance of a TIF Note in the maximum principal amount of **\$798,000.00** and (ii) provide a **\$2,400,000** deferred loan, all upon the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual obligations of the parties to this Agreement, 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. All capitalized terms used and not otherwise defined herein shall have the following meanings unless a different meaning clearly appears from the context:

“Affordable Housing Restrictive Covenant” has the meaning set forth in 5.3.

“Affordable Units” has the meaning set forth in Article V.

“AMI” means the Area Median Income for the Minneapolis-Saint Paul-Bloomington Metropolitan Statistical Area (including adjustments for household size), as determined by the U.S. Department of Housing and Urban Development.

“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 their designee.

“Available Tax Increments” are the Tax Increments received by the Authority less the amount of Tax Increments, if any, which the Authority must pay to the school district, the City, the County and the State pursuant to the TIF Act, including without limitation Minnesota Statutes, Sections 469.177, Subds. 9 and 11; 469.176, Subd. 4h; and 469.175, Subd. 1a, as the same may be amended from time to time.

“Board” means the Board of Commissioners of the Authority.

“Certificate of Completion” means a certificate in substantially the form attached as Exhibit B, to be issued by the Authority pursuant to the terms of 4.9.

“City” means the City of Edina, Minnesota.

“City Approvals” means, collectively, the PUD Ordinance, the Project Approval Resolution, the Final Development Plan, and the Site Improvement Contract.

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

“Commencement” means actual physical construction of the first visible improvement to the Property made in furtherance of the construction of the Project, specifically including pouring footings and foundations, but specifically excluding demolition of and environmental remediation related to the improvements on the Property existing of the Effective Date.

“Completion” means Developer’s receipt of the Certificate of Completion from the Authority.

“County” means the County of Hennepin, Minnesota.

“Cure Rights” means the rights to cure a Default as specified in 10.4 before such Default is deemed to be an Event of Default.

“Default” means an act or omission by the Authority or Developer that 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.

“Deferred TIF Loan” has the meaning set forth in Section 3.7.

“Developer” means The Sound on 76th Limited Partnership, its permitted successors and/or assigns.

“Effective Date” means the date first set forth above.

“Eligible Reimbursable Expenses” has the meaning set forth in Section 3.2.

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

“Event of Default” means any of the events by the Authority or Developer described in Article X.

“Final Development Plan” means the final development plan for the Project as approved by the City pursuant to the Project Approval Resolution.

“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, including, without limitation, the TIF Act and the Special TIF Housing Legislation.

“LURA” has the meaning set forth in Section 5.2.

“Master Disbursement Agreement” means the agreement by and among Developer, the Authority, Guaranty Title, and the lenders of the Other Project Financing (as defined in the TIF Loan Agreement), pursuant to which the Project funds will be disbursed for the construction of the Project, including the proceeds from the Deferred TIF Loan, in a form reasonable acceptable to the Authority.

“Memorandum of Agreement” means the document described in 11.16 and substantially in the form shown in **Exhibit J**.

“MHFA” means the Minnesota Housing Finance Agency.

“Mortgage” means any mortgage or other security interest in or lien upon any portion of the Property securing any loan made to Developer for the purpose of obtaining funds necessary for Developer’s acquisition of the Property and constructing the Project, as the same may be amended, supplemented, restated or renewed from time to time.

“Pledged Tax Increments” means **90.0%** of the Available Tax Increments.

“Policy Guide” has the meaning set forth in Section 5.2(f)(iv).

“Project” means the construction and development of a four-story, 70-unit, 100% affordable, housing community, known as “The Sound on 76th” on the Property, in accordance with and as the same is more particularly described in the City Approvals.

“Project Approval Resolution” means City Council Resolution No. 2020-32.

“Project Funding Certificate” means the certificate (in the form attached hereto as **Exhibit H**) required to be delivered by Developer to the Authority in accordance with 4.1.

“Property” means the land legally described on the attached **Exhibit A**.

“PUD Ordinance” means City Ordinance No. 2019-17.

“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 entity in which the majority equity interest is owned by the parties that have a majority equity interest in such person or entity.

“Reverter Closing Date” has the meaning set forth in Section 3.9(b).

“Reverter Deed” has the meaning set forth in Section 3.9(b).

“Site Improvement Contract” means that certain Site Improvement Performance Agreement dated June 2, 2020, entered into by and between the City and Developer, and recorded against the Property.

“Special TIF Housing Legislation” has the meaning set forth in Recital B.

“State” means the state of Minnesota.

“Tax Increments” means the tax increments derived from the TIF District which have been 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 and the Special TIF Housing Legislation.

“TIF Act” has the meaning set forth in Recital A.

“TIF Assistance” means reimbursement of Eligible Reimbursable Expenses through payments from the Authority to Developer of Pledged Tax Increments pursuant to the terms and conditions of the TIF Note and applicable Law.

“TIF District” has the meaning set forth in Recital D.

“TIF Note” has the meaning set forth in Section 3.3(a).

“TIF Loan Agreement” as the meaning set forth in Section 3.7.

“TIF Plan” has the meaning set forth in Recital D.

“TIF Pro Forma” means a detailed sources and uses pro forma for the Project, in the form attached as **Exhibit C**.

“Unavoidable Delays” means actual delays, outside the control of the party claiming its occurrence, to extent such actual delays are a result of (a) unusually severe or prolonged bad weather, (b) acts of God, acts of war, civil unrest, terrorism, criminal conduct of third parties, fire or other casualty to the Project, pandemics (including the global pandemic of COVID-19, commonly known as the coronavirus) (c) litigation commenced by third parties, (d) actions or inactions of any federal, State, or local government unit which directly result in delays, including a declared emergency under Minnesota Statutes, Chapter 12 or due to pandemic or quarantine restrictions imposed by applicable Law, and/or (e) strikes, or other labor trouble, and in each instance to the extent the delayed party gives written notice to the other party(ies) within 10 days after either the occurrence of such event giving rise to each Unavoidable Delay or such party’s reasonable realization that the occurrence will cause an Unavoidable Delay.

Article II **Representations and Warranties**

2.1 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) 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, (i) conflict with or constitute on the part of the Authority a breach of or default under any existing agreement or instrument to which the Authority is a party or by which the Authority or any of its property is or may be bound, or (ii) violate any applicable Law, constitution, or other proceeding establishing or relating to the establishment of the Authority or its officers or its resolutions.

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

(a) Developer is a limited partnership organized and in good standing under the Laws of the state of Minnesota, is not in violation of any provisions of its operating agreement or other organizational documents or the Laws of the State, has 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) 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 Project, 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.

(c) 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.

(d) The construction of the Project would not have been undertaken by Developer, and in the opinion of Developer would not be economically feasible within the reasonably foreseeable future, but for the execution of this Agreement and the TIF Assistance for the Eligible Reimbursable Expenses and other public assistance contemplated to be made available hereunder.

(e) Other than the items disclosed by Developer to the City and the Authority, 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.

(f) 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.

(g) 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 Property 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.

(h) Developer reasonably expects that it will be able to obtain financing in the amount shown on the TIF Pro Forma attached as **Exhibit C**, which amounts will be sufficient, together with funds provided by the Authority and any other public agencies, to enable Developer to construct the Project, as provided herein.

(i) No more than twenty percent of the square footage of the Project will consist of commercial, retail, or other nonresidential uses, pursuant to Minnesota Statutes § 469.1761, subd. 1(a)(2), as amended.

Article III
TIF Assistance; Deferred Loan

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, which as of the date hereof encompasses the entire Property, has been created and established as a “housing” district under the TIF Act and the Special TIF Housing Legislation. The Authority has caused the TIF District to be certified, such that Tax Increment will be available commencing in the tax year 2022.

3.2 **Eligible Reimbursable Expenses.** Costs and expense initially paid by Developer from Developer’s own sources and incurred in furtherance of the construction and development of the Project that are eligible for reimbursement from Pledged Tax Increment under the TIF Act for a “housing district”, shall be eligible for TIF Assistance under the terms and conditions of this Agreement (collectively, “Eligible Reimbursable Expenses”).

3.3 **TIF Note.**

(a) **TIF Note.** 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, one “pay-as-you-go” TIF note (“TIF Note”) in substantially the form attached as **Exhibit D** and in the aggregate maximum principal amount of not to exceed **\$798,000.00**, subject to adjustment pursuant to Section 3.4. The TIF Note shall bear simple interest on the unpaid principal balance thereof at a fixed rate equal to **4.25%** per annum. Payments upon and accrual of interest on the unpaid principal balance of the TIF Note will commence upon the Authority’s issuance of the TIF Note. The TIF Note shall not be funded with tax-exempt bonds.

(b) **Condition of Issuance.** Upon satisfaction of the conditions set forth below, the Authority will issue the TIF Note to Developer in accordance with this Agreement:

(i) Developer shall have provided evidence satisfactory to the Authority that Developer has actually incurred Eligible Reimbursable Expenses in an amount equal to at least the amount of the requested TIF Note;

(ii) Developer shall have provided an updated TIF Pro Forma sufficient to demonstrate that the “but for” finding adopted by the Authority, continues to be satisfied;

(iii) No Developer Default or Event of Default exists under this Agreement or any of the City Approvals; that has not been cured pursuant to Cure Rights;

(iv) the Certificate of Completion for the Project shall have been issued by the Authority in accordance with the terms and conditions of this Agreement; and

(v) the Affordable Housing Restrictive Covenant (as defined in Section 5.3 below) shall have been and recorded against the Property.

(c) **No Representation or Warranty.** Payments of principal and interest under the TIF Note shall be payable solely from Pledged Tax Increment. The Authority does not represent or warrant the amounts of Pledged Tax Increment that will be available for payment principal and interest under the TIF Note. The Authority will not reimburse Developer for Eligible Reimbursable Expenses from Authority revenues, other than from Pledged Tax Increment, nor guaranty the amount of money which Developer will receive as a reimbursement, such amount being payable

solely from the Pledged Tax Increment 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 Note from other funds.

3.4 TIF Assistance Adjustment. The financial assistance to Developer under this Agreement is based on certain assumptions regarding likely costs and expenses associated with constructing the Project. Specifically, the maximum aggregate principal amount of the TIF Note has been determined based on the amount of assistance needed to make the Projects financially feasible, as shown in the TIF Pro Forma as of the Effective Date. The Authority and Developer agree that those assumptions will be reviewed at after Completion of the Project, but prior to the issuance of the Certificate of Completion, and that the amount of TIF Assistance provided herein, as reflected in the final principal amount of the TIF Note, may be reduced based on the actual TIF Assistance necessary for the Project based on an updated TIF Pro Forma provided by Developer to the Authority after Completion of the Project; provided that the updated TIF Pro Forma shall reflect any payment of any deferred developer fee to the extent possible and any reduction in funding from other lenders to the Project.

3.5 Assignment of Note. Developer may, without the Authority's consent (a) collaterally assign Developer's rights and obligations under this Agreement and the TIF Note to the holder of any Mortgage that is permitted under the terms of Article VI and/or (b) transfer the TIF Note to a Related Party. Except as set forth in clauses (a) and (b) above, the TIF Note shall not be assignable nor transferable without the prior written consent of the Authority. Any assignee or transferee of the TIF Note 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:

- (a) the limited nature of the Authority's payment obligations under the TIF Note;
- (b) that the TIF Note 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;
- (c) that the assignee or transferee has no present intention of selling, granting any participation in, or otherwise distributing the same;
- (d) 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 Note and the assignee or transferee is able to bear the economic consequences thereof;
- (e) that in making its decision to acquire the TIF Note, 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 Note;
- (f) 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 Note;
- (g) 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 Note and such other information as the assignee or transferee desires in order to evaluate the acquisition of and investment in the TIF Note, and all such questions have been answered to the full satisfaction of the assignee or transferee;

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

(i) that the TIF Note will be characterized as "restricted securities" under the federal securities laws because the TIF Note is 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

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

Subject to the terms and conditions of this Section 3.1(d), the holder of the TIF Note may be different than the owner of the Property or the party responsible for the obligations of Developer under the Redevelopment Agreement, provided, however, that such holder will be subject to all limitations and conditions to payments under the TIF Note set forth herein.

3.6 Intentionally Omitted.

3.7 Deferred TIF Loan. In consideration of Developer's fulfillment of its obligations under this Agreement, and subject the conditions precedent to closing set forth in Section 3.8 and in the TIF Loan Agreement (defined below), the Authority agrees to make a loan (the "Deferred TIF Loan") to Developer in the original principal amount of **\$2,400,000.00**, pursuant to the terms and conditions of a loan agreement in substantially the form attached as Exhibit F (the "TIF Loan Agreement"). The Deferred TIF Loan will be funded from tax increment generated from the existing Southdale 2 TIF District. The proceeds of Deferred TIF Loan shall be disbursed pursuant to the Master Disbursement Agreement.

3.8 Conditions Precedent to Deferred TIF Loan Closing. The Authority shall not be obligated to close on the Deferred TIF Loan pursuant to the TIF Loan Agreement until the following conditions precedent have been satisfied:

(a) Developer shall have executed the Memorandum of Agreement and recorded the same against the Property;

(b) Developer shall have executed the Affordable Housing Restrictive Covenant and recorded the same against the Property;

(c) Developer shall have delivered the Project Funding Certificate to the Authority, and the Authority approves the same in accordance with Section 4.6;

(d) The Master Disbursement Agreement shall have been executed by all the parties thereto;

(e) No Developer Default or Event of Default exists under this Agreement or any of the City Approvals; that has not been cured pursuant to the Cure Rights.

3.9 Right of Reverter.

(a) Subject to an Unavoidable Delay and Cure Rights, if Developer fails to cause the Commencement of construction of the Project by **May 1, 2021**, then the Authority may, in addition to such other rights and remedies that are available to the Authority hereunder, require that the Property be transferred back to the Authority. The Authority may, but shall not be obligated to, cause Developer to reconvey the Property and all improvements thereon to the Authority by giving Developer notice of the Authority's exercise of its right of reverter pursuant to this section. The right of reverter under this section for the Property shall terminate and no longer be of any force and effect upon the Commencement of the Project. The Authority agrees to execute and deliver to Developer a recordable release of its right of reverter, in form attached hereto as **Exhibit G** upon Developer's receipt of a building permit and closing on all of the financing described in the Master Disbursement Agreement, which shall be held in escrow by Developer pending Commencement of the Project, after which the same may be recorded. The Authority will agree to subordinate such right of reverter to any Mortgages securing loans the proceeds of which are used to finance Developer's acquisition of the Property, construction of the Project, or both.

(b) Within 15 days following Developer's receipt of Authority's notice exercising its right of reverter (the "Reverter Closing Date"), Developer will convey fee title to the Property and all improvements thereon to the Authority by deed (the "Reverter Deed"), as follows:

(i) The Authority will pay Developer \$1.00 as consideration for receiving the Reverter Deed;

(ii) Developer will convey the Property and any improvements thereon to the Authority free and clear of all encumbrances other than encumbrances that existed when the Authority conveyed the Property to Developer and easements or other encumbrances which the Authority has previously approved in writing;

(iii) Upon Developer's delivery of the Reverter Deed to the Authority, this Agreement shall terminate, Developer shall have no further rights to the Property or any improvements thereon, and neither the Authority nor Developer will have any rights or obligations under this Agreement other than obligations which, by the express terms of this Agreement, expressly survive a termination of this Agreement;

(iv) On or before the Reverter Closing Date, Developer will execute and deliver to the Authority a Minnesota Uniform Conveyancing Blank Form 50.3.1 Affidavit Regarding Business Entity confirming that there has been no labor or materials provided to the Property since the Authority's conveyance of the Property to Developer for which payment has not been made; and

(v) Developer shall deliver an updated title insurance commitment to the Authority evidencing the status of title to the Property.

3.10 Agreements of the Authority. The Authority hereby covenants that, as long as any portion of the TIF Note remains outstanding the Authority shall take no action to terminate or dissolve the TIF District prior to the current expiration date of the TIF District. As shown in the TIF Plan, the Property is the only parcel in the TIF District.

Article IV
Project Requirements

4.1 **Commencement and Completion of Project.** Developer shall cause the Commencement of the Project no later than **May 1, 2021** and Completion of the Project by no later than **July 1, 2022**.

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 Project, 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.

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 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.** Subject to Section 4.3, Developer may not construct or permit construction of any of the Project until Developer satisfies the following conditions:

- (a) Developer satisfies of the conditions set forth in Section 3.8;
- (b) Developer satisfies all of the conditions precedent to construction of the Project established by the City in the City Approvals;

4.5 **Demolition.** The plans for demolition of the existing building as set forth in the plans and specifications prepared by the Architect for the Project.

4.6 **Project Financing.** Developer shall certify to the Authority no later than **December 31, 2020**, that all Project funding sources identified in the TIF Pro Forma attached as **Exhibit D** (and in amounts in substantial compliance with **Exhibit H** and, in any event, sufficient to complete the Project) have been committed to (or otherwise remain available to) Developer by delivering the Project Funding Certificate to the Authority. Promptly following the Authority's request, Developer agrees to submit to the Authority evidence of commitment(s) for financing which is adequate, in the Authority's reasonable discretion, for the construction of the Project. If the Authority reasonably finds that the financing complies with the terms of this Section 4.6 and is sufficiently committed and adequate in amount, to provide for the construction of the Project, the Authority shall notify Developer in writing of its approval, such approval shall not be unreasonably defined, conditioned, or delayed. If the Authority rejects the evidence of financing as inadequate, it shall do so in writing specifying the basis for the rejection and Developer shall have 30 days thereafter to submit evidence of commitment(s) for additional or alternate financing acceptable to the Authority. If Developer fails to submit such commitment(s) for financing 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 4.6, such failure being a Default hereunder.

4.7 **Effect of Delay.** Developer acknowledges that if construction of the Project is delayed due to Unavoidable Delays or for any other reason, this could affect the amount of Available Tax Increment and thus the total amount which may be available to pay the TIF Note. Developer acknowledges that if the Completion of the construction of the Project 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 Note.

4.8 Additional Responsibilities of Developer.

(a) Developer shall cause the Project to be constructed, operated, and maintained in substantial accordance with the terms of this Agreement, the City Approvals, and all applicable Law (including, but not limited to zoning, building code and public health laws and regulations).

(b) Developer 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 Project may be lawfully constructed.

(c) Developer shall not 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 to Developer, upon the request of the Authority, Developer shall, after reasonable advance notice from the Authority, provide the Authority and the City with reasonable access to the Property to inspect the Project. Prior to delivery of the Certificate of Completion, Developer shall delivery monthly progress reports to the Authority.

4.9 Certificate of Completion. Developer may notify the Authority and request a Certificate of Completion in accordance with this section. Developer may request a Certificate of Completion for the Project after the City has issued a final certificate of occupancy covering all elements of the Project. Within 30 days after receipt of each such request, the Authority shall either furnish Developer with (a) an appropriate 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 Project and what measures or acts will be necessary, in the reasonable 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 Project. After such deficiencies have been cured, Developer shall notify the Authority and the Authority will re-inspect the applicable Project and take one of the actions described in clauses (a) and (b) hereof, and such process will continue until the Authority issues the applicable 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 Project covered by such Certificate of Completion.

Article V
Affordable Housing

5.1 Use Restriction. The Property shall not be used for any purpose other than a multi-family rental housing facility and related activities meeting the requirements set forth in this Article V, without the prior written approval of the City and the Authority during the period commencing on the date hereof and until no earlier than the **40th** anniversary of the date the Certificate of Completion is issued (the “Qualified Project Period”).

5.2 Affordable Housing Requirements. Subject to the terms and conditions of Section 5.4(b) relating to any land use restriction agreement (the “LURA”) encumbering the Property, the covenants and

restrictions set forth in this Section 5.2 and contained in the Affordable Housing Restrictive Covenant shall apply during the Qualified Project Period.

(a) Affordable Units. Developer covenants that **100%** of the residential units within the Project (the “Affordable Units”) will be leased at certain rates specified below (inclusive of utilities and mandatory fees) which are considered affordable to certain low- and moderate-income households. The Affordable Units will consist of the following mix of affordability levels:

(i) at least **eight** (8) of the Affordable Units will be reserved for households who have a combined gross annual income which does not exceed 30% of AMI (each a “30% Unit”), four (4) of which will be set aside for High Priority Homeless (the “HPH Units”) and four (4) of which will be given preference to persons with disabilities. If any subsidy or housing support in connection with the 30% Units is withdrawn or otherwise no longer available, the 30% Units shall be reserved for households who have a combined gross annual income which does not exceed 60% of AMI for the 30% Units;

(ii) at least **35** of the Affordable Units will be reserved for households who have a combined gross annual income which does not exceed 50% of AMI (each a “50% Unit”); and

(iii) at least **27** of the Affordable Units will be reserved for households who have a combined gross annual income which does not exceed 60% of AMI (each a “60% Unit”).

Any changes in the affordability levels of the Affordable Units set forth herein shall require the prior written approval of the Authority, which such consent will not be unreasonably conditioned, delayed, or withheld. For avoidance of doubt, it will be deemed reasonable if the Authority withholds its consent to any proposed change in affordability levels that does not comply with applicable Law.

(b) Affordable Unit Mix. The Affordable Units shall be distributed among one-bedroom units (which will be no less than approximately 641 square feet in size), two-bedroom units (which will be no less than approximately 930 square feet in size) and three-bedroom units (which will be no less than approximately 1,221 square feet in size). There will be 17 one-bedroom units, 35 two-bedroom units, and 18 three-bedroom units. Changes in the distribution of Affordable Units set forth herein shall require the prior written approval of the Authority, which such consent will not be unreasonably conditioned, delayed, or withheld.

(c) Qualifying Tenants. Each Affordable Unit shall be leased to and occupied (or held vacant and available for occupancy) for the duration of the Qualified Project Period only by a household who, at initial occupancy, has a combined gross annual income which does not exceed the respective AMI threshold for each type of Affordable Unit (each a “Qualifying Tenant”) (e.g., each 30% Unit may only be leased to and occupied by a Qualifying Tenant whose gross annual income does not exceed 30% of AMI, etc.). Each subsequent tenant of the Affordable Unit must be a Qualifying Tenant.

(d) Rental Rates. Each Affordable Unit shall bear annual rents not greater than the rental rate limits for the applicable Qualifying Tenant (adjusted for bedroom count, and including utilities) as determined and announced from time to time by HUD and as published annually by the MHFA (or any successor agency(ies) administering government affordable housing programs). During the Qualified Project Period, the form of lease to be utilized by Developer in renting

Affordable Units will provide that rental rates charged to any tenant of an Affordable Unit cannot be increased more than once in any 12-month period.

(e) Certification of Tenant Eligibility. No tenant household shall be approved by Developer for initial occupancy of an Affordable Unit unless and until Developer has determined (through verification of income, assets, expenses, and deductions) whether such tenant household is a Qualifying Tenant for the applicable Affordable Unit. Each person who is intended to be a Qualifying Tenant will be required at the commencement of the initial lease of an Affordable Unit to sign and deliver to Developer a “Certification of Tenant Eligibility” in the form reasonably attached hereto as **Exhibit E** (the “Eligibility Certification”), in which the prospective tenant certifies as to qualifying as an applicable Qualifying Tenant. Eligibility Certifications may be obtained no more than 120 days before a Qualifying Tenant occupies an Affordable Unit. In addition, the person will be required to provide whatever other information, documents, or certifications are deemed reasonably necessary by the Authority to substantiate the Eligibility Certification. Eligibility Certifications will be maintained on file by Developer with respect to each Qualifying Tenant who resides or resided in an Affordable Unit for a period of 10 years following the end of the Qualified Project Period. Developer must re-examine and verify the income of each tenant household living in an Affordable Unit annually unless, during such year, no Affordable Unit is occupied by a new tenant household whose income exceeds the applicable income limit for Qualifying Tenants. In addition, no re-certification shall be required if a Qualifying Tenant moves to a different Affordable Unit.

(f) Additional Affordable Housing Requirements.

(i) No security deposit shall be required in excess of the amount of one month of rent in connection with any Affordable Unit.

(ii) During the final year of the affordability period, new leases for the Affordable Units must be for a term of no less than six months, and such newly leased Affordable Units will be subject to all the requirements of this Article V until the expiration of such new leases.

(iii) Developer shall affirmatively market the Affordable Units to one or more traditionally underserved populations as affordable at the rates required hereunder.

(iv) [deleted]

(v) Developer shall, upon annual invoicing, reimburse the City (or such subdivision of the City administering affordable housing requirements) for third-party expenses related to monitoring of Developer’s compliance with this Article V and the Affordable Housing Restrictive Covenant (plus any additional costs necessitated by re-inspections for noncompliance) and thereafter be subject to reasonable adjustment from time to time. Notwithstanding the foregoing, the Authority will not engage a third-party compliance monitor or require reimbursement of any such costs so long as Developer provides the Authority with reasonable evidence of Developer’s compliance with this Article V obtained from a third-party compliance monitor required under the LURA or otherwise in connection with the Other Project Financing (as defined in the TIF Loan Agreement).

5.3 Restrictive Covenant. The requirements of this Article V will be set forth in a separate restrictive covenant in substantially the form attached to this Agreement as **Exhibit**

I (the “Affordable Housing Restrictive Covenant”) and recorded against the Redevelopment Property.

5.4 Consents and Subordination.

(a) Mortgage Financing. Notwithstanding anything herein to the contrary, the requirements of this Article V and the Affordable Housing Restrictive Covenant shall be subordinated or junior to any Mortgage on the Project only with the Authority’s written consent, and if any Mortgage exists at the time the Affordable Housing Restrictive Covenant is to be recorded, Developer shall use commercially reasonable efforts to cause the mortgagee under such Mortgage to subordinate the Mortgage and the lien thereof to the Affordable Housing Restrictive Covenant.

(b) LIHTC LURA. The Authority acknowledges that the Property will be encumbered by the LURA in connection with low income housing tax credits obtained by Developer for the Project in accordance with Section 42 of the Internal Revenue Code (“LIHTC”), restricting the use of the Property to affordable housing in accordance with LIHTC requirements. The Authority will subordinate and/or modify the requirements of this Article V and the Affordable Housing Restrictive Covenant as reasonably necessary in order to enable Developer to obtain such LIHTC financing. For so long as the LURA encumbers the Property, to the extent of any conflict or inconsistency between the terms of the LURA and the terms of the Affordable Housing Restrictive Covenant, the terms of the LURA shall prevail and such prevailing terms shall be deemed to modify and replace the applicable terms of the Affordable Housing Restrictive Covenant. If the LURA is terminated prior to the expiration of the Qualified Project Period, then the requirements of this Article V and the Affordable Housing Restrictive Covenant will continue in full force and effect in accordance with their original terms until the expiration of the Qualified Project Period. Other than the LURA, Developer has not and will not without the prior written consent of the Authority, execute any other agreement with provisions contradictory to, or in opposition to, the provisions hereof and that, in any event, the requirements of this Declaration are paramount and controlling as to the rights and obligations set forth herein and supersede any other document’s provisions in conflict herewith.

Article VI Encumbrance of the Property

6.1 Copy of Notice of Default to Mortgagee and Limited Partner. If the Authority delivers any notice or demand to Developer with respect to any Default under this Agreement, the Authority will also deliver a copy of such notice or demand to the mortgagee of any Mortgage at the address of such mortgagee provided to the Authority in writing. In conformity with this Section 6.1, the Authority shall deliver any notice or demand delivered to Developer’s limited partner, U.S. Bancorp Community Development Corporation, 1307 Washington Avenue, Suite 300, Mail Code SL MO RMCD, St. Louis, MO 63103, USB Project No. 26977, Attn: Project Manager, its successors and/or assigns (the “Limited Partner”), Developer’s construction lender, U.S. Bank National Association, BC-MN H03A, 800 Nicollet Mall, 3rd Floor, Minneapolis, MN 55402 (the “Construction Lender”), and Developer’s permanent lender, Minnesota Housing Finance Agency, 400 Wabasha Street North, Suite 400, St. Paul, MN 55102 (the “Permanent Lender”) at the addresses set forth in Section 11.3 of this Agreement.

6.2 Mortgagee’s and Limited Partner’s Option to Cure Events of Default. Upon the occurrence of an Event of Default, the Limited Partner, the Construction Lender, the Permanent Lender or any mortgagee under any Mortgage who has provided its notice address to the Authority in accordance with

this section, will have the right at its option, to cure or remedy such Event of Default within the cure periods set forth herein and the Authority shall accept such cure or remedy as though it was made by Developer.

6.3 Rights of a Foreclosing Mortgagee. Any individual or entity who acquires title to all or a portion of the Project through the foreclosure of any Mortgage or deed in lieu of foreclosure 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; and

(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 Project on the portion of the Property it owns.

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 Property 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 Project pursuant to the terms of this Agreement. If, rather than passively holding title to the portion of the Property 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 Project, 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 Project 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 Project in accordance with this Agreement. Unless acting other than passively holding title as described above in this section, a lender or an independent third party that purchases at a foreclosure sale will have no liability for breach under this Agreement.

6.4 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 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 (a) the fact of default; (b) the elements of default; and (c) 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.

Article VII
Insurance and Indemnification

7.1 **Insurance.**

(a) Developer shall obtain and continuously maintain insurance on the Project 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 must obtain and continuously maintain, provided that Developer shall obtain the insurance described in clause (i) below with respect to the Project prior to the Commencement of construction thereof and is only obligated to maintain the insurance described in clause (i) until Developer receives a Certificate of Completion:

(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 Project 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, 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 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 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 in a manner that would adversely impact coverage 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 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 may maintain a single policy, blanket or umbrella policies, or a combination thereof, having the coverage required herein.

7.2 **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 claims by third parties, 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 Project constructed by Developer, 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 third party 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 (or other persons under its direction or control) under this Agreement, or the transactions contemplated hereby or the acquisition, construction, installation, ownership, and operation of the Project.

Article VIII Other Developer Covenants

8.1 Developer Reimbursement Obligations. Developer shall pay all reasonably incurred out of pocket costs of the City and the Authority for the City Consultants in connection with the Project, including but not limited to costs of the development and negotiation of this Agreement, the TIF Plan, the creation of the TIF District, the Final Development Plan, the Site Improvement Contract, fiscal analysis, legal fees and all costs and expenses related thereto. 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. Alternatively, upon the Authority's request, Developer shall deposit with the Authority funds in amount necessary to pay such costs and expenses, in an amount reasonably determined by the Authority, which such funds will be held in escrow by the Authority until applied by the Authority for payment of such costs and expenses. The Authority will return excess escrowed funds, if any, to Developer. All such costs will be Eligible Reimbursable Expenses.

8.2 Maintenance and Operation of the Project. Developer shall, at all times during the term of this Agreement, maintain and operate the Project in a safe and secure way and in compliance with this Agreement and applicable Law. Developer shall pay all of the reasonable and necessary expenses of the operation and maintenance of the Project, 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 Project as required pursuant to this Agreement. During construction of the Project, Developer shall not knowingly cause any person working in or attending the Project for any purpose, or any tenant of the Project, 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 Project to take such precautions as may be available to protect the persons in and around the Project 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 Project shall be borne solely by Developer.

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

8.4 Condemnation, Damage, or Destruction. In the event that title to and possession of the Project 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 Project is damaged or destroyed, Developer shall, with reasonable promptness after such taking, notify the Authority as to the nature and extent of such taking. Upon receipt of any condemnation award or insurance proceeds Developer shall elect to either: (a) use the entire condemnation award or insurance proceeds to reconstruct the Project (or, in the event only a part of the Project has been taken, then to reconstruct such part) upon the remaining Property to the extent necessary to maintain and continue operations of Project for its intended purpose; or (b) in the event that the condemnation affects or taking or damage or destruction affects the Property but not the Project improvements thereon, retain, for the account of Developer, all of the condemnation award or insurance proceeds.

8.5 Business Subsidy Agreement. The Authority and Developer agree that the Project is exempt from the requirement for entering into a business subsidy agreement within the meaning of the

Minnesota Business Subsidy Act, Minnesota Statutes, Sections 116J.993 through 116J. 995, because the TIF Assistance provides assistance for housing within the meaning of Minnesota Statutes, Section 116J.993, subd. 3(7).

8.6 Developer/Authority Grant Applications. Developer and the Authority will cooperate in efforts to obtain available public grant funding to undertake the Project, including but not limited to grants from the Metropolitan Council, Department of Employment and Economic Development, and any other funding from metropolitan, state, county, and federal sources identified by the Authority or Developer as reasonably available. Costs of preparing the grant applications 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 Forma pursuant to Section 3.3(b)(ii) prior to issuing the TIF Note.

8.7 Artwork. The Authority has removed artwork (the “Art”) originally created by Ta-Coumba T. Aiken (the “Artist”) from the ceiling of the existing building on the Property. The Authority has paid for the restoration of the Art (the “Restoration Costs”) and is paying for climate-controlled storage of the Art (the “Storage Costs”). Developer shall reimburse the Authority for the Restoration Costs and to the extent not already paid, Developer shall pay the Authority the Storage Costs, in each case, promptly following demand for such reimbursement.

- (a) To the extent Developer commits to install the same in the Project, the Authority agrees to transfer the Art to Developer, subject to any rights of the Artist.
- (b) Developer agrees to install the Art in the ceiling of the lobby of the Project. If Developer does not install all of the Art in the ceiling, Developer shall transfer any portion not installed to the Authority, subject to any rights of the Artist.
- (c) Developer intends to enter into an agreement with the Artist to pay certain consulting fees and to assist with the installation of the Art.
- (d) If Developer removes the Art from the Project, it shall promptly transfer it back to the Authority, subject to any rights of the Artist.
- (e) Developer shall not use the Art for any purpose other than displaying the same at the Project in accordance with this section.

Article IX Transfer Limitations

9.1 Representation as to the Project. Developer represents to the Authority that its undertakings under this Agreement are for the purpose of developing the Project and not for the purpose of speculation in land holding. Developer acknowledges that, in view of the importance of the Project 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 Project possible, the qualifications and identity of Developer are of particular concern to the Authority. Developer further

acknowledges that the Authority is willing to enter into this Agreement with Developer because of the qualifications and identity of Developer.

9.2 Limitation on Transfers.

(a) Until the Authority's issuance of the Certificate of Completion, Developer shall 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 Property or the Project, without the express written approval of the Authority, provided that the consent of the Authority shall not be required for any of the following:

- (i) granting of a Mortgage in the Property, subject to the terms of Article VI hereof;
- (ii) leasing the Project in the normal course of business in a manner consistent with this Agreement and the City Approvals;
- (iii) A transfer to a Mortgage holder pursuant to Section 9.3; or
- (iv) transfer to a Related Party, provided such Related Party, upon request of the Authority, executes an agreement in a form reasonably approved by the Authority pursuant to which such Related Party assumes and agrees to perform the obligations of Developer under this Agreement.

(b) If the Authority's consent to a transfer is required pursuant to this 9.2, 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 Property or the Project 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 Project 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;
- (iv) Developer and the transferee must comply with such other conditions as the Authority may find desirable in order to achieve and safeguard the purposes of the HRA Act and TIF Act, this Agreement, and the Project; and
- (v) Developer and 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 Authority to the contrary, neither the transfer of the Project, or any portion thereof, prior to the issuance of the Certificate of Completion for the Project or the Authority's consent to such a transfer will relieve Developer of its obligations under this Agreement. Notwithstanding anything in this Agreement to the contrary, the withdrawal, removal, transfer or replacement of the general partner of Developer, 4100 Edina LLC (the "General Partner"), pursuant to the terms of that certain Amended and Restated Agreement of Limited Partnership of Developer, by and between the Limited Partner and the General Partner, shall be permitted under this Agreement at no cost to Developer and shall not require the prior written consent of the Authority and shall not constitute an Event of Default under this Agreement; provided, however, that Developer agrees to notify the Authority of any proposed replacement general partner prior to replacement and, upon replacement, shall notify the Authority of the name and contact information of the replacement general partner with reasonable promptness. Further notwithstanding anything in this Agreement to the contrary, the interests of Limited Partner shall be freely transferable to any affiliate(s) of the Limited Partner without the consent or approval of the Authority.

9.3 Collateral Assignment to Mortgage Holder. Developer may collaterally assign Developer's rights and obligations under this Agreement to the holder of a Mortgage only pursuant to collateral assignment agreement in a form reasonably acceptable to the Authority provided that the Authority acknowledges that Developer has collaterally assigned its rights under this Agreement to Construction Lender pursuant to the Mortgage executed by Developer in favor of Construction Lender.

Article X

Events of Default and Remedies

10.1 Events of Default Defined. "Events of Default" under this Agreement include any one or more of the events listed in Sections 10.2 and 10.3.

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

(a) Subject to Unavoidable Delays and Cure Rights, Developer's failure to achieve Commencement and Completion of the Project by the applicable dates set forth in Section 4.1.

(b) Subject to Unavoidable Delays and Cure Rights, Developer shall Default in its obligations with respect to the construction of the Project (including the nature and the date for the completion of the various elements thereof), or shall abandon or substantially suspend construction work on the Project, and any such Default, violation, abandonment or suspension is not cured, ended or remedied within 30 days after written notice to do so or such longer amount of time if previously agreed to by the Board in writing;

(c) there is, in violation of this Agreement, any conveyance, encumbrance or other transfer of the Property 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 to observe or perform any other covenant, condition, obligation or agreement on its part to be observed or performed under this Agreement, the TIF Loan Agreement, any other TIF Loan Documents (as defined in the TIF Loan Agreement), or any Affordable Housing Restrictive Covenant, 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, Developer 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, 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 of the Project, or part thereof, shall be appointed in any proceeding brought against Developer, and shall not be discharged within 90 days after such appointment, or if Developer shall consent to or acquiesce in such appointment.

10.3 Authority Events of Default. Subject to Cure Rights and Unavoidable Delays, the failure of 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 Authority.

10.4 Cure Rights.

(a) If a Default occurs under Section 10.2(a), (b) or (d) or under Section 10.3 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 well 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 **90 days.**

(b) Prior to exercise any remedies in connection with an Event of Default, the Authority must first comply with the provisions of this Section 10.4(b). Notwithstanding anything in this Agreement to the contrary, upon receipt of written notice in accordance with Section 6.1 hereof, Limited Partner and Construction Lender shall have the right, but not the obligation, to cure any default of Developer hereunder and such cure shall be deemed to have been made by Developer hereunder. Independent of any cure period afforded to Developer, Limited Partner and Construction Lender shall 30 days upon receipt of such written notice to effectuate a cure of the Default, or, if said Default cannot reasonably be cured within such time, then Limited Partner and Construction Lender shall have an additional period of time thereafter, not to exceed 90 days, to cure the Default so long as Limited Partner or Construction Lender is diligently pursuing the same.

10.5 Authority Remedies on Developer Events of Default. Except as otherwise set forth in Section 10.6 below, whenever any Event of Default occurs by Developer, the Authority may take any one or more of the following actions:

- (a) terminate this Agreement;
- (b) withhold payments due under the TIF Note until Developer has cured the Default which gave rise to the Event of Default, but the Authority may not terminate the TIF Note once issued as a result of a Developer Event of Default;
- (c) 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 the Certificate of Completion where such Event of Default relates to Completion of the Project or issuance of a Certificate of Completion;

(e) take whatever action at law or in equity 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; and

(f) exercise any remedies normally available at law and in equity to enforce performance of this Agreement, including a right to specific performance.

10.6 Developer Remedies on Authority Events of Default. Whenever any unremedied Event of Default of the Authority occurs, Developer's sole other legal and equitable remedy is an action to compel performance by the Authority. Developer shall have no right to assert any claim for monetary or other compensatory damages against the City or Authority and will not be entitled to recover damages of any kind, including lost profits and direct, indirect, incidental, consequential, or punitive damages.

10.7 No Remedy Exclusive. No remedy herein conferred upon or reserved to 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 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 X.

10.8 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.

10.9 Reimbursement of Attorneys' Fees. If Developer shall default under any of the provisions of this Agreement, and the Authority shall employ attorneys or incur other reasonable expenses for the enforcement of performance or observance of any obligation or agreement of Developer contained in this Agreement, the Authority in such action or enforcement shall be entitled to payment of its reasonable attorneys' fees and costs incurred therein.

Article XI Additional Provisions

11.1 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 Project, 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.

11.2 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.

11.3 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: The Sound on 76th Limited Partnership
Attn: Asset Management
c/o Aeon
901 North Third Street, Suite 150
Minneapolis, MN 55401

with copies to: Faegre Drinker Biddle & Reath LLP
Attention: Angela M. Christy, Esq
90 South Seventh Street
2200 Wells Fargo Center
Minneapolis, MN 55402

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

Limited Partner and
Construction Lender: U.S. Bancorp Community Development
Corporation
1307 Washington Avenue, Suite 300
Mail Code: SL MO RMCD
St. Louis, MO 63103
Attn.: Director of LIHTC Asset Management
USB Project No.: 26977

With a copy to: Kutak Rock LLP
1650 Farnam Street
Omaha, Nebraska 68102
Attn: Jill Goldstein

and

Kutak Rock LLP
8601 N. Scottsdale Road, Suite 300
Scottsdale, Arizona 85253

Attn: Heather Aeschleman

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.

11.4 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.

11.5 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.

11.6 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.

11.7 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.

11.8 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.

11.9 Authority Approval; Representatives. Unless Board determines otherwise in its discretion, whenever this Agreement provides for approval by the Authority, such approval shall be given by and effective upon action, respectively, by the Authorized Representative of the Authority, as applicable (or in either case their designee), unless (a) this Agreement explicitly provides for approval by the Board, (b) approval by the Board is required by applicable Law, or (c) the approval, in the opinion of the Executive Director, would result in a material change in the terms of this Agreement. All actions required of or taken by Developer shall be effective upon action by a duly authorized officer, partner, member, or manager, as applicable.

11.10 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.

11.11 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.

11.12 Survival of Terms. The following section will survive the expiration or earlier termination of this Agreement: Section 7.1 [Insurance]; Section 7.2 [Indemnification]; Sections 10.5 through 10.7 [Remedies on Default] to the extent of any Event of Default arising prior to such termination or expiration; Section 11.3 [Notices and Demands]; Section 11.4 [Governing Law, Jurisdiction, Venue and Waiver of Trial by Jury]; and Section 11.18 [Limited Liability].

11.13 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.

11.14 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.

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

11.16 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 J**, and hereby incorporated herein by reference upon execution of this Agreement upon that portion of the Property owned by Developer. At the time of execution of this Agreement the parties hereto will also execute and acknowledge the Memorandum of Agreement.

11.17 Conflicts Between this Agreement and the Site Improvement Agreement. In the event of any inconsistency or conflict between the requirements of this Agreement and the Site Improvement Agreement, the provisions of the Site Improvement Agreement shall control; provided, however, that for the purposes of this Agreement regarding Events of Default that authorize the Authority to withhold payments on any TIF Assistance, this Agreement controls. Except with respect for such inconsistent provisions, neither agreement is intended to amend or supersede the other agreement.

11.18 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.

11.19 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.

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

11.21 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.

[Remainder of page intentionally left blank; signatures on following page(s)]

IN WITNESS WHEREOF, 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.

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

By: _____
James B. Hovland, Chair

By: _____
Scott H. Neal, Executive Director

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2020, by James B. Hovland and Scott H. Neal, the Chair and Executive Director, respectively, of the Housing and Redevelopment Authority of Edina, Minnesota, on behalf of said Authority.

Notary Public

THE SOUND ON 76TH LIMITED PARTNERSHIP,
a Minnesota limited partnership

By: 4100 Edina LLC, a Minnesota limited liability
company, its General Partner

By: _____

Name: _____

Its: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____ day of _____, 2020 by _____, the _____ of 4100 Edina LLC, a Minnesota limited liability company, General Partner of The Sound on 76th Limited Partnership, a Minnesota limited partnership, on behalf of the limited liability company and limited partnership.

Notary Public

Exhibit A

Legal Description of the Property

Tract J, Registered Land Survey No. 1129, Hennepin County, Minnesota. Torrens Property

Exhibit B

Form of Certificate of Completion

Certificate of Completion

A. THE SOUND ON 76TH LIMITED PARTNERSHIP, a Minnesota limited partnership (“Developer”), pursuant to the Redevelopment Agreement by and between the HOUSING AND REDEVELOPMENT AUTHORITY OF EDINA, MINNESOTA (the “Authority”) and Developer dated effective as of September 10, 2020 (as the same may be amended or supplemented from time to time, the “Agreement”), which Agreement is evidenced of record by that certain Memorandum of Redevelopment Agreement dated _____, 2020 and recorded on _____, 2020 in the office of the Registrar of Titles for Hennepin County, Minnesota as Document No. _____, has agreed to complete the Project, as defined in and in accordance with the Agreement, on that certain real property (the “Property”) located in Hennepin County, Minnesota, described on the attached Exhibit A.

B. As of the date hereof, Developer has substantially completed construction of the Project.

C. The issuance of this Certificate of Completion by the Authority is not intended nor shall it be construed to be a warranty or representation by the City or the Authority as to the structural soundness of the applicable Project improvements, including, but not limited to, the quality of materials, workmanship or the fitness of the applicable Project improvements for their proposed use.

NOW THEREFORE, this is to certify that all construction and other physical improvements specified to be done and made by Developer with regard to the Project have been completed, and the provisions of the Agreement imposing obligations on Developer to construct such Project improvements, are hereby satisfied and terminated, and the County Recorder in and for the County of Hennepin, Minnesota is hereby authorized to record this instrument to be a conclusive determination of the satisfactory termination of said provisions of the Agreement.

Dated: _____, 20__

[Remainder of page intentionally left blank; signature pages follow]

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

By _____
Executive Director

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 20 ____, by _____, the Executive Director of the Housing and Redevelopment Authority of Edina, Minnesota, on behalf of said Authority.

Notary Public

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

Exhibit A

Description of Property

Tract J, Registered Land Survey No. 1129, Hennepin County, Minnesota

Torrens Property

Exhibit C

SUMMARY

Development Name	4100 Apartments
Primary Address	4100 West 76th Street
City	Edina
Zip Code	55435
County	Hennepin

ACTIVITY TYPE
Acquisition
Demolition
Rental Subsidy
New Construction

Version Date	
Property Number (D#)	D8111
Project Number (M#)	M18183
HTC #	

DEVELOPMENT TEAM	
Sponsor/Parent Company	Aeon
Developer	Aeon
Owner	TBD Limited Partnership
Management Co	Aeon Management LLC
Service Provider	Haven Housing
Architect	Urbanworks
General Contractor	Flannery Construction
Processing Agent	N/A

DEMOGRAPHICS	
# Units	Description
	Senior
4	People with Disabilities
8	Permanent Supportive Housing

First Mortgage/Deferred Loan Request		
TYPE		AMOUNT
<input checked="" type="checkbox"/>	Minnesota Housing First Mortgage	6,585,000
<input checked="" type="checkbox"/>	Deferred Loan(s)	

Tax Exempt Bond Request		
TYPE	ISSUER	AMOUNT
<input type="checkbox"/>	Tax Exempt Bonds - Long Term	
<input type="checkbox"/>	Tax Exempt Bonds - Short Term	

Subsidy Funding Request	Name of Source	# Units	Amount

UNIT SUMMARIES			
Unit Type	# Units	Program Type	# Units
SRO no Kitchen		HTC	70
SRO with Kitchen		HOME	
OBR/Eff		NHTF	
1BR	17	HPH	4
2BR	35	PWD	4
3BR	18	Market Rate	
4BR		Common Space	
5BR		HIB Sr Program	
6BR		Rent Assistance	8
TOTAL UNITS	70	Operating Subsidy	

Housing Tax Credit Request			
Type of Tax Credits requested from Minnesota Housing:			
<input type="checkbox"/>	Housing Tax Credits - 4%		
<input checked="" type="checkbox"/>	Housing Tax Credits - 9%		
<input type="checkbox"/>	Dual Application		
HTC Request Amount: <input type="text" value="327,722"/>			
Request Status			
<input type="checkbox"/>	Basis Boost		
<input checked="" type="checkbox"/>	Reservation		
<input type="checkbox"/>	Carryover		
Tax Credit Pool			
<input checked="" type="checkbox"/>	Metro		
<input type="checkbox"/>	Greater MN		
<input type="checkbox"/>	8609		
<input type="checkbox"/>	Qualified Contact		
<input type="checkbox"/>	42 M1 Letter		
Tax Credit Request Type			
<input type="checkbox"/>	First Request		
<input checked="" type="checkbox"/>	Supplemental		
<input type="checkbox"/>	Repeat Request - not selected		
Tax Credit Set-Aside			
<input checked="" type="checkbox"/>	Non Profit		
<input type="checkbox"/>	Rural Development		
Application to suballocator <input type="text"/>			
Previously Awarded Tax Credits:			
Allocator	Minnesota Housin	Amount	887,011
Allocator	<input type="text"/>	Amount	<input type="text"/>
Allocator	<input type="text"/>	Amount	<input type="text"/>

SUMMARY

RENT GRID

Unit Type	# of Units	Approx Sq Ft	Monthly Contract Rent	Monthly Gross Rent	Rent Limit	Income Limit	Program Type							
							HTC	HOME	NHTF	HPH	PWD	HIB Senior	Rent Asst	Op Subs
1BR	4	676	1,086	1,164	60% MTSP	60% MTSP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2BR	5	960	1,301	1,396	60% MTSP	60% MTSP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3BR	18	1,215	1,500	1,613	60% MTSP	60% MTSP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1BR	5	676	892	970	50% MTSP	50% MTSP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2BR	30	960	1,068	1,163	50% MTSP	50% MTSP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1BR	4	676	659	737	30% MTSP	30% MTSP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1BR	4	676	659	737	30% MTSP	30% MTSP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TOTALS	70		955,452											

INCOME & EXPENSE

Income	Amount
Housing Income	955,452
Covered Parking	56,700
Surface Parking	
Commercial	
TIF	66,164
Gross Potential Rent	1,012,152
Total Other Income	8,700
Total Rental Loss	73,161
Net Rental Income	1,013,855
Expense	Amount
Administrative	173,880
Maintenance	177,300
Utilities	63,150
Unique Operating Expenses	
Insurance	43,922
Agency M & O Adjustment	
Total M & O	458,252
Reserves & Escrows	134,785
Effective Gross Expense	593,037
Net Operating Income	Amount
NOI	354,654

EXPENSE SUMMARY

Total expense per Unit(\$)	8,472
Total Expense as % of Revenue	63%
M & O Per Room	1,410
M & O/Unit/Year	6,546

UNDERWRITING ASSUMPTIONS

Residential Vacancy	7.0%	Income Inflator	2.00%	DCR Year 1	1.15	Loan Rate	4.250%
Parking Vacancy	10.0%	Expense Inflator	3.00%	DCR Year 15	1.29	MIP	0.125%
Commercial Vacancy		Cap Rate	7.00%				

SOURCES AND USES

Permanent Capital Funding Sources

Source	Amount	Per Unit	Committed
Minnesota Housing First Mortgage	6,585,000	94,071	<input checked="" type="checkbox"/>
General Partner Cash	100	1	<input checked="" type="checkbox"/>
Syndication Proceeds	11,295,887	161,370	<input checked="" type="checkbox"/>
State Historic Proceeds			<input type="checkbox"/>
Federal Historic Proceeds			<input type="checkbox"/>
Deferred Loan Request			<input type="checkbox"/>
Sales Tax Rebate	316,500	4,521	<input checked="" type="checkbox"/>
Energy Rebates	35,000	500	<input checked="" type="checkbox"/>
City of Edina Loan	2,400,000	34,286	<input checked="" type="checkbox"/>
City of Edina TIF			<input checked="" type="checkbox"/>
Hennepin County Loan - HOME Funds	500,000	7,143	<input checked="" type="checkbox"/>
GP Loan - Philanthropic	206,000	2,943	<input checked="" type="checkbox"/>
GP Loan - Met Council LHIA	500,000	7,143	<input checked="" type="checkbox"/>
MN Hsg Loan - EDHC	888,634	12,695	<input checked="" type="checkbox"/>
GP Loan - Met Council LCDA	493,950	7,056	<input checked="" type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
Deferred Developer Fee	214,418	3,063	<input checked="" type="checkbox"/>
TOTAL PERMANENT FINANCING	23,435,489	334,793	
FUNDING GAP REMAINING	0	0	

Uses

Description	Amount	Per Unit	% of Total
Acquisition or Refinance	3,622,674	51,752	15%
New Construction	14,284,016	204,057	61%
Rehabilitation			
Contractor Fees	785,874	11,227	3%
Contingency	753,495	10,764	3%
Environmental Abatement	50,000	714	0%
Professional Fees	1,392,306	19,890	6%
Developer Fees	1,100,000	15,714	5%
Syndicator Fees			
Financing Costs	949,294	13,561	4%
TOTAL MORTGAGEABLE	22,937,659	327,681	98%
Reserves and Non-Mortgageable	497,831	7,112	2%
TOTAL DEVELOPMENT COST	23,435,490	334,793	100%

Construction Sources

Source	Amount	Per Unit	Committed
Construction Loan	12,896,326	184,233	<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>

Subsidy Funding Sources

Name of Source	Amount	# Unit	Secured or Applied for
Housing Support	63,264	8	Secured
TOTAL OF SUBSIDY FUNDING	63,264	8	

SUMMARY

TOTAL OF CONSTRUCTION FINANCING	12,896,326	184,233	
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FUNDING REQUEST

Indicate the type(s) of funding you are requesting by placing a checkmark next to the desired funding type(s) and entering the request amount(s).

FIRST MORTGAGE / DEFERRED LOAN REQUEST

	Request Amount
<input checked="" type="checkbox"/> Minnesota Housing First Mortgage	6,585,000
<input checked="" type="checkbox"/> Deferred Loan(s) (includes Minnesota Housing, Greater Minnesota Housing Fund and Metropolitan Council resources)	

TAX EXEMPT BOND REQUEST

	Request Amount	Issuer	If "Other" Issuer selected enter Issuer Name below
<input type="checkbox"/> Tax Exempt Bonds - Long Term			
<input type="checkbox"/> Tax Exempt Bonds - Short Term			

HOUSING TAX CREDIT REQUEST

Type of Tax Credits requested from Minnesota Housing	Tax Credit Pool	Request Status	Issuance Date
<input type="checkbox"/> Housing Tax Credits - 4%	<input checked="" type="checkbox"/> Metro	<input checked="" type="checkbox"/> Reservation	
<input checked="" type="checkbox"/> Housing Tax Credits - 9%	<input type="checkbox"/> Greater MN	<input type="checkbox"/> Carryover	
<input type="checkbox"/> This is part of dual 4% / 9% application		<input type="checkbox"/> 8609	
		<input type="checkbox"/> Qualified Contract	
		<input type="checkbox"/> 42(m)(1)(D)	

Tax Credit Request Type	Tax Credit Set-Aside
<input type="checkbox"/> First Request	<input checked="" type="checkbox"/> Nonprofit
<input checked="" type="checkbox"/> Supplemental Request	<input type="checkbox"/> Rural Development
<input type="checkbox"/> Repeat Request - not selected	

Are you applying to a Suballocator for Tax Credits? If yes, select Suballocator: 4% 9%

Previously Awarded Tax Credit

Allocator	Minnesota Housing	Amount	887,011
Allocator		Amount	
Allocator		Amount	

RENTAL ASSISTANCE REQUEST

The following types of Rental Assistance are available through the Multifamily Consolidated RFP. In order to be considered for project based vouchers you must make a selection below. Be sure to complete the 'New or Additional Rental Assistance or Operating Subsidy Funding' section on the Sources tab where you will indicate the source of assistance, term, number of units and amount of subsidy requested, if applicable.

Metro HRA Project Based Vouchers

St. Paul PHA Project Based Vouchers

Other

OPERATING SUBSIDY REQUEST

Refer to Request for Proposals information on Minnesota Housing's Website. Be sure to complete the 'New or Additional Rental Assistance or Operating Subsidy Funding' section on the Sources tab where you will indicate the operating subsidy funding use type, number of units and amount of subsidy requested.

NHTF Operating Subsidy

PROJECT DESCRIPTION

Application Date

MINNESOTA HOUSING USE ONLY:	
Version Date	<input type="text"/>
Version	<input type="text"/>

DEVELOPMENT LOCATION

Property Number (D#):
 Project Number (M#): Only enter one Project Number.
 HTC #

Development Name Year Built
 Primary Address
 City
 Zip Code
 County
 Latitude Enter the property's latitude.
 Longitude Enter the property's longitude.

Enter Primary Address above. Enter additional buildings on Buildings tab.
 Check if multiple buildings

ACTIVITY TYPE (Check all that apply)

<input checked="" type="checkbox"/>	Acquisition	<input checked="" type="checkbox"/>	New Construction
<input type="checkbox"/>	Refinance	<input type="checkbox"/>	Conversion/Adaptive Re-use
<input type="checkbox"/>	Rehabilitation	<input type="checkbox"/>	Stabilization
<input type="checkbox"/>	Historic Pres/Renovation	<input type="checkbox"/>	Scattered Site Development
<input checked="" type="checkbox"/>	Demolition	<input type="checkbox"/>	Other: <input type="text"/>
<input checked="" type="checkbox"/>	Rental Subsidy	<input type="checkbox"/>	Other: <input type="text"/>

DEMOGRAPHICS (Enter number of units for each applicable demographic)

# Units	
	Senior
4	People with Disabilities
8	Permanent Supportive Housing

PROPERTY INFORMATION

SITE DESCRIPTION

Acres	2.00	Project located in qualified census tract:	<input type="checkbox"/>
Total Site Area Sq. Footage	87,120	Tract Number:	024003
Density (units/acre)	35.00		

Enter the 6 digit tract number for the site. (If applicable, include leading and/or trailing zeros and exclude the decimal). If scattered site, enter the tract number for the primary building site.

BUILDING DESCRIPTION

Housing Space	Type of Building	Number of Residential Buildings	Number of Stories	Number of Units	Gross Sq Feet
New Construction	Elevator	1	4	70	85,583
Totals		1	4	70	85,583

Parking	Type	Number of Parking Spaces	Number Parking Spaces / Unit	Gross Square Feet
Covered Parking	Underground	63	0.90	22,956
Surface Parking		12	0.17	
Totals		75	1.07	22,956

Non-Housing Space	Describe	Gross Sq Ft
Administration/Programmatic	Lobby/Mgmt Office/Amenity Spaces	5,649
Commercial		
Storage Lockers		
Community Space		
Swimming Pool		
Community Service Facility		
Office		
Commercial Kitchen or Food Service Space (for supportive or senior housing)		
Other		
Total Non-Housing gross square feet		5,649

DEVELOPMENTS INVOLVING ACQUISITION

Will the property be acquired from a related party?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Has the property been acquired from a related party?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If yes, date: <input type="text"/>	Sale price: <input type="text"/>
Has the property been acquired from an unrelated party in the last three years?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If yes, date: <input type="text"/>	Sale price: <input type="text"/>

Existing Indebtedness on the Property/Building

Name of Lender(s) of Existing Loans, Subsidies and Grants (secured and unsecured)	Original Loan Amount	Interest Rate	Term (Yrs)	Unpaid Balance	Date of Unpaid Balance	Date of Maturity	Number of Restricted Units	Restricted to Special Populations?	Loan Will be Paid Off in this Transaction?	Income Limits (%)	Rent Limits (%)
Total											

Existing Federal Subsidies

Federal Subsidy	# of Units	Exp. Date	Are the existing federally assisted units at risk of loss?

Existing State and Local Subsidies

State or Local Subsidy	Subsidy Type	# of Units	Exp. Date	Describe if Other

HOUSING INCOME

TENANT PAID UTILITY ALLOWANCE

Utility	Utility Type	SRO no Kitchen	SRO with Kitchen	OBR/Eff	1BR	2BR	3BR	4BR	5BR	6BR
Heating	Natural Gas				34	38	43			
Cooking	Electric				7	10	13			
Water Heating										
Electric					37	47	57			
A/C										
Water/Sewer										
Service Fee										
Other										
Total Tenant Paid					78	95	113			
Source	Metro HRA									
										Effective Date 1/1/2020

UNIT / RENT GRID

Unit Type	# of Bathrooms	# of Units	Unit Sq Ft	Monthly Contract Rent	Total Annual Contract Rent	Tenant Paid Utilities	Monthly Gross Rent	Rent Limit	Income Limit	Program Type								Rooms Per Unit	Total Rooms	Source of Rental Assistance or Operating Subsidy
										HTC	HOME	NHTF	HPH	PWD	HIB Senior	Rent Asst	Op Subs			
										<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			*Rents updated to limits effective 4/1/2020
1BR	1.00	4	676	1,086	52,128	78	1,164	60% MTSP	60% MTSP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	3.5	14.0	
2BR	1.00	5	960	1,301	78,060	95	1,396	60% MTSP	60% MTSP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	4.5	22.5	
3BR	2.00	18	1,215	1,500	324,000	113	1,613	60% MTSP	60% MTSP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	6.0	108.0	
1BR	1.00	5	676	892	53,520	78	970	50% MTSP	50% MTSP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	3.5	17.5	
2BR	1.00	30	960	1,068	384,480	95	1,163	50% MTSP	50% MTSP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	4.5	135.0	
1BR	1.00	4	676	659	31,632	78	737	30% MTSP	30% MTSP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	3.5	14.0	HSH/GRH
1BR	1.00	4	676	659	31,632	78	737	30% MTSP	30% MTSP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	3.5	14.0	HSH/GRH
										<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
										<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
										<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
										<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
										<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
										<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
										<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
										<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			

Total Units Rental Hsg Potential Total Rooms
 Total # Bathrooms in Units
 Income Average NOTE: Income Average is based on number of HTC units with MTSP Income Limit

Rent Limit/Income Limit Key:

Option	Equals
30/30 MM	30% of 30% Metro Median
ALW	Affordable to the Local Workforce
80>S/AMI	80% of the greater of SMI or AMI

INCOME

	Total	Per Unit	Per Room	Comments
GROSS POTENTIAL RENT				
Rental Housing Potential	955,452	13,649	2,940	
Parking / Garage Rent Potential				
Covered Parking	# of spaces 63 Mo Fee 75	810	174	
Surface Parking	# of spaces 12 Mo Fee			
Commercial Rent Potential				
Gross Potential Rent	1,012,152	14,459	3,114	
OTHER INCOME FROM OPERATIONS (excluding TIF)				
Tenant Fees	4,000	57	12	
Laundry Equipment	3,000	43	9	
Other	1,700	24	5	
Other				
Forfeited Security Deposits				
Interest Income				
Total Other Income	8,700	124	27	
RENTAL LOSS				
Rental Housing Vacancy	Vacancy Rate 7.0%	964	208	
Parking / Garage Vacancy	Vacancy Rate 10.0%	81	17	
Commercial Vacancy	Vacancy Rate			
Other				
Other				
Total Rental Loss	73,161	1,045	225	
NET RENTAL INCOME				
Net Rental Income / Total Revenue	947,691	13,538	2,916	

MANAGEMENT & OPERATING EXPENSES (M&O)

	Total	Per Unit	Per Room	Comments
ADMINISTRATIVE				
Advertising and Marketing	3,430	49	11	
Property Management Fee	49,560	708	152	
Percent of Total Revenue (OR)				
Per Unit Per Month	5.2%	\$59.00		
Professional Fees (Specify in Comments)	11,976	171	37	Legal - IT - Audit/tax
Applicant Screening/Collection Expense				Inc in Advertising & Marketing
Site Office Expense (Specify in Comments)	15,827	226	49	Supplies - Equipment - Software - Post
On-Site Management Payroll (Specify in Comments)	78,253	1,118	241	1 FTE SM, Compliance, Leasing Call Cer
Other Administration (Specify in Comments)	14,834	212	46	LHFC fees - Partnership fee - Mileage
Administrative Subtotal	173,880	2,484	535	
MAINTENANCE				
Elevator Maintenance/Contract	3,430	49	11	
Security	3,200	46	10	
Rubbish Removal	12,544	179	39	
Other Contract Services (Includes Exterminating)	15,974	228	49	turn cleaning; exterminating; turn carp
Maintenance/Janitor Supplies	13,230	189	41	Fire & Security - Light Bulbs - Repair
Grounds Maintenance	8,330	119	26	
Snow Removal	5,880	84	18	Contract for 7 months
Heat & A/C Repair Services	3,528	50	11	
General Repair Services	15,000	214	46	
Painting/Decorating Materials	6,860	98	21	
Maintenance/Janitor Payroll (Specify in Comments)	83,986	1,200	258	.75 FTE MT + 2 PT CT
Other Maintenance and Operating (Specify in Comments)	5,338	76	16	
Maintenance Subtotal	177,300	2,533	546	
UTILITIES				
Electricity	21,500	307	66	
Water & Sewer	30,000	429	92	
Gas and Oil	11,650	166	36	

INCOME

Utilities Subtotal

63,150	902	194	
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INCOME						
SUPPORTIVE HOUSING						
Unique Operating Expenses (Specify in comments)						
INSURANCE						
Property and Liability Insurance Expense		43,922	627	135		
AGENCY MANAGEMENT AND OPERATING ADJUSTMENT						
Agency Management and Operating Adjustment						
TOTAL MANAGEMENT AND OPERATING						
Total Management and Operating		458,252	6,546	1,410		
REAL ESTATE TAXES AND RESERVES						
Real Estate Taxes		103,285	1,476	318		
Replacement Reserve		31,500	450	97		
Miscellaneous Reserves						
Reserves & Escrows Subtotal		134,785	1,926	415		
EFFECTIVE GROSS EXPENSE						
Effective Gross Expense		593,037	8,472	1,825		
NET OPERATING INCOME						
Net Operating Income		354,654	5,066	1,091		
TEMPORARY INCOME (i.e., TIF, IRP, etc)		# Years				
TIF	City of Edina	21	66,164	945	204	Average annual amt per Ehlers
Specify						
Specify						
Total Temporary Income			66,164	945	204	

MORTGAGE CALCULATION

INCOME AVAILABLE FOR DEBT SERVICE

	Change on the Cash Flow tab:		Year 1	Year 15
Net Operating Income	Income Inflator	2.00%	354,654	369,583
Temporary Income (excluding TIF)	Expense Inflator	3.00%		
Income Available for Debt Service			354,654	369,583

SUBORDINATED DEBT PAYMENTS

Lender/Loan	Check if MN Hsg	Principal	Rate	Term (Years)	Amort (Years)	Debt Service Year 1	Debt Service Year 15
	<input type="checkbox"/>						
	<input type="checkbox"/>						
	<input type="checkbox"/>						
	<input type="checkbox"/>						
	<input type="checkbox"/>						
	<input type="checkbox"/>						
Total Subordinated Debt Payments							
Income Available after Subordinated Debt						354,654	369,583
Minimum Debt Coverage Ratio						1.1500	1.1500
Net Income Available for Debt Service						308,395	321,376

FIRST MORTGAGE CALCULATION

Lowest Income Available for Debt Service	308,395
Term (Years)	40
Amortization (Years)	40
Interest Rate	4.250%
Mortgage Insurance Premium (MIP)	0.125%
Debt Service Constant (including MIP)	0.053284424
Maximum Calculated Mortgage	5,787,710
Maximum NOI Supported Mortgage (rounded)	5,787,000
Actual Mortgage if not Maximum Supported	

TIF MORTGAGE CALCULATION

Annual TIF Payment	66,164
Minimum Debt Coverage Ratio	1.1500
Available TIF for Debt Service	57,534
Amortization (Years)	21
Total Permanent Note Rate	4.250%
Mortgage Insurance Premium (MIP)	
Debt Service Constant (including MIP)	0.072067708
Maximum Calculated TIF Mortgage	798,331
Maximum TIF Supported Mortgage (rounded)	798,000
Actual TIF Mortgage if not Maximum Supported	798,000

CASH FLOW

Development Name 4100 Apartments

	Floor Plan	# Units	Rent	Floor Plan	# Units	Rent	Floor Plan	# Units	Rent	Floor Plan	# Units	Rent	Floor Plan	# Units	Rent
Total Units	70														
Cap Rate	7.00%	1BR	4	1,086	1BR	5	892	1BR	4	659					
Vacancy Rate / Credit Allowance	7.0%	2BR	5	1,301	2BR	30	1,068	1BR	4	659					
Income Inflator	2.00%	3BR	18	1,500											
Expense Inflator	3.00%														

INCOME	Initial Inflator	Future Inflator	Begin in Year	Actuals Two Years Ago	Actuals One Year Ago	Actuals Current Year	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15	
Rental Income	2.00%						955,452	974,561	994,052	1,013,933	1,034,212	1,054,896	1,075,994	1,097,514	1,119,464	1,141,854	1,164,691	1,187,984	1,211,744	1,235,979	1,260,699	
Parking Income	2.00%						56,700	57,834	58,991	60,170	61,374	62,601	63,853	65,130	66,433	67,762	69,117	70,499	71,909	73,347	74,814	
Commercial Income	2.00%																					
Gross Potential Rent							1,012,152	1,032,395	1,053,043	1,074,104	1,095,586	1,117,498	1,139,848	1,162,644	1,185,897	1,209,615	1,233,808	1,258,484	1,283,653	1,309,327	1,335,513	
Other Income from Operations (incl Laundry)	2.00%						8,700	8,874	9,051	9,233	9,417	9,606	9,798	9,994	10,193	10,397	10,605	10,817	11,034	11,254	11,479	
Other																						
Other																						
Other																						
Total Other Income							8,700	8,874	9,051	9,233	9,417	9,606	9,798	9,994	10,193	10,397	10,605	10,817	11,034	11,254	11,479	
Rental Vacancy	7.0%	2.00%					67,491	68,840	70,217	71,622	73,054	74,515	76,005	77,526	79,076	80,658	82,271	83,916	85,594	87,306	89,052	
Parking Vacancy	10.0%	2.00%					5,670	5,783	5,899	6,017	6,137	6,260	6,385	6,513	6,643	6,776	6,912	7,050	7,191	7,335	7,481	
Commercial Vacancy		2.00%																				
Other		2.00%																				
Other		2.00%																				
Total Rental Loss							73,161	74,624	76,116	77,639	79,191	80,775	82,391	84,039	85,719	87,434	89,182	90,966	92,785	94,641	96,534	
Net Rental Income							947,691	966,645	985,978	1,005,698	1,025,812	1,046,328	1,067,254	1,088,599	1,110,371	1,132,579	1,155,230	1,178,335	1,201,902	1,225,940	1,250,459	
EXPENSES																						
Property Management Fee	5.23%	3.00%					49,560	51,047	52,578	54,156	55,780	57,454	59,177	60,953	62,781	64,665	66,604	68,603	70,661	72,781	74,964	
Administrative Expenses (less Prop Mgmt Fee)		3.00%					124,320	128,050	131,891	135,848	139,923	144,121	148,445	152,898	157,485	162,209	167,076	172,088	177,251	182,568	188,045	
Maintenance Expenses		3.00%					177,300	182,619	188,098	193,740	199,553	205,539	211,705	218,057	224,598	231,336	238,276	245,425	252,787	260,371	268,182	
Utilities		3.00%					63,150	65,045	66,996	69,006	71,076	73,208	75,404	77,667	79,997	82,396	84,868	87,414	90,037	92,738	95,520	
Unique Operating Expenses		3.00%																				
Insurance M&O/DU/Mo:	\$546	3.00%					43,922	45,240	46,597	47,995	49,435	50,918	52,446	54,019	55,640	57,309	59,028	60,799	62,623	64,502	66,437	
Agency M&O Adjustment		3.00%																				
Real Estate Taxes		3.00%					103,285	106,384	109,575	112,862	116,248	119,736	123,328	127,028	130,838	134,763	138,806	142,971	147,260	151,678	156,228	
Reserves Reserves/Unit:	\$450						31,500	31,500	31,500	31,500	31,500	31,500	31,500	31,500	31,500	31,500	31,500	31,500	31,500	31,500	31,500	
Effective Gross Expense	62.58%						593,037	609,884	627,235	645,107	663,515	682,476	702,005	722,120	742,839	764,179	786,159	808,799	832,118	856,137	880,876	
Net Operating Income							354,654	356,762	358,743	360,591	362,296	363,852	365,249	366,479	367,533	368,400	369,071	369,536	369,784	369,803	369,583	
Temporary Income																						
Temporary Income - TIF							66,164	68,149	70,193	72,299	74,468	76,702	79,003	81,373	83,815	86,329	88,919	91,586	94,334	97,164	100,079	
Total Income for Debt Service							420,818	424,911	428,936	432,890	436,764	440,554	444,253	447,853	451,347	454,729	457,990	461,122	464,118	466,967	469,662	
DEBT SERVICE																						
MN Housing 1st Mortgage							301,123	301,123	301,123	301,123	301,123	301,123	301,123	301,123	301,123	301,123	301,123	301,123	301,123	301,123	301,123	
TIF Supported Mortgage							57,510	57,510	57,510	57,510	57,510	57,510	57,510	57,510	57,510	57,510	57,510	57,510	57,510	57,510	57,510	
MIP							8,177	8,074	7,967	7,855	7,739	7,617	7,490	7,357	7,219	7,075	6,924	6,767	6,603	6,433	6,254	
Other																						
Other																						
Total Debt Service							366,810	366,708	366,601	366,489	366,372	366,250	366,123	365,991	365,852	365,708	365,558	365,401	365,237	365,066	364,887	
Total Debt Service Coverage							1.15	1.16	1.17	1.18	1.19	1.20	1.21	1.22	1.23	1.24	1.25	1.26	1.27	1.28	1.29	
Cash Flow							54,008	58,203	62,336	66,401	70,393	74,304	78,129	81,862	85,495	89,021	92,432	95,722	98,881	101,902	104,774	
Funds from Debt Services Reserve	Enter this amt in Dev Costs, Reserves																					
Adjusted Cash Flow							54,008	58,203	62,336	66,401	70,393	74,304	78,129	81,862	85,495	89,021	92,432	95,722	98,881	101,902	104,774	
Adjusted Debt Service Coverage							1.15	1.16	1.17	1.18	1.19	1.20	1.21	1.22	1.23	1.24	1.25	1.26	1.27	1.28	1.29	
Expenses to be paid from Available Cash																						
Investor Fee	7,000						7,000	7,000	7,000	7,000	7,700	7,700	7,700	7,700	7,700	8,470	8,470	8,470	8,470	8,470	9,317	
7% Indexed 10% every 5 years																						
Deferred Developer Fee	214,418						47,008	51,203	55,336	59,401	1,470											
Deferred Loans																						
Minnesota Housing Cash Flow Note																						
Net Cash Flow											61,222	66,604	70,429	74,162	77,795	80,551	83,962	87,252	90,411	93,432	95,457	

Deferred Developer Fee Payments

Beginning Balance	214,418	167,410	116,207	60,871	1,470
Interest					
Payment	(47,008)	(51,203)	(55,336)	(59,401)	(1,470)
Ending Balance	167,410	116,207	60,871	1,470	

Cash Flow Loans

Beginning Balance	
Interest	
Payment	
Ending Balance	

DEVELOPMENT COSTS

	Total Costs	Per Unit	4% Credit Basis	9% Credit Basis	Historic Credits Basis	Inter-med. Costs	Comments
ACQUISITION or REFINANCE EXISTING DEBT							
Land	2,900,000	41,429					
Existing Structures							
Demolition	177,372	2,534					Breakout of Demo from Cons
Acquisition/Refinance Subtotal	3,077,372	43,962					
Special Assessments							
Other						<input checked="" type="checkbox"/>	
Other	Land Bank Fees	70,702	1,010			<input checked="" type="checkbox"/>	
Holding Costs	Land Bank Holding Costs	432,600	6,180			<input checked="" type="checkbox"/>	Interest + Mgmt Costs - 21 m
Holding Costs	Interest on pre-development costs	42,000	600			<input checked="" type="checkbox"/>	21 months of interest on pre
Acquisition/Refinance Total	3,622,674	51,752					
CONSTRUCTION							
New Construction							
Residential	12,663,728	180,910		12,663,728			*Construction numbers TBD
Garages	\$ per stall: <input type="text"/>	1,260,000	18,000	945,000			
Accessory Structures							
On Site Work							
Off Site Work							
Other	Payment and Performance Bonds	87,395	1,249	87,395			
Other	Permit	272,893	3,898	272,893			
New Construction Subtotal	14,284,016	204,057		13,969,016			
Rehabilitation							
Residential							
Garages	\$ per stall <input type="text"/>						
Accessory Structures							
On Site Work							
Off Site Work							
Other							
Other							
Rehabilitation Subtotal							
New and Rehabilitation Subtotal	14,284,016	204,057		13,969,016			
General Requirements	2.04%	291,367	4,162	291,367			
Contractor's Overhead	1.40%	200,320	2,862	200,320			
Contractor's Profit	2.06%	294,187	4,203	294,187			
Construction Contract Amount		15,069,890	215,284	14,754,890			
Construction Contingency	5.00%	753,495	10,764	753,495			
Total Construction Costs		15,823,385	226,048	15,508,385			
ENVIRONMENTAL ABATEMENT							
Soil Abatement							
Lead Abatement							
Asbestos Abatement		50,000	714	50,000			
Other							
Abatement Contingency (Agency determined)							
Abatement Total		50,000	714	50,000			

DEVELOPMENT COSTS

	Total Costs	Per Unit	4% Credit Basis	9% Credit Basis	Historic Credits Basis	Inter-med. Costs	Comments
PROFESSIONAL FEES							
Architect's Fee Total	451,200	3.0%					
Architect's Fee - Design	342,720	4,896		342,720		<input checked="" type="checkbox"/>	
Architect's Fee - Supervision	108,480	1,550		108,480		<input checked="" type="checkbox"/>	
Architect's Reimburseables	12,000	171				<input checked="" type="checkbox"/>	
Marketing	70,000	1,000				<input checked="" type="checkbox"/>	6 month lease-up period. Inc
Surveys	15,000	214		15,000		<input type="checkbox"/>	Initial survey + Foundation S
Soil Borings	13,000	186				<input type="checkbox"/>	
Payment & Performance Bond Premium						<input type="checkbox"/>	In GC Fees
Building Permit(s)						<input type="checkbox"/>	In GC Fees
Sewer-Water Access Charge	331,506	4,736		331,506		<input type="checkbox"/>	
Other Local Fees	80,000	1,143				<input type="checkbox"/>	City Application + City Consultant Fees
Appraisal Fee	10,000	143				<input checked="" type="checkbox"/>	
Energy Audit						<input checked="" type="checkbox"/>	
Energy Consultant	15,000	214				<input checked="" type="checkbox"/>	
Environmental Assessment	15,000	214		10,000		<input checked="" type="checkbox"/>	
Cost Certification/Audit	50,000	714		20,000		<input checked="" type="checkbox"/>	
Market Study	8,500	121				<input checked="" type="checkbox"/>	
Tax Credit Fees (% of credits)	84,000	1,200				<input checked="" type="checkbox"/>	
Compliance Fees (1st year)	2,100	30				<input checked="" type="checkbox"/>	
Furnishings and Equipment	90,000	1,286		90,000		<input type="checkbox"/>	
Legal Fees	100,000	1,429		85,000		<input checked="" type="checkbox"/>	
Relocation Costs						<input checked="" type="checkbox"/>	
Other Fees	30,000	429				<input checked="" type="checkbox"/>	Construction Testing
Other Fees	15,000	214				<input checked="" type="checkbox"/>	Soft Cost Contingency
Other Fees						<input checked="" type="checkbox"/>	
Other Fees						<input checked="" type="checkbox"/>	
Professional Fees Total	1,392,306	19,890		1,002,706			
DEVELOPER FEE							
Developer Fee	1,100,000	15,714		1,100,000		<input checked="" type="checkbox"/>	
Processing Agent						<input checked="" type="checkbox"/>	
Owner's Construction Representative						<input checked="" type="checkbox"/>	
Other Consultant Fees						<input checked="" type="checkbox"/>	
Other						<input type="checkbox"/>	
Developer Fee Total	1,100,000	15,714		1,100,000			4.9%
SYNDICATOR/INVESTOR FEES							
Organization Fees						<input checked="" type="checkbox"/>	
Bridge Loan						<input checked="" type="checkbox"/>	
Tax Opinion						<input checked="" type="checkbox"/>	
Due Diligence Fees						<input checked="" type="checkbox"/>	
Other Fees						<input type="checkbox"/>	
Syndicator/Investor Fees Total							

DEVELOPMENT COSTS

	Total Costs	Per Unit	4% Credit Basis	9% Credit Basis	Historic Credits Basis	Inter-med. Costs	Comments
FINANCING COSTS							
Construction Period Costs							
Hazard and Liability Insurance	44,000	629				<input type="checkbox"/>	
Construction Interest at: <input type="text" value="4.900%"/> <input type="text" value="14"/>	468,563	6,694		382,500		<input checked="" type="checkbox"/>	Adjusted by EC
Builder's Risk Insurance	64,000	914		64,000		<input checked="" type="checkbox"/>	
Taxes During Construction	55,000	786		55,000		<input checked="" type="checkbox"/>	
Minnesota Housing Bridge Loan Origination Fee						<input checked="" type="checkbox"/>	
Construction Loan Origination Fee	96,722	1,382		50,000		<input checked="" type="checkbox"/>	
Minnesota Housing Construction Oversight Fee	37,675	538		20,000		<input checked="" type="checkbox"/>	
Other Inspection Fee						<input checked="" type="checkbox"/>	
Other <input type="text"/>						<input type="checkbox"/>	
Permanent Financing Costs							
Minnesota Housing 1st Mortgage Application Fee	250	4				<input checked="" type="checkbox"/>	
Minnesota Housing 1st Mortgage Origination Fee	115,850	1,655				<input checked="" type="checkbox"/>	
HUD/FHA MIP						<input checked="" type="checkbox"/>	
HUD/FHA Exam Fee						<input checked="" type="checkbox"/>	
HUD/FHA Inspection Fee						<input checked="" type="checkbox"/>	
Other Permanent Origination Fee						<input checked="" type="checkbox"/>	
Mortgage Insurance Premium	7,234	103				<input checked="" type="checkbox"/>	
Bond Issuance Fee						<input checked="" type="checkbox"/>	
Bond Counsel						<input checked="" type="checkbox"/>	
Underwriter Counsel						<input checked="" type="checkbox"/>	
Trustee Fee						<input checked="" type="checkbox"/>	
Rating Agency						<input checked="" type="checkbox"/>	
Other Bond Fees						<input checked="" type="checkbox"/>	
Title and Recording	60,000	857		20,000		<input checked="" type="checkbox"/>	
Other <input type="text"/>						<input checked="" type="checkbox"/>	
Other <input type="text"/>						<input checked="" type="checkbox"/>	
Other <input type="text"/>						<input checked="" type="checkbox"/>	
Financing Costs Total	949,294	13,561		591,500			
TOTAL MORTGAGEABLE COSTS	22,937,659	327,681		18,252,591			
RESERVES AND NON-MORTGAGEABLE COSTS							
Operating Reserve	466,331	6,662					6 mos of M&O + 6 mos of DS
Replacement Reserve	31,500	450					
							Difference between average
Non-Mortgageable Costs Total	497,831	7,112					
TOTAL DEVELOPMENT COST							
Total Development Costs	23,435,490	334,793					
Total Basis for Tax Credits				18,252,591			
Total Intermediary Costs <input type="text" value="14.57%"/> % of total	3,413,396						

SOURCES

Total Development Cost from Development Costs tab: \$23,435,490

CONSTRUCTION SOURCES

Name of Source	Term (Months)	Rate	Amount	Per Unit	Committed	Notes
Construction Loan	18	4.900%	12,896,326	184,233	<input type="checkbox"/>	
				0	<input type="checkbox"/>	
				0	<input type="checkbox"/>	
				0	<input type="checkbox"/>	
				0	<input type="checkbox"/>	
Total Construction Financing			12,896,326	184,233		

PERMANENT CAPITAL SOURCES OF FUNDING

Name of Source	Term (Years)	Rate	Amount	Per Unit	Committed	Include in HTC Gap	End Loan	Notes (Enter info about status and estimated timing of funding)
Minnesota Housing First Mortgage	40	4.250%	6,585,000	94,071	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
General Partner Cash			100	1	<input checked="" type="checkbox"/>			
Syndication Proceeds			11,295,887	161,370	<input checked="" type="checkbox"/>			
State Historic Proceeds				0	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
Federal Historic Proceeds				0	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
Deferred Loan Request				0	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
Sales Tax Rebate			316,500	4,521	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Energy Rebates			35,000	500	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
City of Edina Loan	40	1.000%	2,400,000	34,286	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
City of Edina TIF				0	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Committed, in 1st Mortgage
Hennepin County Loan - HOME Funds	40	1.000%	500,000	7,143	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
GP Loan - Philanthropic	40	0.000%	206,000	2,943	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
GP Loan - Met Council LHIA	40	0.000%	500,000	7,143	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
MN Hsg Loan - EDHC	40	1.000%	888,634	12,695	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
GP Loan - Met Council LCDA	40	0.000%	493,950	7,056	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Acquisition and Stormwater
				0	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
				0	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
				0	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
				0	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Deferred Developer Fee			214,418	3,063	<input checked="" type="checkbox"/>		<input type="checkbox"/>	
Total Permanent Financing			23,435,489	334,793				
FUNDING GAP REMAINING			0	0				

NEW OR ADDITIONAL RENTAL ASSISTANCE OR OPERATING SUBSIDY FUNDING

Type of Source	Name of Source	OS Funding Use	Term (Years)	# of Units	Annual Amount	Per Unit	Secured or Applied for
Rental Assistance	Housing Support	Revenue Shortfall	1	8	63,264	7,908	Secured
						0	
						0	
Total Proposed Rental Assistance or Operating Subsidy Funding				8	63,264	7,908	

ADDITIONAL COSTS NOT INCLUDED IN TOTAL DEVELOPMENT COST

Minnesota Housing 1st Mortgage Escrow Requirements	Amount
Operating Deficit Escrow	197,550
Insurance Escrow	
Tax Escrow	
Other	
Other	

MAXIMUM ALLOWABLE RETURN ON EQUITY

Developments with syndication proceeds	0
Developments with no syndication proceeds	0
Developments with de minimus amount of syndication proceeds	0
Manual Entry	
Explain:	

FLOW OF FUNDS

In each column of the Flow of Funds, Total All Sources and Total Uses must be equal.

Name of Source	Amount	Closing	During Const	End of Const	Stabilization	Cash Flow	Comment
CONSTRUCTION SOURCES							
Construction Loan	12,896,326		12,896,326	(12,896,326)			
	0						
	0						
	0						
	0						
PERMANENT SOURCES							
Minnesota Housing First Mortga	6,585,000			6,193,000			
General Partner Cash	100	100					
Syndication Proceeds	11,295,887	2,259,177		8,419,396	617,314		
	0						
	0						
	0						
Sales Tax Rebate	316,500			305,500			
Energy Rebates	35,000			35,000			
City of Edina Loan	2,400,000	2,400,000					
	0						
Hennepin County Loan - HOME	500,000	500,000					
GP Loan - Philanthropic	206,000	10,000					
GP Loan - Met Council LHIA	500,000	432,472	67,528				
MN Hsg Loan - EDHC	888,634		888,634				
GP Loan - Met Council LCDA	493,950	353,950	140,000				
	0						
	0						
	0						
	0						
	0						
Deferred Developer Fee	214,418					275,241	
Total Construction Sources	12,896,326	0	12,896,326	(12,896,326)	0	0	
Total Perm Sources	23,435,489	5,955,699	1,096,162	14,952,896	617,314	275,241	
Total All Sources	36,331,815	5,955,699	13,992,488	2,056,570	617,314	275,241	

USES	Amount	Closing	During Const	End of Const	Stabilization	Cash Flow	Comment
Acquisition	3,622,674	3,603,732					
New Construction	14,284,016		12,855,614	1,428,402			
Rehab	0						
Contractor Fees	785,874	78,587	628,699	78,587			
Contingency	753,495		678,145	75,349			
Environmental Abatement	50,000		50,000				
Professional Fees (Soft Costs)	1,392,306	1,113,845	155,455	123,006			
Developer Fee	1,100,000	428,000		311,658	85,101	275,241	
Syndication Fees	0						
Financing Fees	949,294	712,071	142,294	94,929			
Reserves	497,831				497,831		
Total Uses	23,435,490	5,936,235	14,510,207	2,111,932	582,932	275,241	
<i>Difference</i>		19,465	(517,719)	(55,362)	34,382	0	

HOUSING TAX CREDIT INFORMATION

Credit Type (Check all that apply)

- Newly constructed and not federally subsidized
- Newly constructed and federally subsidized
- Rehabilitation expenditures not federally subsidized
- Rehabilitation expenditures federally subsidized
- Existing Building
- Allocation subject to non profit set aside under sec. 42(h)(5)

Project Located in:

- Difficult Development Area
- State Designated Basis Boost

Minimum Set-Aside (Please select one of the minimum set aside requirements stated by Section 42 IRS Code. The choice of minimum set-aside also establishes the income limit and rent limit applicable to all HTC units in the project. **Note: An election of 20% at 50% MTSP means that the 50% limit is applicable to all HTC units in the building.**)

- 20% of the units serving households at 50% MTSP
- 40% of the units serving households at 60% MTSP
- 40% of units serving households at an average of 60% MTSP (Income Average is based on number of HTC units with MTSP Income Limits located on the Housing Income tab.)

TENANT FACILITIES / AMENITIES

Common Space - Non Unit	Sq Ft	Fee	Basis?
Parking / Garages	22,956	75	<input type="checkbox"/>
Storage Lockers			<input type="checkbox"/>
Community Space			<input checked="" type="checkbox"/>
Swimming Pool			<input type="checkbox"/>
Community Service Facility			<input type="checkbox"/>
Office			<input checked="" type="checkbox"/>
Commercial Kitchen or Food Service Space (for supportive or senior housing)			<input type="checkbox"/>
Other			<input type="checkbox"/>

OTHER BASIS CONSIDERATIONS

Will any of the project financing be treated as or considered to be a Federal Grant or Tax-Exempt obligation

(Code Sec. 103)? Yes No

If yes, provide the following information

Source of Funds

Amount

Select one of the following:

- 4% credit
- Subtract from basis

Select one of the following:

- 4% credit
- Subtract from basis

TAX EXEMPT BOND FINANCING

Are tax exempt bonds to be issued? Yes No

If yes, complete the following:

Total Aggregate Basis

Total Tax Exempt Bonds

Name of Bond Issuer

Date of allocation of bond volume cap

ACQUISITION/REHABILITATION

Total Rehabilitation Expense

Lowest average rehabilitation attributable qualified basis per low income unit/building

Average rehabilitation expense per low income unit per project

Adjusted basis x 20% =

HOUSING TAX CREDIT INFORMATION

BUILDING GRID	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8
Address of Building (list all buildings separately)	Date of Substantial Rehab by Seller	Date of Acquisition by Seller	Date of Original Certificate of Occupancy	Actual / Proposed Date of Rehab by Applicant	Number of Years Between Placed in Service (later of column 2, 3 or 4) and Rehab	Is 10 year rule violated for this project?	Average rehabilitation attributable qualified basis per low income unit for this building
4100 West 76th Street							
Total Buildings							1

If less than 10 years since last placed in service, is the project eligible for:

- Exemption under 42(d)(2)(D) Exemptions for certain transfers, including but not limited to buildings placed in service by government or nonprofit, or buildings acquired through foreclosure.
- Exemption under 42(d)(6)(A) Exemption for state- or federally-assisted building.
- Waiver under 42(d)(6)(B) Waiver for buildings acquired from insured depository institutions in default.
If eligible for waiver, what is actual or proposed waiver date?

Please refer to IRS section 42 for complete details about eligibility under these rules.

DETERMINATION OF CREDIT

PROJECT APPLICABLE FRACTION

Type of Residential Rental Units	# of Units	Sq Ft
HTC Low Income Units	70	66,962
Market Rate Units / Non-HTC Units		
Total # HTC Low Income + Market Rate	70	66,962
Unit and Area Fractions	100.00%	100.00%
Applicable Fraction (Lesser of Unit or Area Fraction)	100.00%	
Employee / Common Space Units		
Total Number and Square Feet of Units	70	66,962

HISTORIC CREDITS

	State	Federal
Total Historic Basis		
Rebates		
Qualified Rehabilitation Expenditures		
Applicable Percentage	20%	20%
Historic Tax Credits		
Investor Ownership Percentage		
Investor Tax Credits		
Equity Factor		
Historic Credit Syndication Proceeds		

TAX CREDIT BASIS CALCULATION

	4%	9%	Total
Total Basis		18,252,591	18,252,591
Less federal grant(s) used to finance qualifying development costs			
Less amount of nonqualifying nonrecourse financing			
Less nonqualifying excess portion of higher quality units			
Less Historic Tax Credit (Residential Portion Only)			
Less Rebates		316,500	316,500
Total Eligible Basis		17,936,091	17,936,091
High Cost Adjustment			
Total Eligible Basis Adjusted for the High Cost		17,936,091	17,936,091
Applicable Fraction	1.0000	1.0000	
Total Qualified Basis		17,936,091	17,936,091
Applicable Percentage		9.00%	
Tax Credit Potential For Project		1,614,248	
Annual Tax Credits From Basis Calculation		1,614,248	

Portion not elig for High Cost Adj:

4%	9%

TAX CREDIT EQUITY GAP CALCULATION

Applicable Sources will populate from the Capital Sources of Funding Grid

Source	Amount
Minnesota Housing First Mortgage	6,585,000
State Historic Proceeds	
Federal Historic Proceeds	
Deferred Loan Request	
Sales Tax Rebate	316,500
Energy Rebates	35,000
City of Edina Loan	2,400,000
City of Edina TIF	
Hennepin County Loan - HOME Funds	500,000
GP Loan - Philanthropic	206,000
GP Loan - Met Council LHIA	500,000
MN Hsg Loan - EDHC	888,634
GP Loan - Met Council LCDA	493,950

DETERMINATION OF CREDIT

Total Sources of Funds from above	11,925,084	
Total Development Costs	23,435,490	
Funding Gap	11,510,406	
Equity Factor/Syndication Rate	0.9300	
10 Year Credit Gap	12,376,780	
Annual Credit Gap	1,237,678	
Annual Basis Credit	1,614,248	
Maximum Tax Credit Allowed	1,237,678	
MN Housing Approved Maximum Tax Credit	1,237,678	
Credit Amount Previously Allocated and/or Reserved	887,011	
Maximum Credit Requested at this time	327,722	<input type="checkbox"/>
Total Calculated Credit Allocation	1,214,733	Requesting waiver of limit per development
Manual Credits Requested at this time	327,722	
Ten Year Gross Tax Credits	12,147,330	
Equity Factor	0.9300	
Investor Ownership Percentage	99.99%	
Gross Syndication Proceeds	11,295,887	
Manual Syndication Proceeds		

TAX CREDIT SYNDICATION

If individual, attach a description explaining how the tax benefits will be used.

Type of Offering: Syndicated
 Individual/Private Placement

Housing Tax Credits					
Pay-In Amount	% of Pro-ceeds	Anticipated Date of Pay-In	Describe Milestones	Required Reserve Amounts	Developer Fee Amount
2,259,177	20.00%	5/1/2020	Admission, closing const loans		428,000
8,419,396	74.54%	6/1/2021	Permanent CO		311,658
540,381	4.78%	12/1/2021	Stabilization, 3 mos 1.15x DSC	497,831	42,551
42,551	0.38%	12/1/2021	Receipt of 8609		42,551
			Deferred Fee		214,418
11,261,505	99.70%			497,831	1,039,177

Historic Tax Credits					
Pay-In Amount	% of Pro-ceeds	Anticipated Date of Pay-In	Describe Milestones	Required Reserve Amounts	Developer Fee Amount

Exhibit D

Form of TIF Note

LIMITED REVENUE TAXABLE TAX INCREMENT NOTE

(The Sound on 76th)

No. R- _____

\$798,000.00

**UNITED STATES OF AMERICA
STATE OF MINNESOTA
CITY OF EDINA**

**HOUSING AND REDEVELOPMENT AUTHORITY
OF EDINA, MINNESOTA
LIMITED REVENUE TAXABLE TAX INCREMENT NOTE**

The **HOUSING AND REDEVELOPMENT AUTHORITY OF EDINA, MINNESOTA** (the "Authority") acknowledges itself to be indebted and, for value received, promises to pay to the order of **THE SOUND ON 76TH LIMITED PARTNERSHIP**, a Minnesota limited partnership, or its assigns ("Developer"), solely from the source, to the extent and in the manner hereinafter provided, up to the principal amount of this Limited Revenue Taxable Tax Increment Note (this "Note") as provided herein, together with simple interest thereon accrued on the unpaid principal balance hereof from the date hereof, at a fixed rate equal **4.25%** per annum, on the Payment Dates (as hereinafter defined). This Note is executed and delivered in accordance with the terms and conditions of a Redevelopment Agreement dated as of September 10, 2020, by and between the Authority and Developer (the "Redevelopment Agreement"), and is subject to the terms, conditions, and limitations on payment set forth therein and the Redevelopment Agreement.

Each payment on this Note is payable in any coin or currency of the United States of America which on the date of such payment is legal tender for public and private debts and shall be made by check or draft made payable to Developer and mailed to Developer at its postal address within the United States which shall be designated from time to time by Developer.

This Note is a special and limited obligation and not a general obligation of the Authority, which has been issued by the Authority pursuant to, and in full conformity with, the Constitution and the laws of the State of Minnesota, including Minnesota Statutes, Sections 469.174 through 469.1794 (the "TIF Act"), and the terms and conditions of the Redevelopment Agreement and a resolution of the Board of the Authority, to aid in financing a "project" (as defined in Minnesota Statutes, Section 469.174, subdivision 8) of the Authority within the West 76th Street Tax Increment Financing District established by the Authority pursuant to Resolution No. 2018-11 (the "TIF District"). Capitalized terms used herein and not otherwise defined herein shall have the meaning given to them in the Redevelopment Agreement.

The maximum principal amount of this Note attributable to Eligible Reimbursable Expenses shall not exceed **\$798,000.00**.

Principal of and interest on this Note shall be payable solely from and in the amount of Pledged Tax Increments (as hereinafter defined) on each February 1 and August 1 commencing on the first February 1 or August 1 immediately following the date hereof (the “Payment Dates”). On each Payment Date, the Authority shall apply Pledged Tax Increments to the payment of principal of and interest on this Note then due; provided, however, that in the event that Pledged Tax Increments are not sufficient to pay when due the principal of and interest on this Note, the failure of the Authority to pay the entire amount of principal or interest on this Note on any Payment Date shall not constitute a default under this Note as long as the Authority pays the principal of and interest on this Note to the extent of Pledged Tax Increments.

To the extent that the Authority is unable to pay the total principal and interest due on this Note at or prior to **February 1, 2043** (the “Maturity Date”) hereof as a result of its having received as of such date insufficient Pledged Tax Increments, such failure shall not constitute a default under this Note and the Authority shall have no further obligation to pay unpaid balance of principal or accrued interest that may remain after such Maturity Date.

All payments made by the Authority on this Note shall be applied first to accrued interest and then to the principal amount of this Note. Interest shall be computed on the basis of a year of 360 days and charged for actual days principal is unpaid.

The following terms have the following definitions for purposes of this Note:

“Tax Increments” means the tax increments derived from the TIF District which have been received and retained by the Authority in accordance with the provisions of the TIF Act, including without limitation Minnesota Statutes, Section 469.177.

“Pledged Tax Increments” means 90% of the Tax Increments received by the Authority less the amount of Tax Increments, if any, which the Authority must pay to the school district, the City, the County and the State pursuant to the TIF Act, including without limitation Minnesota Statutes, Sections 469.177, Subds. 9 and 11; 469.176, Subd. 4h; and 469.175, Subd. 1a, as the same may be amended from time to time.

EXCEPT AS TO THE OBLIGATION TO MAKE PAYMENTS FROM PLEDGED TAX INCREMENTS, THIS NOTE IS NOT A DEBT OF THE AUTHORITY, THE CITY OF EDINA, MINNESOTA (THE “CITY”), OR THE STATE OF MINNESOTA (THE “STATE”), AND NEITHER THE AUTHORITY, THE CITY, THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF SHALL BE LIABLE ON THIS NOTE, NOR SHALL THIS NOTE BE PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN PLEDGED TAX INCREMENTS.

Upon an Event of Default by Developer under the Redevelopment Agreement, the Authority may exercise the remedies with respect to this Note described in the Redevelopment Agreement, the terms of which are incorporated herein by reference, including, without limitation, the suspension or termination of the Authority’s obligation to make any payments under this Note.

The principal sum and all accrued interest payable under this Note is prepayable in whole or in part at any time by the Authority without premium or penalty. No partial prepayment shall affect the amount or timing of any other regular payment otherwise required to be made under this Note.

The outstanding principal balance due under this Note shall be subject to redemption and prepayment, in whole or in part, at the option of the Authority and, if redemption is in part, installments of principal shall be applied to reduce the principal to become due on this Note in inverse order of maturity, or, at the written direction of the Authority, pro rata from each maturity.

Developer shall never have or be deemed to have the right to compel any exercise of any taxing power of the Authority or the City or any other public body, and neither the Authority nor the City nor any director, commissioner, council member, board member, officer, employee or agent of the Authority or the City, nor any person executing or registering this Note shall be liable personally hereon by reason of the issuance or registration hereof or otherwise.

THE AUTHORITY MAKES NO REPRESENTATION, COVENANT, OR WARRANTY, EXPRESS OR IMPLIED, THAT THE PLEDGED TAX INCREMENTS WILL BE SUFFICIENT TO PAY, IN WHOLE OR IN PART, THE PRINCIPAL OF AND INTEREST ON THIS NOTE. NO HOLDER OF THIS NOTE SHALL HAVE RIGHTS AGAINST THE AUTHORITY EXCEPT FOR DISTRIBUTION OF PLEDGED TAX INCREMENTS.

Except as otherwise provided in the Redevelopment Agreement, this Note shall not be assignable or transferable without the prior written consent of the Authority; provided, however, that such consent shall not be unreasonably withheld or delayed if: (a) the assignee or transferee delivers to the Authority a written instrument acknowledging the limited nature of the Authority's payment obligations under this Note, and (b) the assignee or transferee executes and delivers to the Authority a certificate, in form and substance reasonably satisfactory to the Authority, pursuant to which, among other things, such assignee or transferee represents (i) that this Note 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, (ii) that the assignee or transferee has no present intention of selling, granting any participation in, or otherwise distributing the same, (iii) that the assignee or transferee is an "accredited investor" within the meaning of Rule 501 of the Regulation D under the Securities Act of 1933, as amended, (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 this Note and the assignee or transferee is able to bear the economic consequences thereof, (v) that in making its decision to acquire this Note, 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 this Note, (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 this Note, (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 this Note and such other information as the assignee or transferee desires in order to evaluate the acquisition of and investment in this Note, 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 this Note and has determined that this Note is a suitable investment for the assignee or transferee in light of such party's overall financial condition and prospects, (ix) that this Note will be characterized as "restricted securities" under the federal securities laws because this Note is 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) that no market for this Note exists and no market for this Note is intended to be developed.

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

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions, and things required by the Constitution and laws of the State of Minnesota to be done, to have happened, and to be performed

precedent to and in the issuance of this Note have been done, have happened, and have been performed in regular and due form, time, and manner as required by law; and that this Note, together with all other indebtedness of the Authority or the City outstanding on the date hereof and on the date of its actual issuance and delivery, does not cause the indebtedness of the Authority or the City to exceed any constitutional or statutory limitation thereon.

[Remainder of this page intentionally left blank; signatures on following page]

IN WITNESS WHEREOF, the Board of the Housing and Redevelopment Authority of Edina, Minnesota, has caused this Note to be executed by the manual signatures of the Chair and the Executive Director of the Authority, and has caused this Note to be dated as of the date of original issue specified above.

Chair

Secretary

Exhibit E

TENANT INCOME CERTIFICATION

- Initial Certification Recertification
 Other _____

Effective Date: _____

Move-in Date: _____
(YYYY-MM-DD)

PART I - DEVELOPMENT DATA

Property Name:	County:	BIN #:	PISD:
BIN Address:	City:		Zip:
Unit Number:	# Bedrooms:	Square Footage:	

PART II. HOUSEHOLD COMPOSITION

(DEMOGRAPHIC INFORMATION IS FOR LIHTC/HMMF ONLY)

HH Mbr#	Last Name	First Name	Middle Initial	Relationship to Head of Household	Date of Birth (MM/DD/YY)	F/T Student?	SS# Last 4 Digits	Race	Ethnic	Disabled?
1				HEAD						
2										
3										
4										
5										
6										
7										

PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)

HH Mbr #	(A) Employment or Wages	(B) Soc. Security/Pensions	(C) Public Assistance	(D) Other Income
TOTALS	\$	\$	\$	\$
Add totals from (A) through (D), above			TOTAL INCOME (E):	\$

PART IV. INCOME FROM ASSETS

Hshld Mbr #	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset
TOTALS:			\$	\$
Enter Column (H) Total		Passbook Rate		
If over \$5,000 \$ _____ X		.06%	= (J) Imputed Income	\$
Enter the greater of the total of column I, or J: imputed income			TOTAL INCOME FROM ASSETS (K)	\$

(L) Total Annual Household Income from all Sources [Add (E) + (K)]

\$

HOUSEHOLD CERTIFICATION & SIGNATURES

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full time student.

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

Signature	(Date)	Signature	(Date)
Signature	(Date)	Signature	(Date)

PART V. DETERMINATION OF INCOME ELIGIBILITY

RECERTIFICATION ONLY:

TOTAL ANNUAL HOUSEHOLD INCOME FROM ALL SOURCES: From item (L) on page 1 Current LIHTC Income Limit per Family Size for the federal 50% or 60% set aside: Household Income at LIHTC Qualification Date: Household Size at LIHTC Qualification Date:	\$ _____ \$ _____ \$ _____ _____	Household Meets Income Restriction at: <input type="checkbox"/> 60% <input type="checkbox"/> 50% <input type="checkbox"/> 40% <input type="checkbox"/> 30% <input type="checkbox"/> _____%	Current Income Limit x 140% \$ _____ Household Income exceeds 140% at recertification: <input type="checkbox"/> Yes <input type="checkbox"/> No
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PART VI. RENT

Tenant Paid Rent \$ _____ Utility Allowance \$ _____ Other non-optional charges: \$ _____ GROSS RENT FOR UNIT: (Tenant paid rent plus Utility Allowance & other non-optional charges) \$ _____ Maximum Rent Limit for this unit: \$ _____ Unit Meets Rent Restriction at: <input type="checkbox"/> 60% <input type="checkbox"/> 50% <input type="checkbox"/> 40% <input type="checkbox"/> 30% <input type="checkbox"/> _____%	Federal Rent Assistance Amount: \$ _____ *Source: _____ Non-Federal Rent Assistance Amount: \$ _____ (*1-8) TOTAL RENT ASSISTANCE: \$ _____ * Source of Federal Assistance 1 **HUD Multi-Family Project-Based Rental Assistance (PBRA) 2 Section 8 Moderate Rehabilitation 3 Public Housing Operating Subsidy 4 HOME Rental Assistance 5 HUD Housing Choice Voucher (HCV), tenant-based 6 HUD Project-Based Voucher (PBV) 7 USDA Section 521 Rental Assistance Program 8 Other Federal Rental Assistance ** (PBRA) Includes: Section 8 New Construction/Substantial Rehabilitation; Section 8 Loan Management; Section 8 Property Disposition; Section 202 Project Rental Assistance Contracts (PRAC)
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PART VII. STUDENT STATUS

ARE ALL OCCUPANTS FULL TIME STUDENTS? <input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, Enter student explanation* (also attach documentation) *Enter 1-6: _____	*Student Explanation: 1 TANF assistance 2 Job Training Program 3 Single parent/dependent child 4 Married/joint return 5 Formerly in foster care 6 Extended-Use Period
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PART VIII. PROGRAM TYPE

Mark the program(s) listed below (a. through e.) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification.

a. Tax Credit <input type="checkbox"/> See Part V above.	b. HOME <input type="checkbox"/> <i>Income Status</i> <input type="checkbox"/> ≤ 50% AMGI <input type="checkbox"/> ≤ 60% AMGI <input type="checkbox"/> ≤ 80% AMGI <input type="checkbox"/> OI**	c. Tax Exempt <input type="checkbox"/> <i>Income Status</i> <input type="checkbox"/> 50% AMGI <input type="checkbox"/> 60% AMGI <input type="checkbox"/> 80% AMGI <input type="checkbox"/> OI**	d. AHDP <input type="checkbox"/> <i>Income Status</i> <input type="checkbox"/> 50% AMGI <input type="checkbox"/> 80% AMGI <input type="checkbox"/> OI**	e. <input type="checkbox"/> _____ (Name of Program) <i>Income Status</i> <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> OI**
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**Upon recertification, household was determined over-income (OI) according to eligibility requirements of the program(s) marked above.

SIGNATURE OF OWNER/REPRESENTATIVE

Based on the representations herein and upon the proofs and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Land Use Restriction Agreement (if applicable), to live in a unit in this Project.

SIGNATURE OF OWNER/REPRESENTATIVE

DATE

INSTRUCTIONS FOR COMPLETING TENANT INCOME CERTIFICATION

This form is to be completed by the owner or an authorized representative.

Part I - Development Data

Check the appropriate box for Initial Certification (move-in), Recertification (annual recertification), or Other. If Other, designate the purpose of the recertification (i.e., a unit transfer, a change in household composition, or other state-required recertification).

Effective Date	Enter the effective date of the certification. For move-in, this should be the move-in date. For annual recertification, this effective date should be no later than one year from the effective date of the previous (re)certification.
Move-in Date	Enter the date the tenant has or will take occupancy of the unit. (This date should reflect the most recent <i>Initial Certification Date</i> when the tenant was certified for occupancy of a tax credit unit.)
Property Name	Enter the name of the development.
County	Enter the county (or equivalent) in which the building is located.
BIN #	Enter the Building Identification Number (BIN) assigned to the building (from IRS Form 8609). This is expected to be in the following format: ME-87-00001, ME-87-00002, ME-87-00003, etc. Where - ME is the state allocating agency's two character state designation. In this case Maine. - 87 is the last two digits of the BIN's year of allocation (1987) - 00001, 00002, 00003 is a 5 digit serial number usually sequential.
Address	Enter the street address, city and zip code of the building.
Unit Number	Enter the unit number.
# Bedrooms	Enter the number of bedrooms in the unit.
Square Footage	Enter the square footage of the unit.

Part II - Household Composition

List all occupants of the unit. State each household member's relationship to the head of household by using one of the following coded definitions:

H	Head of Household	S	Spouse
A	Co-Head (Adult co-tenant)	O	Other family member
C	Child	F	Foster Child/Adult
L	Live-in caretaker	N	None of the above

Enter the date of birth, student status, and last four numbers of each household member's social security number or alien registration number. Enter 0000 (4 zeros) if the household member does not have a security number or alien registration number.

Race: Enter each household member's race by using at least one of the following coded definitions: 1 – White; 2 – Black/African American; 3 – American Indian/Alaska Native; 4 – Asian (4a – Asian India; 4b – Chinese; 4c – Filipino; 4d – Japanese; 4e – Korean; 4f – Vietnamese; 4g – Other Asian); 5 – Native Hawaiian/Other Pacific Islander (5a – Native Hawaiian; 5b – Guamanian or Chamorro; 5c – Samoan; 5d – Other Pacific Islander); 6 – Other; or 8 – Tenant did not respond.

Ethnicity: Enter each household member's ethnicity by using one of the following coded definitions: 1 – *Hispanic or Latino*; 2 – not *Hispanic or Latino* or 3 – *Tenant did not respond*.

Disabled?: Enter 1 - (Yes) if the household member is disabled according to Fair Housing Act definition for handicap (disability)
Enter 2 - (No) if the household member is not disabled.
Enter 3 - Tenant Did Not Respond

Fair Housing Act definition for handicap (disability)

- A physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment, or being regarded as having such an impairment. For a definition of “physical or mental impairment” and other terms used in this definition, please see 24 CFR 100.201, available at http://www.fairhousing.com/index.cfm?method=page.display&pagename=regs_fhu_100-201.
- “Handicap” does not include current, illegal use of or addiction to a controlled substance.
- An individual shall not be considered to have a handicap solely because that individual is a transvestite.

The housing credit agency administering its low-income housing credit program must, to the best of its ability, provide this disability status information, pursuant to 42 U.S.C. 1437z-8. However, it is the tenant’s voluntary choice whether to provide such information, and questions to the tenant requesting the information must so state. If the tenant declines to provide the information, the housing credit agency shall use its best efforts to provide the information, such as by noting the appearance of a physical disability that is readily apparent and obvious, or by relying on a past year’s information. For purposes of gathering this information, no questions with respect to the nature or severity of the disability are appropriate.

If there are more than 7 occupants, use an additional sheet of paper to list the remaining household members and attach it to the certification.

Part III - Annual Income

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income, including acceptable forms of verification.

From the third party verification forms obtained from each income source, enter the gross amount anticipated to be received for the twelve months from the effective date of the (re)certification. Complete a separate line for each income-earning member. List the respective household member number from Part II.

Column (A)	Enter the annual amount of wages, salaries, tips, commissions, bonuses, and other income from employment; distributed profits and/or net income from a business.
Column (B)	Enter the annual amount of Social Security, Supplemental Security Income, pensions, military retirement, etc.
Column (C)	Enter the annual amount of income received from public assistance (i.e., TANF, general assistance, disability, etc.).
Column (D)	Enter the annual amount of alimony, child support, unemployment benefits, or any other income regularly received by the household.
Row (E)	Add the totals from columns (A) through (D), above. Enter this amount.

Part IV - Income from Assets

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income from assets, including acceptable forms of verification.

From the third party verification forms obtained from each asset source, list the gross amount anticipated to be received during the twelve months from the effective date of the certification. List the respective household member number from Part II and complete a separate line for each member.

Column (F)	List the type of asset (i.e., checking account, savings account, etc.)
Column (G)	Enter C (for current, if the family currently owns or holds the asset), or I (for imputed, if the family has disposed of the asset for less than fair market value within two years of the effective date of (re)certification).
Column (H)	Enter the cash value of the respective asset.
Column (I)	Enter the anticipated annual income from the asset (i.e., savings account balance multiplied by the annual interest rate).
TOTALS	Add the total of Column (H) and Column (I), respectively.

If the total in Column (H) is greater than \$5,000, you must do an imputed calculation of asset income. Enter the Total Cash Value, multiply by 2% and enter the amount in (J), Imputed Income.

Row (K)	Enter the greater of the total in Column (I) or (J)
Row (L)	Total Annual Household Income From all Sources Add (E) and (K) and enter the total

HOUSEHOLD CERTIFICATION AND SIGNATURES

After all verifications of income and/or assets have been received and calculated, each household member age 18 or older must sign and date the Tenant Income Certification. For move-in, it is recommended that the Tenant Income Certification be signed no earlier than 5 days prior to the effective date of the certification.

Part V – Determination of Income Eligibility

Total Annual Household Income from all Sources	Enter the number from item (L).
Current Income Limit per Family Size	Enter the Current Move-in Income Limit for the household size.
Household Income at LIHTC Qualification Date	Effective Date of LIHTC Income Certification: If the current Tenant Income Certification (TIC) did not update the tenant’s income information and the TIC is reporting previous income, enter the effective date of the income qualification corresponding to the total annual household income. If income certification is not required annually, this may be different from the effective date listed in Part I.
Household Size at LIHTC Qualification Date	If the current Tenant Income Certification (TIC) did not update the tenant’s household size information and the TIC is reporting previous information, enter the number of tenants corresponding to the total annual household income entered in Box L. If income certification is not required annually, this may be different from the number of tenants listed in Part II.
Household Meets Income Restriction	Check the appropriate box for the income restriction that the household meets according to what is required by the set-aside(s) for the project.
Current Income Limit x 140%	For re-certifications only. Multiply the Current Maximum Move-in Income Limit by 140% and enter the total. Below, indicate whether the household income exceeds that total. If the Gross Annual Income at recertification is greater than 140% of the current income limit, then the available unit rule must be followed.

Part VI - Rent

Tenant Paid Rent	Enter the amount the tenant pays toward rent (not including rent assistance payments such as Section 8).
Rent Assistance	Enter both the Federal and Non-Federal amount of rent assistance, if any. Be sure to enter separate amounts for each source.
Source	Enter the source of the Federal rental assistance
Utility Allowance	Enter the utility allowance. If the owner pays all utilities, enter zero.
Other non-optional charges	Enter the amount of non-optional charges, such as mandatory garage rent, storage lockers, charges for services provided by the development, etc.
Gross Rent for Unit	Enter the total of Tenant Paid Rent plus Utility Allowance and other non-optional charges.
Maximum Rent Limit for this unit	Enter the maximum allowable gross rent for the unit.
Unit Meets Rent Restriction at	Check the appropriate rent restriction that the unit meets according to what is required by the set-aside(s) for the project.

Part VII - Student Status

If all household members are full time* students, check “yes”. If at least one household member is not a full time student, check “no”.

If “yes” is checked, the appropriate exemption must be listed in the box to the right. If none of the exemptions apply, the household is ineligible to rent the unit.

**Full time is determined by the school the student attends.*

Part VIII – Program Type

Mark the program(s) for which this household’s unit will be counted toward the property’s occupancy requirements. Under each program marked, indicate the household’s income status as established by this certification/recertification. If the property does not participate in the HOME, Tax-Exempt Bond, Affordable Housing Disposition, or other housing program, leave those sections blank.

Tax Credit	See Part V above.
HOME	If the property participates in the HOME program and the unit this household will occupy will count towards the HOME program set-asides, mark the appropriate box indicating the household’s designation.
Tax Exempt	If the property participates in the Tax Exempt Bond program, mark the appropriate box indicating the household’s designation.
AHDP	If the property participates in the Affordable Housing Disposition Program (AHDP), and this household’s unit will count towards the set-aside requirements, mark the appropriate box indicating the household’s designation.
Other	If the property participates in any other affordable housing program, complete the information as appropriate.

SIGNATURE OF OWNER/REPRESENTATIVE

It is the responsibility of the owner or the owner’s representative to sign and date this document immediately following execution by the resident(s).

The responsibility of documenting and determining eligibility (including completing and signing the Tenant Income Certification form) and ensuring such documentation is kept in the tenant file is extremely important and should be conducted by someone well trained in tax credit compliance.

These instructions should not be considered a complete guide on tax credit compliance. The responsibility for compliance with federal program regulations lies with the owner of the building(s) for which the credit is allowable.

Loan Agreement

By and Between

Housing and Redevelopment Authority of Edina, Minnesota

And

The Sound on 76th Limited Partnership

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List of Exhibits

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<u>Exhibit D</u>	Funding Sources

TIF Loan Agreement

This TIF Loan Agreement (this “Agreement”) is made and entered into as of this ___ day of _____, 2020 by and between **The Sound on 76th Limited Partnership**, (“Developer” or “Borrower”), and the **Housing and Redevelopment Authority of Edina, Minnesota**, a public body corporate and politic organized and existing under the laws of the State of Minnesota (the “Authority” or “Lender”).

A. Developer has submitted a proposal to the City of Edina, Minnesota (the “City”) for the new construction of a building to provide 70 housing units on the real property located at 4100 76th Street West, Edina, Minnesota, and legally described on **Exhibit A** (the “Project”).

B. The Project is located within the “West 76th Street TIF District” (the “TIF District”), a housing tax increment financing (“TIF”) district created by the Authority and the City pursuant to and in conformity with Minnesota Statutes, Sections 469.001 to 469.047 and Sections 469.174 to 469.1794, inclusive, as amended (the “TIF Act”) and special modifications to the TIF Act secured by the Authority and the City to support the creation of new affordable housing in the City as set forth in Minnesota Session Laws 2014, Chapter 308, Article 6, Section 8, as amended by Minnesota Session Laws 2017, First Special Session Chapter 1, Article 6, Sections 11 and 16 and Minnesota Session Laws 2019, First Special Session Chapter 6, Article 7, Section 3 (the “Special TIF Housing Legislation”).

C. The Authority and Developer have entered into that certain Redevelopment Agreement dated September 10, 2020 (as amended, the “Redevelopment Agreement”), pursuant to which the Authority has agreed to provide certain financial assistance to Developer to support the construction of the Project and development of new affordable housing in accordance with the TIF plan for the TIF District (the “TIF Plan”).

D. In accordance with the Redevelopment Agreement and the TIF Plan, the Authority, as Lender, has agreed to loan, and Developer, as Borrower, has agreed to borrow, upon the terms and conditions of this Agreement, the aggregate amount of up to **\$2,400,000.00** (the “TIF Loan”) to finance Borrower’s construction of the Project, which TIF Loan will be funded from certain tax increment generated from the existing Southdale 2 TIF District in accordance with the Special TIF Housing Legislation.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in consideration of the mutual covenants and agreements hereinafter contained, the parties hereto hereby agree as follows:

Article 1 **Definitions**

Section 1.01. Definitions. For the purposes of this Agreement, the following terms shall have the following meanings:

“Affordable Housing Restrictive Covenant” means the restrictive covenant in substantially the form attached to the Redevelopment Agreement as Exhibit J, to be executed by Borrower and recorded against the Project as provided in the Redevelopment Agreement.

“City” shall mean the City of Edina, a Minnesota municipal corporation.

“Completion Date” shall mean the date when development of the Project and related activities upon the Premises have been completed and a Certificate of Completion has been issued by the Authority

pursuant to the Redevelopment Agreement, which date shall be on or before **July 1, 2022**, subject to Unavoidable Delays and any extensions granted by the Lender.

“Construction and Other Documents” shall mean the following documents, all of which shall be in form and substance acceptable to Lender:

- (a) Evidence satisfactory to the Lender showing that the Borrower by the Date of Closing will have title in fee simple and site control of the Land, subject only to Permitted Encumbrances.
- (b) A signed, itemized and sworn construction cost statement.
- (c) A total project cost statement sworn to by the Borrower to be a true, complete and accurate account of all costs actually incurred and a reasonable estimate of costs to be incurred for the Project.
- (d) One copy of the Construction Plans.
- (e) One copy of a recent survey of the Land prepared by a registered land surveyor dated within 120 days of the Date of Closing describing and showing the Land and the location of the Improvements thereon, disclosing easements (both appurtenant and encumbrances upon the Land, giving appropriate ownership and recording data), encroachments, if any, and disclosing all unsatisfactory survey conditions, if any (the “Survey”). The Survey shall bear a proper surveyor’s certificate, including the legal description of the Land, the legal description of all easements both appurtenant and encumbrances and shall state that the survey and certificate run to the benefit of Lender and Title. The Survey shall specifically show the following matters to the extent possible at the time of the Survey:
 - (i) dimensions and total square footage area of the Land surveyed with acreage designation to three decimal points; and
 - (ii) the location and names of adjoining public roads and streets.
- (f) Copies of the Other Project Financing Documents, the Master Subordination Agreement, the master disbursement agreement, and the documents providing for all additional funds necessary to pay all Construction Costs.
- (g) Borrower’s organizational documents, including all relevant partnership agreements, articles of incorporation, bylaws, authorizing resolutions, certificates of good standing, and 501(c)(3) certifications.

“Construction Costs” shall mean all costs paid to complete construction of the Project Improvements, including, but not limited to, site preparation costs, architectural fees, engineering fees, surveying charges, contractor fees, bond fees, insurance costs, legal fees, and all costs of labor, material and services paid or incurred by Borrower, as shown on a sworn construction cost statement approved by Lender.

“Construction Plans” shall mean the written plans and specifications for the Project, which shall be approved in writing by the Lender prior to the advances disbursed pursuant to Article 3 and which are hereby made a part hereof, along with other drawings and related documents on the construction work to be performed by Borrower or its contractor on the Premises, which (a) shall be as detailed as the plans,

specifications, drawings and related documents which are submitted to the building inspector of the City; and (b) shall include at least the following: (1) site plan; (2) basement plans, if applicable; (3) floor plan for each floor; (4) landscape plan; and (5) signage as described in Section 7.09. Borrower agrees that all work items within the plans and specifications pertaining to mechanical, electrical or structural work shall have been reviewed, approved and/or certified by the appropriate licensed or registered professional engineer or architect as required by law and necessary to ensure health and safety.

“Construction Start Date” shall mean the date on which the construction of the Project Improvements begins, which shall be no later than 30 days after the Date of Closing.

“Date of Closing” shall mean the date on which the TIF Loan Documents are delivered, the Article 3 “Conditions Precedent to Advances” are met, and the Project status is satisfactory to Lender, which date shall be on or before **May 1, 2021**.

“Disbursement Agreement” shall mean that certain disbursement agreement dated as of the date of this Agreement by and between Lender, Borrower and Title for disbursement of the TIF Loan Proceeds, to be in a form reasonably acceptable to Lender, Borrower and Title.

“Eligible Project Costs” means the total of all Construction Costs.

“Land” shall mean the real property comprising the Project, located in the County of Hennepin, State of Minnesota, legally described on Exhibit A attached hereto and hereby made a part hereof.

“Master Subordination Agreement” means the master subordination agreement to be entered into by any among the Lender and each of the lenders of the Other Project Financing.

“Net Proceeds” shall mean, when used with respect to any insurance or condemnation award, the gross proceeds from the insurance or condemnation award remaining after payment of all expenses incurred to collect such award.

“Other Project Financing” shall mean the funding sources listed on Exhibit D.

“Other Project Financing Documents” shall mean the documents creating, evidencing or securing the Other Project Financing.

“Permitted Encumbrances” shall mean those matters set forth on Exhibit B attached hereto.

“Project” shall mean the Land and the Project Improvements.

“Project Improvements” shall mean new construction on the Land to provide 70 rental housing units for low or moderate income tenants, and related improvements comprising the Project, all in accordance with the TIF Project Documents.

“TIF Loan” means the loan in the amount of **\$2,400,000.00** loaned to Borrower for the Project by the Lender and the loan made pursuant to this Agreement.

“TIF Loan Documents” shall mean this Agreement, the TIF Loan Note, the TIF Loan Mortgage and a request for notice of foreclosure for the benefit of Lender.

“TIF Loan Mortgage” shall mean a mortgage, security agreement and fixture financing statement made by Borrower in favor of Lender and securing the TIF Loan Note, to be in a form reasonably acceptable to Lender.

“TIF Loan Note” shall mean the promissory note of Borrower evidencing the TIF Loan dated as of the Date of Closing in the original principal amount of \$2,400,000.00, payable to Lender and in a form reasonably acceptable to Lender.

“TIF Loan Proceeds” shall mean the funds available from the TIF Loan to be disbursed through this Agreement and used to pay Eligible Project Costs.

“TIF Project Agreements” means the Redevelopment Agreement and the Affordable Housing Restrictive Covenant.

“Title” shall mean Guaranty Commercial Title, Inc., a Minnesota corporation.

“Unavoidable Delays” shall mean delays in the performance of obligations for construction of the Project Improvements hereunder due to unforeseeable causes beyond the control of Borrower and without its fault or negligence, including but not limited to acts of God, acts of public enemy, the direct result of strikes, other labor troubles, fire, floods, epidemics, quarantines, restrictions, unavailability of power, unavailability of materials, acts of governmental entities including legislative or administrative action, unusually severe weather or delays of subcontractors due to such causes, or other casualty to the improvements and litigation commenced by third parties which by injunction or other similar judicial action directly results in delays and other events beyond the control of Borrower.

Article 2 **The TIF Loan**

Section 2.01. Loan. The TIF Loan Proceeds are being loaned by Lender to Borrower pursuant to the terms of this Agreement. Borrower accepts the TIF Loan as a loan pursuant to the terms of this Agreement.

Section 2.02. Authorized Use of Loan Proceeds. The TIF Loan Proceeds shall be used to pay Eligible Project Costs actually incurred for the Project. If TIF Loan Proceeds are used to pay for any costs other than Eligible Project Costs, Borrower shall promptly repay Lender the amount of TIF Loan Proceeds used to pay such costs other than Eligible Project Costs. Lender shall not be responsible for any cost overrun which may be incurred by Borrower or others in undertaking the Project or the Project Improvements.

Section 2.03. Repayment. The TIF Loan shall be evidenced by the TIF Loan Note, secured by the TIF Loan Mortgage and repaid with interest as follows:

- (1) No interest shall accrue on the outstanding principal balance of the TIF Loan.
- (2) As of the fortieth (40th) anniversary of the Completion Date, the entire outstanding principal balance of the TIF Loan, if not previously paid, shall be due and payable in full.
- (3) At any time prior to the full repayment of the TIF Loan, the entire unpaid principal balance of the TIF Loan shall be immediately due and payable upon the occurrence of the earliest of the following Events of Default:

- (a) The sale, assignment, conveyance, transfer, lease, lien, encumbrance, or refinancing of the Project by Borrower without the Lender's prior written consent, except for leases to tenants in the ordinary course of business and the transfer of limited partnership interests in the Borrower pursuant to the Borrower's Partnership Agreement; or
 - (b) Termination of use of the Project as rental housing for low or moderate income tenants prior to full repayment of the TIF Loan as required herein or by the TIF Project Agreements; or
 - (c) Any use of the Project or a portion of the Project which violates any federal, state or local law, statute, or ordinance, which includes illegal discrimination, pornography, gambling or drug related activities; provided, however, that Borrower shall not be in default as a result of illegal activities at the Project by tenants of the Project if Borrower is diligently pursuing all reasonable actions to prohibit such illegal activities; or
 - (d) Default by Borrower in the performance of any other covenant, term or condition of this Agreement; the Note; the Mortgage; or any other agreement or mortgage relating to or encumbering the Project.
- (4) Upon the occurrence of one of the Events of Default specified above, Lender shall give written notice to Borrower as provided in Section 7.01 of this Agreement, specifying: (i) the event of default; (ii) the action required to cure the event; (iii) a date not less than thirty (30) days from the date the notice is mailed to Borrower by which such default must be cured; and (iv) that failure to cure such default on or before the date specified in the notice may result in acceleration of the TIF Loan. The limited partners of the Borrower shall have the right but not the obligation to cure an Event of Default during the applicable cure period as required herein and such cure shall be accepted or rejected by Lender as though such cure had been performed by Borrower.

Section 2.04. Prepayment. Borrower shall have the right, but not the obligation, to prepay without penalty the TIF Loan, or any portion thereof at any time, and from time to time, prior to the date on which the same become due, as herein provided. Any such prepayment shall be applied first to interest due thereon and the remainder, if any, to principal.

Article 3 **Conditions Precedent to Advances**

Section 3.01. Conditions Precedent to Disbursement. The obligation of the Lender to authorize the disbursement of TIF Loan Proceeds shall be subject to the conditions precedent that Borrower shall be in compliance with the terms of this Agreement and the following conditions:

- (a) Borrower shall be in compliance with the TIF Loan Documents.
- (b) Borrower shall have delivered, without expense to the Lender, the TIF Loan Documents and the Construction and Other Documents.
- (c) Borrower shall have deposited in escrow with Title or otherwise have committed to the satisfaction of Lender 100% of all equity, loan proceeds or other project funds, including the Other Project Financing, sufficient, together with the TIF Loan, to pay all unpaid Eligible Project Costs.

(d) All filing and permit fees, charges, expenses and taxes shall have been paid by Borrower; and all required insurance policies shall be in appropriate amounts, name all insureds, and be in full force and effect as evidenced by the certificates of insurance.

(e) Construction Plans relating to the Project shall have been approved in writing by the City and Lender.

(f) Evidence satisfactory to Lender that Borrower has established a separate account ledgering system within the Project's line-item budgeting for the exclusive purpose of recording the receipt and expenditure of the TIF Loan Proceeds.

(g) No TIF Loan Proceeds shall be disbursed prior to the Construction Start Date.

(h) No Event of Default as defined in Section 5.01 or event which would constitute such an Event of Default but for the requirement that notice be given or that a period of grace or time elapse, shall have occurred and be continuing and all representations and warranties made by Borrower in Article 4 shall continue to be true and correct as of the date of such disbursement.

(i) No determination shall have been made by Lender or Title that the undisbursed amount of the TIF Loan Proceeds and the other financing committed to the Project, including Lender Loans and the Other Project Financing are less than the amount required to pay all costs and expenses of any kind which reasonably may be anticipated in connection with the completion of the Project, including Projects Costs; or if such a determination has been made and notice thereof sent to Borrower, Borrower has deposited the necessary funds with Title in accordance with the Disbursement Agreement.

(j) The disbursement requirements hereof and of Title set forth in the Disbursement Agreement and any master disbursement agreement for the Project have been satisfied.

(k) Borrower shall have provided to Lender such evidence of compliance with all of the provisions of this Agreement as Lender may reasonably request.

(l) If required by the Lender or Title, Lender and Title shall be furnished with a statement of Borrower and of Contractor, in form and substance required by Lender or Title, setting forth the names, addresses and amounts due or to become due as well as the amounts previously paid to every contractor, subcontractor, person, firm or corporation furnishing materials or performing labor for the construction of the Project.

(m) No license or permit necessary for the environment remediation of the Project shall have been revoked or the issuance thereof subjected to challenge before any court or other governmental authority having or asserting jurisdiction thereover.

(n) Construction of the Project Improvements has begun by the Construction Start Date and is being or has been completed in accordance with the Construction Plans.

(o) Lender shall have received evidence that all requisite permits and other approvals have been issued.

(p) Title shall have received or shall simultaneously receive a lien waiver from each contractor, subcontractor or materials supplier for all work done and for all materials furnished by it for the Project covered by the requested disbursement.

Section 3.02. Disbursement of TIF Loan Proceeds. Subject to Section 6.10 of this Agreement, the TIF Loan Proceeds shall be disbursed in accordance with disbursement procedures approved by Lender. Lender will authorize disbursements of TIF Loan Proceeds only for Eligible Project Costs, and only after Lender has inspected the Project and approved Borrower's Disbursement Request. Portions of the TIF Loan Proceeds will be paid by Lender from time to time, and only in the amounts as sufficient to pay Borrower's approved Disbursement Request, or portions thereof, to Title to be disbursed to Borrower only as required by this Agreement and specifically by the terms of the Disbursement Agreement.

Article 4
Covenants, Warranties, Representations
and Agreements of Borrower

Borrower covenants, warrants, represents and agrees throughout the term of this Agreement:

Section 4.01. Enforceable Documents. Borrower is a limited partnership duly organized and in good standing under the laws of the State of Minnesota, is lawfully authorized to acquire, construct, equip, operate and maintain the Project and has full power and authority to enter into this Agreement and the Construction and Other Documents. That this Agreement and the Construction and Other Documents have all been duly executed and delivered, and assuming due execution and delivery by the other parties thereto, such documents constitute the legally binding obligations of Borrower, enforceable against Borrower in accordance with their respective terms.

Section 4.02. Ownership. Borrower is the fee owner and has possession of the Land.

Section 4.03. Financial Statements. The financial statements of Borrower previously or hereafter delivered to the Lender have been prepared in accordance with generally accepted accounting principles and accurately present Borrower's financial condition as of the date of such statements.

Section 4.04. Project Construction. The construction of the Project Improvements will be undertaken strictly in accordance with the Construction Plans. To the best of Borrower's knowledge, the construction of the Project Improvements, both during the work and at the time of completion, will not violate any applicable federal, state or local environmental laws, ordinances, regulations, permits, zoning, subdivision, or use statute, ordinance, building code, rule or regulation, or any covenant or agreement of record.

Section 4.05. Use of TIF Loan Proceeds. All TIF Loan Proceeds shall be used solely to pay Eligible Project Costs actually incurred by Borrower.

Section 4.06. Performance. Borrower will (i) keep, perform, enforce and maintain in full force and effect all of the terms, covenants, conditions and requirements of this Agreement and the Construction and Other Documents; (ii) not amend, cancel, change, terminate, supplement or waive any of the terms, covenants or conditions of the Construction and Other Documents, except as herein provided, without the consent of the Lender, which consent will not be unreasonably withheld; and (iii) execute such amendments, modifications and extensions of the Construction and Other Documents as may be requested by the Lender.

Section 4.07. Additional Documents. Borrower will, upon the demand of the Lender, from time to time and at any time, deliver to the Lender updated and recertified copies of the Construction and Other Documents.

Section 4.08. No Prior Liens. Borrower will not grant a security interest in, or create, permit to be created or allow to exist any liens, charges or encumbrances on the Project other than the Permitted Encumbrances as described on **Exhibit B** and other loans as described and permitted in any master disbursement agreement for the Project.

Section 4.09. Books and Records. Borrower will establish and maintain accurate and complete books, accounts and records pertaining to the Project in manner acceptable to the Lender and Title. The Lender and Title, and their representatives, shall have the right but not the obligation, at all reasonable times to inspect, examine and copy all books and records of Borrower relating to the Project and to inspect all work done, labor performed and material furnished in or about the Project. Notwithstanding the foregoing, Borrower shall be responsible for making inspections to the Project during the course of construction and shall determine to its own satisfaction that the work done or materials supplied by all contractors have been properly supplied in accordance with the applicable contract. Borrower will hold the Lender harmless and the Lender shall have and has no liability or obligation of any kind to Borrower or creditors of Borrower, in connection with any defective, improper or inadequate workmanship or material brought in or related to the Project, or any mechanic's liens arising as a result of such workmanship or materials.

Section 4.10. Changes in the Work. Borrower shall not permit changes in the Construction Plans reasonably estimated to cost in excess of \$10,000.00 in any one subcontract or in excess of \$25,000.00 under the overall Construction Contract without the Lender's prior written approval, which approval will not be unreasonably withheld. If Borrower desires to make any change in the Construction Plans that alter or affect the site plan, exterior materials, colors or elevation of the structure, or signage, Borrower shall submit the proposed change to the Lender for its approval. The Lender shall reasonably approve or reject the proposed change and notify Borrower in writing within five (5) days after receipt of the notice of such change. The Lender shall approve any addition to the Project that complies with the requirements for the Construction Plans and the TIF Project Agreements, provided Borrower shall update the Project Budget to account for the change and contribute sufficient additional funds to pay the Construction Costs attributable to the change.

Section 4.11. Taxes and Assessments. Borrower shall pay and discharge, when due, all taxes, assessments and other government charges upon the Project, as well as claims for labor and materials which, if unpaid, might by law become a lien or charge upon the Project; provided, that any such taxes, assessments, charges or claims need not be paid so long as Borrower is contesting such payment in good faith by appropriate proceedings which avoid foreclosure of liens securing such items. Borrower and the Lender agree that, notwithstanding the foregoing, special assessments on the Premises arising out of improvements made thereon in connection with the development of the same will be paid by Borrower in annual installments and will be permitted encumbrances so long as the same are not delinquent.

Section 4.12. Expenses of the Project. Borrower shall pay the following costs and expenses in connection with the Project: all hazard and liability insurance premiums, title insurance premiums and servicing fees, bond premiums, recording and filing fees, mortgage registration taxes and the fees and disbursements of counsel for the Lender in the exercise of any right or remedy available to it under this Agreement or otherwise by law or equity.

Section 4.13. Evidence of Insurance. Borrower shall at all times maintain in effect and furnish the Lender with policies of and proof of payment of premiums on the insurance policies described in **Article 1** hereof.

Section 4.14. Hazardous Waste. Borrower has inspected the Project and, other than as previously disclosed to the Lender in writing, is not aware of, nor has discovered on said Project any hazardous substances, hazardous wastes, pollutants, or contaminants as those terms are defined under any Federal,

State of Minnesota, or local statute, ordinance, code, or regulation, and further warrants that it will not, nor cause to be, nor will allow any other person to deposit, store, dispose of, place, or otherwise locate or allow to be located on or within the Project, any of the above referenced hazardous substance, except such hazardous substances as are ordinary and necessary for the construction or operation of the Project, provided that such use is in accordance with all applicable laws, and that in the event any such hazardous substances are found on or within the Project, Borrower will indemnify the Lender as provided in Section 6.03 herein.

Section 4.15. Hours and Wages. Borrower will cause all contracts entered into by it or by any Contractor for construction of the Project to comply with the wage and hour standards issued by the United States Secretary of Labor pursuant to the Davis-Bacon Act, 40 U.S.C. Secs. 3141-3147, as amended, and the Contract Work Hours and Safety Standards Act, 40 U.S.C. Secs. 3701 et seq. The appropriate date for the wage decision shall be the earliest of (i) the date of formal bid opening for either the general contractor (if the general contractor was competitively procured) or for the subcontractor (if the general contractor was not competitively procured) provided the Construction Contract is awarded within 90 days; (ii) the start of construction; and (iii) the date of the Construction Contract where complete construction specifications are included; with such wage decision modified and updated as required by federal labor standards. Borrower shall cause its Contractor and all subcontractors with employment hours to submit certified payroll into Lender's Department of Civil Rights' on-line database by the 10th of each month following any month in which labor was performed.

Section 4.16. Commencement and Completion of Construction. Borrower shall commence construction of the Project Improvements by the Construction Start Date, and shall diligently prosecute completion of the Project by the Completion Date, subject to Unavoidable Delays.

Section 4.17. Stormwater Discharge and Water Management Plan Requirements. Borrower shall meet all applicable requirements of Federal and state laws relating to stormwater discharges, including, without limitation, any applicable requirements of Code of Federal Regulations, title 40, parts 122 and 123; and

Article 5 **Defaults and Remedies**

Section 5.01. Events of Default. Any of the following events shall constitute an "Event of Default" under this Agreement if such event shall occur anytime between the date of this Agreement and the date the TIF Loan is fully repaid and satisfied:

- (a) Borrower shall default in the performance or observance of any agreements or conditions required to be performed or observed by Borrower under the terms of this Agreement;
- (b) The occurrence of one of the Events of Default specified Section 2.03(3);
- (c) Any representation or warranty made by Borrower in this Agreement, the TIF Project Agreements, the TIF Loan Documents or in any of the Construction and Other Documents shall prove untrue in any material respect or materially misleading as of the time such representation or warranty was made;
- (d) Borrower shall be in default under the terms of the TIF Loan Documents, Construction and Other Documents, the TIF Project Agreements, the Other Project Financing Documents, and any conditions governing the payment of any other funds necessary for development of the Project, and such default shall not be cured by Borrower or waived by the

appropriate lender within the period of grace, if any, applicable to such default under the terms of such instruments;

(e) Construction of the Project Improvements shall be abandoned, or shall be unreasonably delayed or discontinued for a period of thirty (30) consecutive days or more, for reasons other than Unavoidable Delays;

(f) Borrower shall become unable to pay its debts as the same become due, or shall make an assignment for the benefit of creditors or shall be adjudicated a bankrupt; or shall file a voluntary petition in bankruptcy or to effect a plan or other arrangement with creditors, or to liquidate assets under court supervision; or shall have applied for or permitted the appointment of a receiver or trustee or custodian for any of the property or assets of Borrower or a trustee, receiver or custodian shall have been appointed for any property or assets of Borrower who shall not have been discharged within sixty (60) days after the date of such appointment, or shall have made application to a court of competent jurisdiction to become dissolved;

(g) Execution shall have been levied against the Project or any lien creditor's suit to enforce a judgment against the Project shall have been brought and (in either case) shall continue unstayed and in effect for a period of more than sixty (60) days; or

(h) The Project is materially damaged or destroyed by fire or other casualty and the loss is not adequately covered by insurance proceeds actually collected or in the process of collection, or other funds of Borrower.

Section 5.02. Notice of Default. Upon the occurrence of one of the Events of Default as defined in Section 5.01 hereof, the Lender shall give written notice to Borrower as provided in Section 7.01 of this Agreement, specifying: (i) the Event of Default; (ii) the action required to cure the Event of Default; (iii) a date not less than thirty (30) days from the date the notice is mailed to Borrower by which such Event of Default must be cured (except with respect to Section 5.01(d) for which any applicable cure periods shall have already expired); and (iv) that failure to cure such Event of Default on or before the date specified in the notice (except with respect to Section 5.01(d) for which any applicable cure periods shall have already expired) may result in acceleration of the TIF Loan and appropriate legal action, that may include foreclosure of the TIF Loan Mortgage. The limited partners of Borrower shall have the right but not the obligation to cure any Event of Default during the applicable cure period and such cure shall be accepted by Borrower as though such cure had been performed by Borrower.

Section 5.03. Remedies. Upon the occurrence of any Event of Default as defined in Section 5.01 hereof, and notice as provided in Section 5.02, the Lender, at its option, in addition to any other remedies to which it might by law be entitled to, shall have the right to do one or more of the following:

(a) To enter into possession of the Project and perform any and all work and labor necessary to complete all or any part of the Project, at the cost and expense of Borrower, to operate and manage the Project, and to do all things necessary or incidental thereto; provided, however, that the Lender shall not be obligated in any way to complete the Project or to pay for costs thereof;

(b) To perform such other acts or deeds which may be necessary to cure any default existing under this Agreement, the TIF Project Agreements, the TIF Loan Documents or the Construction and Other Documents;

(c) To cancel this Agreement;

(d) To bring appropriate action to enforce such performance and the correction of such failure or default;

(e) To demand Borrower to repay the amount disbursed from the TIF Loan Proceeds, together with all other sums payable hereunder, immediately due and payable without presentment, demand, protest, notice of dishonor or any other notice;

(f) To suspend its performance under this Agreement during the continuance of the Event of Default; or

(g) To suspend disbursement of the TIF Loan Proceeds during the continuance of the Event of Default; or

(h) To foreclose the TIF Loan Note and TIF Loan Mortgage, or realize upon any other security securing the TIF Loan.

Section 5.04. Remedies Not Exclusive. No right or remedy by this Agreement or by any document or instrument delivered by Borrower pursuant hereto, conferred upon or reserved to the Lender shall be or is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy now or hereafter existing at law or in equity or by statute.

Section 5.05. Waiver; Forbearance. Except as the Lender may hereafter otherwise agree in writing, no waiver by the Lender of any breach or default of Borrower, of any of its obligations, agreements or covenants under this Agreement shall be deemed to be a waiver of any subsequent breach of the same, or any other obligation, agreement or covenants under this Agreement, nor shall any forbearance by the Lender to seek a remedy for such breach be deemed a waiver of its rights and remedies with respect to such breach, nor shall the Lender be deemed to have waived any of its rights and remedies unless it be in writing and executed with the same formality as this Agreement.

Section 5.06. Attorneys' Fees. In the event either the Borrower or the Lender commences a legal action to enforce the provisions of this Agreement, the prevailing party in such action shall be entitled, as a part of said action, to recover all its costs and expenses, including reasonable attorneys' fees.

Article 6 **Additional Provisions**

Notwithstanding any provisions of this Agreement, which may be construed to be apparently to the contrary, the following provisions shall apply:

Section 6.01. Indemnification by Borrower. Borrower will defend, protect, indemnify and save the Lender, its agents, officers and employees harmless from and against any and all liabilities, losses, damages, costs and expenses, whether personal, property, or contractual, including reasonable attorney's fees, arising out of, or related to, the use, non-use, ownership, or occupancy of the Project and the construction, condition or maintenance of the Project, and from any act or negligence of Borrower, its officers, employees, servants, agents or contractors; provided, however, that nothing herein shall be construed to obligate Borrower to protect, indemnify, and save the Lender and its officers and employees harmless from and against liabilities, losses, damages, costs, expenses (including attorney's fees) arising from the negligent or tortious acts of the Lender, or any of its agents, employees or officers. Borrower's liability hereunder shall not be limited to the extent of insurance carried by or provided by Borrower or

subject to any exclusions from coverage in any insurance policy. The obligations of Borrower under this Section shall survive the termination of this Agreement.

Section 6.02. Damage, Destruction and Condemnation. If, (i) the Project or any portion thereof is destroyed (in whole or in part) or is damaged by fire or other casualty or (ii) title to or any interest in, or the temporary use of, the Project or any part thereof shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, and Borrower is unable to complete the Project due to fire or other casualty or condemnation, the Lender shall not be obligated to continue to disburse any TIF Loan Proceeds and may, at the Lender's option, terminate this Agreement.

Section 6.03. Application of Net Proceeds. All Net Proceeds shall be applied in one or more of the following ways as shall be elected by Borrower in a written notice to the Lender: To the prompt repair, restoration, modification or improvement of the Project by Borrower. Any balance of the Net Proceeds remaining after such work has been completed shall be used first to repay the Other Project Financing that has priority over the TIF Loan pursuant to the Master Subordination Agreement, then to repay the TIF Loan, then to repay the Other Project Financing that is subordinate to the TIF Loan pursuant to the Master Subordination Agreement.

Section 6.04. Insufficiency of Net Proceeds. If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement referred to in Section 6.03 hereof, Borrower will elect in a written notice to the Lender to (a) terminate this Agreement, or (b) complete the work and pay any cost in excess of the amount of the Net Proceeds. Borrower agrees that if by reason of any such insufficiency of the Net Proceeds, Borrower shall make any payments pursuant to the provisions of this Section, Borrower shall not be entitled to any reimbursement therefore from the Lender, nor shall Borrower be entitled to any diminution of the amounts payable under Section 2.02 hereof.

Section 6.05. Cooperation of City. The Lender shall cooperate fully with Borrower at the expense of Borrower in filing any proof of loss with respect to any insurance policy covering the casualties described in Section 6.03 hereof and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Project or any part thereof or any property of Borrower in connection with which the Project is used and will, to the extent it may lawfully do so, permit Borrower to litigate in any proceeding resulting therefrom in the name and behalf of the Lender. In no event will the Lender voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim or any prospective or pending condemnation proceeding with respect to the Project or any part thereof without the written consent of Borrower so long as there has not occurred and is continuing an Event of Default hereunder.

Section 6.06. Conflict of Interests/Code of Ethics; Authority Representatives Not Individually Liable.

(a) No member, official, or employee of the Authority or the City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to this Agreement which affects his personal interests or the interest of any corporation, partnership, or association in which he is, directly or indirectly, interested. No member, official, or employee of the Authority or the City shall be personally liable to Borrower or any successor in interest, in the event of any default or breach by the Authority or for any amount which may become due to Borrower or successor or on any obligations under the terms of this Agreement.

Section 6.07. Equal Employment Opportunity. Borrower agrees for itself and its successors and assigns, that:

(a) Borrower will comply with applicable federal, state and local laws, rules and regulations regarding equal employment opportunities, including nondiscrimination provisions contained in Chapter 181, Minnesota Statutes, the Americans with Disabilities Act of 1990 (as amended), Section 109 of the Housing and Community Development Act of 1974 (as amended), the Age Discrimination Act of 1975 (as amended) and Executive Order 11246, as amended by Executive Order 12086.

(b) Borrower is committed to the concept of equal opportunity in both participation by women and minority business enterprises and employment of women and minorities, and agrees that the affirmative action program of Borrower is binding on Borrower.

(c) For three years from the date of this Agreement or up through the Completion Date, whichever is later, Borrower will include the provisions of this Section in every contract or purchase order, and will require the inclusion of these provisions in every subcontract entered into by any of its contractors for the Project, so that such provisions will be binding upon each such contractor, subcontractor, or vendor, as the case may be. Borrower will take such action with respect to any construction contract, subcontract, or purchase order as City may direct as a means of enforcing such provisions, including sanctions for noncompliance.

(d) In the event of the Borrower's noncompliance with these nondiscrimination clauses, the contract may be cancelled, terminated, or suspended, in whole or in part.

Section 6.08. Prohibited Activity. Borrower and its successors and assigns agree that they are prohibited from using TIF Loan Proceeds provided herein or personnel employed in the administration of the activities funded hereunder for political activities, sectarian, religious, or antireligious activities, lobbying, political patronage, nepotism, unionization or antiunionization activities. Borrower may not force any employees to be placed into or remain working in any position that is affected by a labor dispute.

Article 7 **Miscellaneous**

Section 7.01. Notices. All notices provided for herein shall be in writing and shall be deemed to have been given when delivered personally or when deposited in the United States mail, registered or certified, postage prepaid, addressed as follows:

If to Borrower: The Sound on 76th Limited Partnership
 c/o Aeon
 901 North Third Street, Suite 150
 Minneapolis, MN 55401
 Attn: Asset Management

With a copy to: Faegre Baker Daniels LLP
 90 South Seventh Street
 2200 Wells Fargo Center
 Minneapolis, MN 55402
 Phone: (612) 766-6833
 Fax: (612) 766-1600
 Attn: Angela M. Christy, Esq

If to Lender: Housing and Redevelopment Authority of Edina, Minnesota
 4801 West 50th Street

Edina, MN 55424
Attention: Executive Director

If to Title: Guaranty Commercial Title, Inc.
465 Nicollet Mall, Suite 230
Minneapolis, MN 55402
Attn: Wendy Ethen

or addressed to any such party at such other address as such party shall hereafter furnish by notice to the other parties as above provided.

Section 7.02. Delay and Non-Waiver of Rights. The provisions of this Agreement shall inure to the benefit of and be binding upon Borrower and the Lender and their respective successors and assigns. No delay on the part of the Lender in exercising any right, power or privilege shall operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege constitute such waiver nor exhaust the same, which shall be continuing. The rights and remedies of the Lender specified in this Agreement shall be in addition to and not exclusive of any other right and remedies which the Lender, by operation of law, would otherwise have.

Section 7.03. Survival of Warranties. All agreements, representations and warranties made in this Agreement shall survive its execution, and the execution of the TIF Loan Documents, and shall continue until the Lender receives payment in full for all indebtedness of Borrower incurred under this Agreement, unless this Agreement is terminated as herein provided.

Section 7.04. Governing Law. This Agreement shall be construed and enforced according to and governed by the laws of the State of Minnesota.

Section 7.05. Counterparts. This Agreement may be executed in any number of counterparts, all of which shall constitute a single agreement, any one of which bearing signatures of all parties shall be deemed an original.

Section 7.06. Time. Time is of the essence in the performance of this Agreement.

Section 7.07. Entire Agreement. This Agreement contains the entire agreement of the parties hereto on the matters covered herein. No other agreement, statement or promise made by any party or by any employees, officer, or agent of any party hereto that is not in writing and signed by all the parties to this Agreement shall be binding.

Section 7.08. Severability. If any term, condition or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder thereof and the application of such term, provision and condition to persons or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, provisions and conditions hereof shall, in all other respects, continue to be effective and to be complied with to the full extent permitted by law.

Section 7.09. Signs; Public Events.

(a) Borrower shall, prior to commencement of construction, erect, at its own expense, a sign in a prominent position on the Premises indicating to the general public that the Authority is providing financing for the Project. Borrower agrees that said sign may remain in place throughout the period of construction and for sixty (60) days beyond completion thereof, after which time it

will be removed by Borrower. With respect to such sign, it is recommended that (i) the primary colors be green lettering on white background with the lettering being of professional quality and use the Authority or City logo, (ii) weatherproof materials be used, (iii) it shall be of sufficient size, in any event, the minimum size shall be 4' by 6' and include the name of the Project, Borrower, the Contractor, the Architect, and the phrase "this Project is being developed with the assistance and cooperation of CITY OF EDINA, the EDINA HOUSING AND REDEVELOPMENT AUTHORITY, and the METROPOLITAN COUNCIL."

(b) Borrower shall furnish ample notice to the Authority of ground breaking, opening ceremonies and similar events so that the Authority may obtain publicity of and participation in such events. Borrower agrees to assist and cooperate in such publicity and participation. Borrower further agrees that the Authority shall have the right to issue press releases concerning the Project.

(c) Borrower shall identify the "Edina Housing and Redevelopment Authority" on all lists of funders, reports, press releases, etc., created to promote and highlight the Project and permit the Authority to refer to the project in all literature, press releases, public statements, etc.

Section 7.10. No Joint Venture. The relationship between the Lender and Borrower is solely that of lender and borrower and is not, nor shall it be deemed to create, a partnership or joint venture in the Project.

Section 7.11. Limitation on Authority Liability. No provisions contained in this Agreement nor any agreement, covenant or undertaking by the Authority contained in any document executed by the Authority in connection with the Project shall give rise to any pecuniary liability of the Authority or charge against its general credit or taxing powers or shall obligate the Authority financially in any way except with respect to the funding of the TIF Loan Proceeds.

Section 7.12. Authority Approval; Representatives. Unless the Board of the Authority determines otherwise in its discretion, whenever this Agreement provides for approval by or consent of the Authority, such approval or consent shall be given by and effective upon action, respectively, by the Executive Director of the Authority or their designee, unless (a) this Agreement explicitly provides for approval or consent by the Board of the Authority, (b) approval or consent by the Board of the Authority is required by applicable Law, or (c) the approval or consent, in the opinion of the Executive Director, would result in a material change in the terms of this Agreement.

Section 7.13. Rider. The Rider attached hereto as **Exhibit C** are incorporated herein.

(Signature pages follow.)

IN FURTHERANCE WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

BORROWER:

THE SOUND ON 76TH LIMITED PARTNERSHIP,
a Minnesota limited partnership

By: 4100 Edina LLC, a Minnesota limited liability
company, its General Partner

By: _____

Name: _____

Its: _____

LENDER:

HOUSING AND REDEVELOPMENT AUTHORITY
OF EDINA, MINNESOTA

By: _____
James B. Hovland, Chair

By: _____
Scott H. Neal, Executive Director

EXHIBIT A

LEGAL DESCRIPTION

The Land described in the referenced instrument is located in Hennepin County, Minnesota, and is described as follows:

Tract J, Registered Land Survey No. 1129, Hennepin County, Minnesota.

Torrens Property

EXHIBIT B

PERMITTED ENCUMBRANCES

1. Liens for taxes and special assessments not then delinquent, or delinquent but being contested by the Borrower.
2. Utility, access and other easements and rights-of-way, restrictions and exceptions that the Borrower certifies will not interfere with or impair the operation of the Project.
3. Any mechanic's, laborer's, materialman's, supplier's, or vendor's lien or right in respect thereof if payment is not yet due under the contract in question or if such lien is being properly contested by Borrower.
4. Any building, zoning and subdivision ordinances and any other applicable development, pollution control, water conservation and other laws, regulations, rules and ordinances of the Federal Government and State of Minnesota and respective agencies thereof and the political subdivisions in which the Project is located.
5. Other encumbrances as agreed to by Lender.

EXHIBIT C

LOAN RIDER (TIF)

This Loan Rider (the “*Rider*”) is attached to and made a part of that certain Loan Agreement dated as of _____, 2020 (the “*Loan Agreement*”) entered into by and between 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 (“*Lender*”) and The Sound on 76th Limited Partnership (the “*Borrower*”), and modifies the Loan Agreement and all of the other documents entered into by Borrower in connection with the Loan (collectively, the “*Loan Documents*”) respecting that certain \$2,400,000 loan from Lender (the “*Loan*”), all with respect to the development of a 70-unit multifamily residential development, situated in Edina, Minnesota and known as The Sound on 76th (the “*Project*”). The Borrower and Lender hereto agree that the collateral securing the Loan encumbers Borrower’s leasehold interest in the Project and that the following terms and agreements shall be part of and shall modify or supplement each of the Loan Documents, and shall prevail in the event of conflict or inconsistency between this Rider and the Loan Documents, or any of them:

1. Non-recourse Obligation. Payment and performance of the obligations set forth in the Loan Documents shall be non-recourse to Borrower and Borrower’s general and limited partners, and the Lender’s sole recourse with respect to the Loan shall be the right to foreclose under the Combination Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Financing Statement and other collateral forming part of the Loan Documents; provided that this provision shall not restrict any exceptions to non-recourse liability of Borrower set forth in the Loan Documents, for such matters as fraud, waste and other similar actions and non-actions of the general partner of Borrower, in which cases the Lender has the right to sue Borrower under the Loan Documents for damages. In all events, Borrower’s limited partner shall have no liability under the Loan Documents.

2. General Partner Change. The withdrawal, removal, transfer and/or replacement of the general partner of Borrower pursuant to the terms of the Amended and Restated Agreement of Limited Partnership of Borrower (“*Borrower’s Partnership Agreement*”) shall not require the consent of Lender nor constitute a default under any of the Loan Documents, and any such actions shall not accelerate the maturity of the Loan; provided that Borrower agrees to notify the Lender of any proposed replacement general partner prior to replacement, and, upon replacement, shall notify the Lender of the name and contact information of the replacement general partner with reasonable promptness.

3. Transfer of Limited Partner Interests. Nothing in the Loan Documents shall limit or restrict the ability of Borrower’s limited partner, its successors and assigns (the “*Limited Partner*”) to transfer, sell or assign its ownership interest in Borrower, from time to time, without the consent of or notice to Lender, provided that said Limited Partner remains liable for payment of any then unpaid capital contributions to Borrower, as and when payable, as set forth in Borrower’s Partnership Agreement, notwithstanding any such transfer, sale or assignment. In particular, Lender hereby consents to any transfers, sales or assignments of limited partnership interests in Borrower to any affiliate of the Limited Partner or any entity in which the Limited Partner, or an affiliate, is the manager, managing member, or general partner and agrees that such transfers shall not constitute a default under the Loan Documents.

4. Replacement of Management Agent. The Lender acknowledges that Borrower’s Limited Partner has the right, under the Borrower’s Partnership Agreement, to direct the general partner to remove the Project’s property management agent. Borrower agrees to give Lender notice of the proposed replacement property management agent, and the Lender agrees to consent to same, assuming that such replacement property management agent is acceptable to Borrower’s Limited Partner and has experience

in managing projects occupied by low-income households pursuant to Section 42 of the Internal Revenue Code.

5. Notice. All notices to Borrower's Limited Partner shall be sent in accordance with the procedures for delivering notices set forth in the Loan Documents to the following address or such alternate or additional contact names and/or addresses of which Lender is so notified in writing by the Limited Partner:

U.S. Bancorp Community Development Corporation
1307 Washington Avenue, Suite 300
Mail Code: SL MO RMCD
St. Louis, MO 63103
Attn.: Director of LIHTC Asset Management
USB Project No.: 25287
Phone: (314) 335-2600
Fax: (314) 335-2601
With a copy to:

Attn.: _____
Phone: _____
Fax: _____

6. Notice and Cure Rights. The Lender agrees to give the Limited Partner written notice of any and all defaults by the Borrower under the Loan Documents, and an opportunity, at the Limited Partner's option, to cause the cure of such default within the cure periods set forth below, prior to exercising any remedies under the Loan Documents. The Lender agrees that the Limited Partner will have ten (10) days after the Limited Partner's receipt of notice of such default to cure, or cause the cure of a monetary default under the Loan Documents, and thirty (30) days (or such longer period as is set forth in the Loan Documents) after the Limited Partner's receipt of such notice to cure any non-monetary defaults under the Loan Documents, or, as to non-monetary defaults, such longer period as is reasonably necessary for the Limited Partner to effect a cure, provided that curative action is commenced within the above stated cure period and diligently prosecuted, including, without limitation, such time as may be necessary to remove Borrower's general partner, if necessary to effect a cure. The Lender agrees to accept cure by the Limited Partner as if such cure were made by Borrower.

7. Insurance and Condemnation Proceeds. The Lender agrees that insurance and condemnation proceeds shall be used to rebuild or restore the Project; provided that (i) if such proceeds are not reasonably sufficient to so rebuild or repair, sufficient additional funds are provided from other sources to rebuild or restore the Project and (ii) Lender shall have the right to reasonably approve plans and specifications for any major rebuilding and the right to reasonably approve disbursement of such proceeds under a construction escrow or similar arrangement, subject to the prior rights of any and all senior lenders, which rights shall prevail in the event of inconsistency or conflict.

8. Partial Subordination to Section 42 Extended Use Agreement. Notwithstanding anything in the Loan Documents to the contrary, if the Lender takes title to the Project through foreclosure or deed in lieu of foreclosure, the Project shall remain subject to the provisions of Section 42(h)(6)(E)(ii) of the Internal Revenue Code of 1986 ("*Code*") or any similar successor provision of the Code. This section shall apply notwithstanding the order of recording of any of the Loan Documents and the Extended Use Agreement (as such term is defined in the Borrower's Partnership Agreement), executed in connection with

the allocation of federal low income housing tax credits to the Borrower for the Project pursuant to Section 42 of the Code.

9. Debt Service Coverage Requirements. So long as Borrower is current on all debt service payments payable under the Loan, the failure to meet any debt service coverage requirements at any time or times shall not constitute a default under the Loan, nor prohibit any distribution or payment to Borrower's partners or to Affiliates of Borrower or its partners.

10. Force Majeure. There shall be no default under the Loan Documents for construction or rehabilitation delays beyond the reasonable control of the Borrower.

11. Purchase Rights. The Lender consents to those purchase options, put rights and rights of first refusal in favor of the general partner of Borrower or its designee which are set forth in Borrower's Partnership Agreement, and agrees that transfer of title to the Project in accordance therewith shall not constitute a default under the Loan Documents; provided that Borrower gives Lender prior written notice of such transfer and contact information for such transferee, and provided that the transferee agrees to assume the duties and obligations of the Borrower respecting the Loan on the same terms as those imposed on the Borrower.

12. Lender Approvals. Lender agrees that all approvals and consents of the Lender under the Loan Documents shall not be unreasonably withheld, delayed or conditioned. Further, amendments to Borrower's Partnership Agreement entered into in order to effect transfers or assignments of the Limited Partner's or the general partner's interest pursuant to Sections 2, 3 and 11 above shall not require the consent or approval of the Lender.

13. Third Party Beneficiary. Borrower's Limited Partner, and its successors and assigns, is a third party beneficiary of the rights of Borrower under the Loan Documents, as modified by this Rider and has the right to directly enforce such rights.

14. Prepayment. Borrower shall have the right to prepay the Loan, at any time, in full or in part, without notice or penalty.

EXHIBIT D

FUNDING SOURCES

<u>LENDER</u>	<u>SOURCE</u>	<u>AMOUNT</u>
Minnesota Housing Finance Agency		\$6,193,000
Minnesota Housing Finance Agency	EDHC	\$888,634
Hennepin County		\$500,000
Hennepin County		\$500,000
City of Edina	LCDA	\$493,500
Aeon	Private	\$2,400,000
City of Edina HRA	TIF	\$2,400,000
City of Edina	LHIA	\$500,000

Exhibit G

Form of Release of Right of Reverter

Release of Right of Reverter

Date: _____, 2020

FOR VALUABLE CONSIDERATION, the real property in Hennepin County, Minnesota, legally described on the attached **Exhibit A** is hereby released from that certain right of reverter (“Right of Reverter”) owned by the undersigned and described in Section 3.9 of that certain Redevelopment Agreement dated as of September 10, 2020, as evidenced by Memorandum of Redevelopment Agreement, dated as of _____, 2020 and recorded on _____, 2020 in the office of the Registrar of Titles for Hennepin County, Minnesota as Document No. _____ (collectively, the “Redevelopment Agreement”). Except as set forth in this instrument, all of the terms, covenants, and conditions of the Redevelopment Agreement remain in full force and effect.

Check here if all or part of the described real property is Registered (Torrens)

HOUSING AND REDEVELOPMENT AUTHORITY
OF EDINA, MINNESOTA

By: _____
Name: Scott Neal
Its: Executive Director

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2020, by Scott Neal, the Executive Director of the Housing and Redevelopment Authority of Edina, Minnesota, on behalf of said Authority.

Notary Public

DRAFTED BY, AND AFTER
RECORDING RETURN TO:
Dorsey & Whitney LLP
50 South Sixth Street, Suite 1500
Minneapolis, MN 55402-1498

Exhibit A

Description of Property

Tract J, Registered Land Survey No. 1129, Hennepin County, Minnesota

Torrens Property

Exhibit H

Form of Project Funding Certificate

Project Funding Certificate

THE SOUND ON 76TH LIMITED PARTNERSHIP, a Minnesota limited partnership (“Developer”) has entered into that certain Redevelopment Agreement with the HOUSING AND REDEVELOPMENT AUTHORITY OF EDINA, MINNESOTA (the “Authority”), dated effective as of July 30, 2020 (the “Agreement”).

Developer hereby certifies to the Authority, pursuant to Section 4.6 of the Agreement, that the funding sources identified in **Exhibit 1**, attached hereto, have been fully committed and available to Developer for the construction of the Project.

Dated: _____

DEVELOPER:

THE SOUND ON 76TH LIMITED PARTNERSHIP,
a Minnesota limited partnership

By: 4100 Edina LLC, a Minnesota limited liability
company, its General Partner

By: _____

Name: _____

Its: _____

Exhibit 1
to
Project Funding Certificate
(The Sound on 76th)

U.S. Bank National Association (Construction Loan)	\$14,331,267.00
Minnesota Housing Finance Agency	\$6,585,000.00
Minnesota Housing Finance Agency (EDHC)	\$888,634.00
Hennepin County (HOME)	\$500,000.00
Aeon Loan	\$206,000.00
U.S. Bancorp Community Development Corporation (Equity)	\$11,295,887.00

Exhibit I

Form of Affordable Housing Restrictive Covenant

Declaration of Covenants and Restrictions
(Affordable Housing)

This Declaration of Covenants and Restrictions (this “Declaration”) is made as of the ____ day of _____, 2020, by **THE SOUND ON 76TH LIMITED PARTNERSHIP**, a Minnesota limited partnership (“Declarant”).

Recitals

A. Declarant is the owner of certain real property situated in the City of Edina (the “City”), county of Hennepin, state of Minnesota, located at 4100 West 76th Street, Edina Minnesota and legally described in the attached **Exhibit A** (the “Property”).

B. Declarant and the Housing and Redevelopment Authority of Edina, Minnesota, a public body corporate and politic organized and existing under the laws of the State of Minnesota (the “Authority”) are parties to that certain Redevelopment Agreement dated July 30, 2020 (as may be amended from time to time, the “Redevelopment Agreement”).

C. The Redevelopment Agreement provides for the redevelopment of the Property by Declarant with the cooperation and assistance of the Authority and provides for the expenditure of certain public funds to assist in such redevelopment of the Property and construction thereon of a four-story, 70-unit, 100% affordable, housing community, known as “The Sound on 76th” (the “Project”).

D. The City, by Resolution No 2020-32, dated March 4, 2020, approved Declarant’s final rezoning, planned unit development ordinance, and final development plan for the Project (the “Approvals”).

E. Pursuant to the Redevelopment Agreement and as a condition to the Approvals, Declarant has agreed to impose certain restrictive covenants upon the Property to ensure that at least 100% of the housing units within the Project will remain affordable to certain low-income persons and households (“Affordable Units”).

F. Declarant, under this Declaration, intends, declares, and covenants that the restrictive covenants set forth herein governing the use, occupancy, and transfer of the Project shall be and are covenants running with the Property for the Term stated herein and binding upon all subsequent owners of the Property for such Term, and are not merely personal covenants of Declarant.

G. Capitalized terms in this Declaration have the meaning provided in the Redevelopment Agreement unless otherwise defined herein.

NOW, THEREFORE, Declarant makes the following Declaration, hereby specifying that said Declaration shall constitute covenants to run with the land and shall be binding on all parties in interest and their respective successors and assigns:

1. Use Restriction. The Property shall not be used for any purpose other than a multifamily rental housing facility and related activities meeting the requirements set forth in Section 2 hereof, without the prior written approval of the City and the Authority during the period commencing on the date hereof (“Commencement Date”) and ending on the 40-year anniversary of the Commencement Date (the “Term”). Declarant’s obligation to operate the Project subject to this Declaration for the Term is independent of the existence and continuance of any public assistance contemplated or given by the Authority or the City to Declarant under the Redevelopment Agreement, or otherwise (“Public Assistance”). The provisions of this Declaration are intended to survive the termination or extinguishment of any Public Assistance, any mortgage securing the same, and any other security instruments placed of record in connection with the Public Assistance and to survive the termination of any subsequent financing or security instruments placed of record by other lenders.

2. Occupancy Requirements and Restrictions.

(a) Affordable Units. The Affordable Units will consist of the following mix of affordability levels:

(i) at least **eight** of the Affordable Units will be reserved for households who have a combined gross annual income which does not exceed 30% of AMI (each a “30% Unit”), four of which will be set aside for High Priority Homeless individuals (the “30% Units”) and four (4) of which will be given preference for persons with disabilities. If any subsidy in connection with the 30% Units is withdrawn or otherwise no longer available, the 30% Units may be reserved for households who have a combined gross annual income which does not exceed 60% of AMI for the 30% Units;

(ii) at least **35** of the Affordable Units will be reserved for households who have a combined gross annual income which does not exceed 50% of AMI (each a “50% Unit”); and

(iii) at least **27** of the Affordable Units will be reserved for households who have a combined gross annual income which does not exceed 60% of AMI (each a “60% Unit”).

For purposes of this Declaration, “AMI” means the Area Median Income for the Minneapolis-Saint Paul-Bloomington Metropolitan Statistical Area (including adjustments for household size), as determined by the U.S. Department of Housing and Urban Development (“HUD”).

(b) Qualifying Tenants. Each Affordable Unit shall be leased to and occupied (or held vacant and available for occupancy) for the duration of the Term only by a household who, at initial occupancy, has a combined gross annual income which does not exceed the respective AMI threshold for each type of Affordable Unit (each a “Qualifying Tenant”) (e.g., each 30% Unit may only be leased to and occupied by a Qualifying Tenant whose gross annual income does not exceed 30% of AMI, etc.). Each subsequent tenant of an Affordable Unit must be a Qualifying Tenant.

(c) Rental Rates. Each Affordable Unit shall bear annual rents not greater than the rental rate limits for the applicable Qualifying Tenants (adjusted for bedroom count, and including utilities and mandatory fees) as determined and announced from time to time by HUD and as published annually by the Minnesota Housing Finance Agency (or any successor agency(ies) administrating government affordable housing programs), and if such agency ceases to publish and update such rates during the Term, such annual rents for the Affordable Units shall not be greater

than 30% of the respective AMI thresholds listed in Section 2(a) (e.g., annual rents for the 50% Units shall not be greater than 30% of 50% of AMI). Notwithstanding the foregoing, if any subsidy or housing support in connection with the HPH Units is withdrawn or otherwise not available, the rents for the 30% Units may be increased to 60% of AMI.

(d) Certification of Tenant Eligibility. No tenant household shall be approved by Declarant for initial occupancy of an Affordable Unit unless and until Declarant has determined (through verification of income, assets, expenses, and deductions) whether such tenant household is a Qualifying Tenant. Each person who is intended to be a Qualifying Tenant will be required at the commencement of the initial lease of an Affordable Unit to sign and deliver to Declarant a “Certification of Tenant Eligibility” substantially in the form attached as **Exhibit B**, or in any other form as may be approved in writing by the Executive Director of the Authority or the City Manager of the City (the “Eligibility Certification”), in which the prospective tenant certifies as to qualifying as a Qualifying Tenant. Eligibility Certifications may be obtained no more than 120 days before a Qualifying Tenant occupies an Affordable Unit. In addition, the person will be required to provide whatever other information, documents, or certifications are deemed necessary by the Authority or the City to substantiate the Eligibility Certification. Eligibility Certifications will be maintained on file by Declarant with respect to each Qualifying Tenant who resides or resided in an Affordable Unit for a period of 10 years following the end of the Term. Declarant must re-examine and verify the income of each tenant household living in an Affordable Unit annually unless, during such year, all of the Affordable Units are occupied by Qualifying Tenants during the calendar year. In addition, no re-certification shall be required if a Qualifying Tenant moves to a different Affordable Unit.

(e) Leases. The Affordable Units shall be rented pursuant to a written lease, and the term of each such lease shall be least 12 months, except that during the final year of the Term, new leases for the Affordable Units may be for a term of no less than six months, and such newly leased Affordable Units shall be subject to the terms and conditions of this Declaration until the expiration of such new leases. In addition, the form of lease to be utilized by Declarant in renting any Affordable Unit to any person who is intended to be a Qualifying Tenant shall:

(i) not require a security deposit in excess of the amount of one month of rent in connection with any Affordable Unit;

(ii) provide that rental rates charged to any Qualifying Tenant of an Affordable Unit cannot be increased more than once in any 12-month period.

(iii) provide for termination of the lease and consent by the person to eviction for failure to qualify as a Qualifying Tenant as a result of any material misrepresentation made by the person with respect to the Eligibility Certification;

(iv) include a clause wherein each individual tenant or tenant certifies the accuracy of the statements made in its application and Eligibility Certification; and

(v) include a clause wherein each individual tenant or tenants certifies that the family income at the time the lease is executed will be deemed substantial and material obligation of the tenant’s tenancy; that the tenant will comply promptly with all requests for income and other information relevant to determining low or moderate income status from Declarant, the Authority, or the City, and that the tenant’s failure or refusal to comply with a request for information with respect thereto will be deemed a violation of a substantial obligation of the tenant’s tenancy of its Affordable Unit.

- (f) Affordable Unit Mix. The Affordable Units shall be distributed as follows:
- (i) **17**, one-bedroom units (which will be no less than **676** square feet in size);
 - (ii) **35**, two-bedroom units (which will be no less than **960** square feet in size); and
 - (iii) **18**, three-bedroom units (which will be no less than **1,215** square feet in size).

Changes in the distribution of units set forth below shall require the prior written approval of the Executive Director of the Authority and City Manager of the City.

3. Enforcement of Covenants and Restrictions.

(a) Annual Certification. Declarant shall prepare and submit to the Authority and the City, annually for approval on the basis of compliance with this Declaration, a certificate substantially in the form of the attached Exhibit C, executed by Declarant, (i) identifying the tenancies and the dates of occupancy (or vacancy) for all Qualifying Tenants, including the percentage of the dwelling units of the Project which were occupied by Qualifying Tenants (or held vacant and available for occupancy by Qualifying Tenants) at all times during the year preceding the date of the certificate; (ii) describing all transfers or other changes in ownership of the Project or any interest therein; and (iii) stating that all Affordable Units were rented or available for rental on a continuous basis during the year to Qualifying Tenants and that Declarant was not otherwise in default under this Declaration during the year. Declarant shall not be required to recertify existing tenants if all of the Affordable Units are occupied by Qualifying Tenants during the year. The initial deadline for submission of such certification is three months following the Commencement Date and thereafter an annual deadline for submission by the last business day of February each year.

(b) Books and Records. Declarant shall permit, during normal business hours and upon reasonable notice, any duly authorized representative of the Authority or City, to inspect any books and records of Declarant regarding the Project with respect to the incomes of tenant households of Affordable Units and the rents charged for Affordable Units to ensure compliance with the requirements of this Declaration. At the City's or Authority's request, Declarant will submit any other information, documents or certifications that Declarant, in its reasonable discretion, deems necessary to substantiate Declarant's compliance with the requirements of this Declaration.

(c) Delegation; Third-Party Monitoring. Each of the Authority and the City may, in their reasonable discretion, delegate their obligations hereunder and responsibilities for monitoring and enforcement of this Declaration to a separate subdivision of the City and/or one or more designated contractors, subcontractors, or agents. Declarant shall, upon annual invoicing, reimburse the Authority and the City for third-party expenses related to monitoring of Declarant's compliance with this Declaration, including any additional costs necessitated by re-inspections for noncompliance with this Declaration.

(d) City Affordable Housing Policy. The Project and the Affordable Units shall be subject to the terms and condition of the City's Inclusionary Housing Policy Program, as may be amended from time to time.

(e) Notice of Non-Compliance. Declarant shall immediately notify the Authority and the City if at any time during the term of this Declaration the dwelling units in the Project are not occupied or available for occupancy as required by the terms of this Declaration.

4. Additional Covenants, Representations, and Warranties of Declarant.

(a) Legal Compliance. Declarant shall maintain the Affordable Units and the Project in compliance with all requirements of the Redevelopment Agreement and Approvals, any requirements of any lender whose loan is secured by a mortgage to which Declarant is a party or by which it or the Project is bound, and applicable ordinances, building and use restrictions, code-required building permits, and any requirements with respect to licenses, permits, and agreements necessary for the lawful use and operation of the Project.

(b) No Violation. The execution and performance of this Declaration by Declarant (i) will not violate or, as applicable, have not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body, and (ii) will not violate or, as applicable, have not violated any provision of any indenture, agreement, mortgage, mortgage note, or other instrument to which Declarant is a party or by which it or the Project is bound, and (iii) will not result in the creation or imposition of any prohibited encumbrance of any nature.

(c) Section 8 Housing. Declarant shall accept tenants who are recipients of federal certificates for rent subsidies pursuant to the existing program under Section 8 of the United States Housing Act of 1937, as amended, codified as 42 U.S.C. Sections 1401 et seq., or its successor. Declarant shall not adopt any policies specifically excluding rental to tenants holding Section 8 certificate/voucher holders solely because of the status of the prospective tenant as such a holder.

(d) Underserved Populations. Declarant shall affirmatively market the Affordable Units to one or more traditionally underserved populations in accordance with the Declarant's approved Affirmative Fair Housing Marketing Plan as affordable at the rates required hereunder.

(e) LIHTC LURA. The City and the Authority acknowledge that, upon completion of the Project, the Property will be encumbered by a land use restriction agreement ("LURA") in connection with low income housing tax credits obtained by Declarant for the Project in accordance with Section 42 of the Internal Revenue Code ("LIHTC"), restricting the use of the Property to affordable housing in accordance with LIHTC requirements. For so long as the LURA remains in effect against the Property, this Declaration shall be subordinate to the terms and conditions of the LURA and to the extent of any conflict or inconsistency between the terms of the LURA and the terms of this Declaration, the terms of this LURA shall prevail and such prevailing terms shall be deemed to be modify and replace the applicable terms of this Declaration. If the LURA is terminated prior to the expiration of the Term, then this Declaration will continue in full force and effect in accordance with its original terms until the expiration of the Term.

(f) Consents and Subordination. Notwithstanding anything herein to the contrary, this Declaration shall be subordinated or junior to any prior mortgage or other security interest in or lien upon any portion of the Project (a "Mortgage") only with the Authority's written consent, and if any Mortgage exists at the time this Declaration is recorded, Declarant shall use commercially reasonable efforts to cause the mortgagee under such Mortgage to subordinate such Mortgage and the lien thereof to this Declaration. Other than the LURA, except as approved by the Authority, Declarant has not and will not execute any other agreement with provisions contradictory to, or in opposition to, the provisions hereof and that, in any event, the requirements of this Declaration are

paramount and controlling as to the rights and obligations set forth herein and supersede any other document's provisions in conflict herewith.

(g) Transfer Restrictions. Subject to the terms and conditions of the Redevelopment Agreement and the Approvals, Declarant may sell, transfer or exchange the Project, the Property or any portion thereof, but Declarant shall notify the Authority and the City in writing at least 60 days prior to such sale, transfer or exchange, and use commercially reasonable efforts to obtain the acknowledgment of any buyer or successor or other person acquiring the Project or any interest therein that such acquisition is subject to the covenants and restrictions of this Declaration (and to the requirements of Redevelopment Agreement incorporated herein). Such notification shall not be required by any lender foreclosing on the Property. Failure by Declarant to obtain such acknowledgment shall not be deemed to impair the covenants and restrictions of this Declaration.

(h) Alterations; Use. Declarant shall not demolish any part of the Project or permit the use of any residential unit for any purpose other than rental housing during the Term of this Declaration unless required by law.

(i) Casualty. Promptly upon any casualty loss or damage to all or any part of the Project (including subsurface structural support elements), Declarant shall proceed with diligence to restore the Project to the condition prior to the casualty with the insurance proceeds obtained with respect to the loss or damage to the extent the insurance proceeds recovered allow for such rebuilding; provided, however, Declarant shall not be obligated to rebuild the Project if any of Declarant's lenders or loan agreements or governmental requirements (whether executed before or after the date hereof) do not permit such rebuilding or require that insurance amounts recovered with respect to any loss or damage to the Project be paid directly to the lender.

5. Remedies; Enforceability. In the event of a violation or attempted violation of any of the covenants, conditions or restrictions herein contained, the City or the Authority may institute and prosecute any proceeding at law or in equity to abate, prevent or enjoin any such violation, or enforce specific performance by Declarant of the covenants, obligations, conditions and/or restrictions set forth herein, or to recover monetary damages caused by such violation or attempted violation. Declarant specifically acknowledges that the City and the Authority cannot be adequately compensated by monetary damages in the event of any default hereunder. Unless terminated as provided herein, the provisions hereof are imposed upon and made applicable to the Project, and shall be enforceable against Declarant, each purchaser, grantee, owner or tenant of the Project and the respective heirs, legal representatives, successors and assigns of each. No delay in enforcing the provisions of said covenants, conditions and restrictions as to any breach or violation shall impair, damage or waive the right to enforce the same or to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation thereof at any later time or times. In addition to any remedy set forth herein for failure to comply with the restrictions set forth in this Declaration, the City or the Authority may exercise any remedy available to it under the Redevelopment Agreement.

6. Indemnification. Declarant hereby indemnifies, and agrees to defend and hold harmless, the Authority, the City, and their respective officers, officials, employees, and agents, from and against all liabilities, losses, damages, costs, expenses (including attorneys' fees and expenses), resulting from third party causes of action, suits, allegations, claims, demands, and judgments of any nature arising from the consequences of a legal or administrative proceeding or action brought against them, or any of them, on account of any failure by Declarant to comply with the terms of this Declaration, or on account of any representation or warranty of Declarant contained herein being untrue.

7. Covenants Running With the Land. Declarant intends, declares and covenants, on behalf of itself and all future owners and operators of the Property and the Project during the Term, that this Declaration and the covenants and restrictions set forth in this Declaration regulating and restricting the use, occupancy and transfer of the Property and the Project (a) shall be and are covenants running with the Property and the Project, encumbering the Property and the Project for the Term, binding upon Declarant's successors in title and all subsequent owners and operators of the Property and the Project; (b) are not merely personal covenants of Declarant; and (c) shall bind Declarant (and the benefits shall inure to the Authority and the City) and its respective successors and assigns during the Term. Declarant hereby agrees that any and all requirements of the laws of the State of Minnesota to be satisfied in order for the provisions of this Declaration to constitute deed restrictions and covenants running with the land shall be deemed to be satisfied in full and that any requirements of privileges of estate are intended to be satisfied, or in the alternate, that an equitable servitude has been created to insure that these restrictions run with the land. For the Term, each and every contract, deed or other instrument hereafter executed conveying the Property and the Project or portion thereof shall expressly provide that such conveyance is subject to this Declaration; provided, however, that the covenants contained herein shall survive and be effective regardless of whether such contract, deed or other instrument hereafter executed conveying the Property and the Project or portion thereof provides that such conveyance is subject to this Declaration.

8. Notices. Any notice, approval, consent, payment, demand, communication, authorization, delegation, recommendation, agreement, offer, report, statement, certification or disclosure required or permitted to be given or made under this Declaration, whether or not expressly so stated, shall not be effective unless and until given or made in writing and shall be deemed to have been duly given or made as of the following date: (a) if delivered personally by courier or otherwise, then as of the date delivered or if delivery is refused, then as of the date presented; or (b) if sent or mailed by certified U.S. mail, return receipt requested, or by Federal Express, Express Mail or other mail or overnight courier service, then as of the date received. All such communications shall be addressed as follows (which address(es) for a party may be changed by that party from time to time by notice to the other parties). No such communications to a party shall be effective unless and until deemed received at all address(es) for such party:

Declarant at: The Sound on 76th Limited Partnership
 c/o Aeon
 Attn: Asset Management
 901 North Third Street, Suite 150
 Minneapolis, MN 55401

with a copy to: Faegre Drinker Biddle & Reath LLP
 Attention: Angela M. Christy, Esq
 90 South Seventh Street
 2200 Wells Fargo Center
 Minneapolis, MN 55402

and:

U.S. Bancorp Community Development
Corporation
1307 Washington Avenue, Suite 300
Mail Code: SL MO RMCD
St. Louis, MO 63103
USB Project No: 26977
Attn.: Direct of LIHTC Asset Management

and

Jill Goldstein, Esq.
Kutak Rock LLP
1650 Farnam Street
Omaha, NE 68102

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 W. 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.

9. Amendment. The provisions of this Declaration shall not be amended, terminated or deleted during the Term hereof, except by an instrument in writing duly executed by the Authority, the City, and Declarant, their respective successors and assigns.

10. Attorneys' Fees. In case any action at law or in equity, including an action for declaratory relief, is brought against Declarant to enforce the provisions of this Declaration, Declarant agrees to pay the reasonable attorneys' fees and other reasonable expenses paid or incurred by the City and/or the Authority in connection with the action.

11. Governing Law. This Declaration is governed by the laws of the state of Minnesota and, where applicable, the laws of the United States of America.

12. Severability. If any provisions hereof shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions shall not in any way be affected or impaired.

[Remainder of Page Intentionally Left Blank. Signature Pages Follows]

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed as of the date first written above

THE SOUND ON 76TH LIMITED PARTNERSHIP,
a Minnesota limited partnership

By: 4100 Edina LLC, a Minnesota limited liability company, its General Partner

By: _____

Name: _____

Its: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2020 by _____, the _____ of 4100 Edina LLC, a Minnesota limited liability company, General Partner of The Sound on 76th Limited Partnership, a Minnesota limited partnership, on behalf of the limited liability company and limited partnership.

Notary Public

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

Exhibit A

Legal Description of the Property

Tract J, Registered Land Survey No. 1129, Hennepin County, Minnesota

Torrens Property

Exhibit B

Form of Certification of Tenant Eligibility

TENANT INCOME CERTIFICATION

Effective Date: _____
Move-in Date: _____

Initial Certification Recertification Other _____

PART I - DEVELOPMENT DATA

Property Name: _____ County: _____ BIN #: _____
Address: _____ Unit Number: _____ # Bedrooms: _____

PART II. HOUSEHOLD COMPOSITION

HH Mbr #	Last Name	First Name & Middle Initial	Relationship to Head of Household	Date of Birth (MM/DD/YYYY)	F/T Student	Social Alien
1			HEAD			
2						
3						
4						
5						
6						
7						

PART III. ANNUAL INCOME (USE ANNUAL AMOUNTS)

HH Mbr #	(A) Employment or Wages	(B) Soc. Security/Pensions	(C) Public Assistance	(D) Other Income
TOTALS				
Add totals from (A) through (D), above			TOTAL INCOME (E):	

PART IV. INCOME FROM ASSETS

Hshld Mbr #	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset
TOTALS:				

Total Cash Value _____ Passbook Rate _____
If (H) is over \$5000 _____ X 0.06% = (J) Imputed Inc. _____
Enter the greater of the total of column I, or J: imputed income _____ TOTAL INCOME FROM ASSETS (K) _____

(L) Total Annual Household Income from all Sources Add (E) and (K)

HOUSEHOLD CERTIFICATION & SIGNATURES

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full time student.

Under penalties of perjury, I/We certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

Signature	(Date)	Signature	(Date)
Signature	(Date)	Signature	(Date)

PART V. DETERMINATION OF INCOME ELIGIBILITY

TOTAL ANNUAL HOUSEHOLD INCOME FROM ALL SOURCES: From item (L) on page 1 	Household Meets Income Restriction at: <input checked="" type="radio"/> 60% <input type="radio"/> 50% <input type="radio"/> 40% <input type="radio"/> 30% <input type="radio"/> _____ %	Current Income Limit x 140%: Household income exceeds 140% at recertification: <input type="radio"/> Yes <input type="radio"/> No
Current Maximum Income Limit per Family Size: Household Income at Move-in: _____	Household Size at Move-in: _____	2

PART VI. RENT

Tenant Paid Rent _____ Utility Allowance _____	Rent Assistance: _____	RA Type _____ Other non-optional charges: _____
GROSS RENT FOR UNIT: (Tenant paid rent plus Utility Allowance & other non-optional charges) 	Unit Meets Rent Restriction at: <input checked="" type="radio"/> 60% <input type="radio"/> 50% <input type="radio"/> 40% <input type="radio"/> 30% <input type="radio"/> _____ %	
Maximum Rent Limit for this unit: _____		

PART VII. STUDENT STATUS

ARE ALL OCCUPANTS FULL TIME STUDENTS? If yes, choose a student explanation*(also attach documentation) <input type="radio"/> Yes <input checked="" type="radio"/> No	* Student Explanation <input type="radio"/> TANF assistance <input type="radio"/> Previously in Foster Care <input type="radio"/> Job Training Program <input type="radio"/> Single parent/dependent child <input type="radio"/> Married/joint return
--	--

PART VIII. PROGRAM TYPE

Mark the program(s) listed below (a. through e.) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification.

<input type="checkbox"/> HOME Income Status <input type="radio"/> <=50% AMGI <input type="radio"/> <=60% AMGI <input type="radio"/> <=80% AMGI <input type="radio"/> OI**	<input type="checkbox"/> Tax Exempt Income Status <input type="radio"/> Eligible <input type="radio"/> 50% AMGI <input type="radio"/> OI**	<input type="checkbox"/> AHDP Income Status <input type="radio"/> VLI <input type="radio"/> LI <input type="radio"/> OI**	<input type="checkbox"/> Other (specify below) _____ (Name of Program) Income Status <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> OI**
--	--	---	--

** Upon recertification, household was determined over-income (OI) according to eligibility requirements of the program(s) marked above.

SIGNATURE OF OWNER/REPRESENTATIVE

Based on the representations herein and upon the proofs and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Land Use Restriction Agreement (if applicable), to live in a unit in this Project.

SIGNATURE OF OWNER/REPRESENTATIVE

DATE

Exhibit C

Form of Certificate of Continuing Program Compliance

Certificate of
Continuing Program Compliance

Date: _____

The following information with respect to the Project located at 4100 West 76th Street, Edina, Minnesota (the "Project"), is being provided by THE SOUND ON 76TH LIMITED PARTNERSHIP, a Minnesota limited partnership ("Declarant") to the City of Edina Minnesota, a Minnesota statutory city (the "City") and the Housing and Redevelopment Authority of Edina, Minnesota, a public body corporate and politic organized and existing under the laws of the State of Minnesota (the "Authority"), pursuant to that certain Declaration of Covenants and Restrictions (Affordable Housing) dated _____, 20__ (the "Declaration"), with respect to the Project:

(A) The total number of Affordable Units which are available for occupancy is 70. The total number of these units occupied is _____.

(B) The total number of units occupied by "Qualifying Tenants," as the term is defined in the Declaration (for a total of 70 units) is _____ (may use the Table below or attach a rent roll)

	Unit Number	Name of Tenant	Number of Persons Residing in the Unit	Number of Bedrooms	Total Adjusted Gross Income	Date of Initial Occupancy	Rent
1							
2							
3							
4							
5							
6							
7							

8							
9							
10							
11							
12							
13							
14							
15							
16							
17							
18							
19							
20							
21							
22							
23							
24							
25							
26							
27							
28							
29							
30							

(C) Declarant has obtained a “Certification of Tenant Eligibility,” in the form provided as **Exhibit B** to the Declaration, from each Tenant named in above, and each such Certificate is being maintained by Declarant in its records with respect to the Project. Attached hereto is the most

recent "Certification of Tenant Eligibility" for each Tenant named in (B) above who signed such a Certification since _____, _____, the date on which the last "Certificate of Continuing Program Compliance" was filed with the Authority and the City by Declarant.

(D) In renting the residential units in the Project, Declarant has not given preference to any particular group or class of persons (except for persons who qualify as Qualifying Tenants); and none of the units listed in (B) above have been rented for occupancy entirely by students, who are not eligible for an exception under Section 42 of the Internal Revenue Code. All of the residential units in the Project have been rented pursuant to a written lease, and the term of each lease is at least twelve (12) months.

(E) The information provided in this "Certificate of Continuing Program Compliance" is accurate and complete, and no matters have come to the attention of Declarant which would indicate that any of the information provided herein, or in any "Certification of Tenant Eligibility" obtained from the Tenants named herein, is inaccurate or incomplete in any respect.

(F) The Project is in continuing compliance with the Declaration.

(G) Declarant certifies that as of the date hereof at least 70 of the residential dwelling units in the Project are occupied or held open for occupancy by Qualifying Tenants, as defined and provided in the Declaration.

(H) The rental levels for each Qualifying Tenant comply with the maximum permitted under the Declaration.

IN WITNESS WHEREOF, I have hereunto affixed my signature, on behalf of Declarant, on _____, 20__.

THE SOUND ON 76TH LIMITED PARTNERSHIP,
a Minnesota limited partnership

By: 4100 Edina LLC, a Minnesota limited liability
company, its General Partner

By: _____

Name: _____

Its: _____

Exhibit J

Form of Memorandum of Redevelopment Agreement

Memorandum of Redevelopment Agreement

This Memorandum of Redevelopment Agreement (this “Memorandum”) is entered into as of September 10, 2020, by and between 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 THE SOUND ON 76TH LIMITED PARTNERSHIP, a Minnesota limited partnership (“Developer”).

RECITALS:

A. The Authority and Developer (collectively, the “Parties”) have entered into a certain Redevelopment Agreement dated as of September 10, 2020 (as the same may be amended or supplemented from time to time, the “Agreement”), whereby the parties have agreed to various aspects of the redevelopment of certain real property more particularly described on the attached Exhibit A, together with all improvements, tenements, easements, rights and appurtenances pertaining to such real property, lying and being in Hennepin County, Minnesota (the “Property”).

B. The parties wish to give notice of the existence of the Agreement.

AGREEMENT:

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The above recitals are incorporated by reference as if fully set forth herein.
2. Capitalized terms, when not defined herein, shall have the meanings ascribed to them in the Agreement.
3. The Parties have entered into the Agreement to set forth the terms and provisions governing the redevelopment of the Property.
4. This Memorandum has been executed and delivered by the Parties for the purpose of recording and giving notice that a contractual relationship for the redevelopment of the Property has been created between the Parties in accordance with the terms, covenants, and conditions of the Agreement.
5. The terms and conditions of the Agreement are incorporated by reference into this Memorandum as if fully set forth herein, including, without limitation, specifically the right of reverter of the Property in favor of the Authority if Developer fails to cause the Commencement of construction of the Project by **May 1, 2021**.
6. This Memorandum may be executed separately in counterparts which, when taken together, shall constitute one and the same instrument.

[Remainder of page left blank intentionally; signature pages follow]

IN WITNESS WHEREOF, the Parties have executed this Memorandum as of the date first written above.

HOUSING AND REDEVELOPMENT AUTHORITY
OF EDINA, MINNESOTA, a public body corporate and
politic organized and existing under the laws of the State
of Minnesota

By: _____
James B. Hovland, Chair

By: _____
Scott H. Neal, Executive Director

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2020, by James B. Hovland and Scott H. Neal, the Chair and Executive Director, respectively, of 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, on behalf of said Authority.

Notary Public

THE SOUND ON 76TH LIMITED PARTNERSHIP,
a Minnesota limited partnership

By: 4100 Edina LLC, a Minnesota limited liability
company, its General Partner

By: _____

Name: _____

Its: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____ day of _____,
2020 by _____, the _____ of 4100 Edina LLC, a
Minnesota limited liability company, General Partner of The Sound on 76th Limited Partnership, a
Minnesota limited partnership, on behalf of the limited liability company and limited partnership.

Notary Public

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

Exhibit A

Legal Description

Tract J, Registered Land Survey No. 1129, Hennepin County, Minnesota

Torrens Property

September 2, 2020

VIA E-MAIL

Ms. Jennifer Wille
Minnesota Housing Finance Agency
400 Wabasha Street North, Suite 400
Saint Paul MN 55012

RE: Demolition of Former Flyte Tyme Studios and Construction of “The Sound on 76th” Apartment Building at 4100 West 76th Street
Edina, Hennepin County
SHPO Number: 2020-0912

Dear Ms. Wille,

We last wrote to you on February 21, 2020, a letter in which our office provided comments in response to your agency’s historic property identification efforts, pertaining to the former Flyte Tyme Studios eligibility for listing in the National Register of Historic Places, and Section 106 finding of effect for the above-referenced federal undertaking.

As you know, our office reviewed the report titled “Flyte Tyme Studios (formerly Twin City Biscuit Co.) Building Historic Evaluation, 4100 West 76th Street, Edina, Minnesota” (Summit Envirosolutions, January 2019) which was provided by your agency as part of the Section 106 review. After reviewing the evaluation report, our office concurred with the consultant’s finding that Flyte Tyme Studios (SHPO Inventory Number HE-EDC-00661) is ineligible for listing in the National Register of Historic Places (National Register), despite the property’s likely significance under Criterion A for events contributing to the broad patterns of the music industry, and likely significance under Criterion B for its association with James “Jimmy Jam” Harris and Terry Lewis, both of whom have made substantial contributions to the Minneapolis Sound and the music industry as a whole.

Since there were no other identified historic properties within an assumed area of potential effect, our office determined that no historic properties would be affected by the proposed federal undertaking.

On August 17-18 and August 24, 2020, our office received via e-mail, several letters and supporting documentation from individuals and organizations interested in the historic significance of the former Flyte Tyme Studios building and the proposed demolition as part of this federal undertaking. The following letters, except for Stonebridge Learning LLC, were addressed to Stephanie Hawkinson, City of Edina, and Amy Spong, Deputy State Historic Preservation Officer:

- Memorandum dated August 17, 2020 and August 24th follow-up “Jimmy Jam and Terry Lewis, 1988-2003” historic context document from Kristen Zschomler, Sound History LLC;
- Letter dated August 17, 2020 from Barbara Howard, Director of Heritage Preservation, Stonebridge Learning LLC;
- Memorandum dated August 17, 2020 from Charlene Roise, Historian;

- Letter dated August 18, 2020 from Katherine Haun Schuring, Advocacy Committee Chair, Preserve Minneapolis; and
- Letter dated August 18, 2020 from Todd Wright, Acting Executive Director, on behalf of the Rethos: Places Reimagined Staff & Board of Directors.

Most of the letters are from Historians and Architectural Historians who meet the Secretary of the Interior's Professional Qualification Standards and provide narrative analyses of the January 2019 Summit Envirosolutions evaluation as well as the individuals' own historic context documentation and re-evaluation of Flyte Tyme Studios.

On August 19, 2020 our office provided written notices via email, with courtesy copy to David Nuccio, U.S. Department of Housing & Urban Development, alerting your agency that our office had received new information regarding the historic significance of the Flyte Tyme Studios building from credible interested parties.

As part of our notification to your agency, we forwarded all five letters to you that day as well. Successive email communications among our office, your agency, and HUD, in the days following, indicated that our office would proceed with a full evaluation of the new information regarding the historic significance of Flyte Tyme Studios and provide you with an updated opinion regarding eligibility for listing in the National Register. Our review and analysis of the new information is complete, and our comments and conclusion are provided herein.

Evaluation of New Information

Flyte Tyme Studios faces two principal challenges to its listing in the National Register. First, although Jimmy Jam and Terry Lewis are plainly significant individuals as defined in National Register Bulletin 15: How to Apply the National Register Criteria for Evaluation, which states that "properties may be eligible for the National Register if they are associated with the lives of persons significant in our past," the bulletin continues:

Properties associated with living persons are usually not eligible for inclusion in the National Register. Sufficient time must have elapsed to assess both the person's field of endeavor and his/her contribution to that field. Generally, the person's active participation in the endeavor must be finished for this perspective to emerge.

Both Jimmy Jam and Terry Lewis continue to be a part of the music industry today.

The second challenge to Flyte Tyme Studio's listing in the National Register is that it has achieved significance within the last fifty years. Again, National Register Bulletin 15: How to Apply the National Register Criteria for Evaluation states:

Fifty years is a general estimate of the time needed to evaluate significance. This consideration guards against the listing of properties of passing contemporary interest and ensures that the National Register is a list of truly historic places.

The additional documentation on Flyte Tyme Studios submitted to our office August 17-18 and 24, 2020 rightly notes that a property that is less than fifty years old can be determined eligible for listing in the National Register if it can be demonstrated that the property is "exceptionally significant." For example, Sound 80, a studio in south Minneapolis, was recently listed in the National Register. The events that made Sound 80 historically significant ended in 1981, which is thirty-nine years ago. For Sound 80, both

MN SHPO and the National Park Service concluded that a thirty-nine-year historical perspective was enough to evaluate Sound 80 as exceptionally significant and worthy of a National Register listing.

The additional documentation recently submitted to our office stresses that Flyte Tyme Studios also meets the exceptional significance standard. Further, the additional documentation questions the analysis in the original evaluation study of Flyte Tyme Studios, believing its focus too narrow, based on research that is lacking, and in some instances is simply incorrect.

While it is true that the additional documentation offers information that was not presented in the original eligibility study for Flyte Tyme Studios, it is also true that Flyte Tyme Studios still faces the challenges mentioned above. And unlike Sound 80, where the events that make the property historically significant ended thirty-nine years ago, the events that make Flyte Tyme Studios historically significant ended in 2003, only seventeen years ago. It is the very limited historical perspective, coupled with the convention that properties associated with living persons are usually not listed in the National Register, that convinces our office that it is unlikely Flyte Tyme Studios would be found exceptionally significant at this moment in time and placed in the National Register. This belief is reinforced by the National Park Service, which recently concluded the same regarding Flyte Tyme Studios' eligibility.

Therefore, based upon our review and consideration of the new information submitted to our office by qualified parties with an interest in this property and the proposed federal undertaking, it is our opinion that the February 2020 determination of Flyte Tyme Studios as not eligible for listing in the National Register remains valid.

Please feel free to contact me at (651) 201-3290 or sarah.beimers@state.mn.us if you would like to discuss the comments provided in this letter.

Sincerely,



Sarah J. Beimers
Environmental Review Program Manager

Cc via email:

David Nuccio, Field Environmental Officer in MN and WI, HUD
Nancy Boone, Federal Preservation Officer, HUD
Stephanie Hawkinson, Affordable Housing Development Manager, City of Edina
Sarah Harris and Leslie Roering, Aeon
Angela Christy, Faegre Drinker Biddle & Reath LLP
Kristen Zschomler, Sound History LLC
Barbara Howard, Stonebridge Learning LLC
Katherine Haun Schuring, Preserve Minneapolis
Todd Wright, Rethos
Charlene Roise



Edina Housing and Redevelopment
Authority
Established 1974

CITY OF EDINA
HOUSING & REDEVELOPMENT
AUTHORITY
4801 West 50th Street
Edina, MN 55424
www.edinamn.gov

Date: September 10, 2020

Agenda Item #: VIII.A.

To: Chair & Commissioners of the Edina HRA

Item Type:
Report / Recommendation

From: Scott Neal, Executive Director

Item Activity:

Subject: Resolution No. 2020-05 Adopting the Proposed
Budget and Establishing the Proposed Tax Levy
Payable in 2021

Action

ACTION REQUESTED:

Adopt Resolution No. 2020-05 Adopting the Proposed Budget and Establishing the Proposed Tax Levy Payable in 2021.

INTRODUCTION:

The HRA is a separate taxing authority formed by the City Council in 1974. The purpose of the levy is to pay a portion of the administrative expenses and other economic initiatives that are necessary to operate the HRA. Historically those expenses have been paid using TIF funds. Continuing with the plan to reduce the reliance on TIF funds, the levy proposed for 2021 shows an increase from \$192,000 in 2021 to \$230,400.

HRA adoption of this resolution is a required step in the process of establishing an HRA levy for 2021. The final levy will be considered by the HRA in December.

ATTACHMENTS:

Resolution No. 2020-05

EDINA HOUSING AND REDEVELOPMENT AUTHORITY
RESOLUTION NO. 2020-05
ADOPTING THE PROPOSED BUDGET AND ESTABLISHING THE PROPOSED TAX LEVY PAYABLE
IN 2021

WHEREAS, The Edina Housing and Redevelopment Authority (the "HRA") has authorities and powers according to MN Statutes, Sections 469.001 to 469.047. MN Statutes, Section 469.033, subd. 6 grants the HRA the power to levy and collect taxes subject to a resolution of consent from the Edina City Council for a set period.

WHEREAS, The Edina City Council passed Resolution 2019-55 consenting to an HRA tax levy payable in 2021.

NOW, THEREFORE, BE IT RESOLVED by the Board as follows:

Section 1: That there is proposed to be levied upon all taxable real and personal property in the City of Edina, a tax rate sufficient to produce the amount as follows:

HRA GENERAL FUND	\$230,400
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Section 2: That the preliminary budget is as follows:

HRA GENERAL FUND TAX LEVY REVENUES	\$230,000
HRA GENERAL FUND EXPENDITURES	\$230,400

Passed and adopted by the Housing and Redevelopment Authority on September 10, 2020.

ATTEST: _____

Michael A. Fischer, Secretary

James B. Hovland, Chair

STATE OF MINNESOTA)
COUNTY OF HENNEPIN)SS
CITY OF EDINA)

CERTIFICATE OF EXECUTIVE DIRECTOR

I, the undersigned duly appointed and acting Executive Director for the Edina Housing and Redevelopment Authority do hereby certify that the attached and foregoing Resolution was duly adopted by the Edina Housing and Redevelopment Authority at its Regular Meeting of September 10, 2020, and as recorded in the Minutes of said Regular Meeting.

WITNESS my hand and seal of said City this ____ day of _____, 20__.

Executive Director



Edina Housing and Redevelopment
Authority
Established 1974

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AUTHORITY
4801 West 50th Street
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www.edinamn.gov

Date: September 10, 2020

Agenda Item #: IX.A.

To: Chair & Commissioners of the Edina HRA

Item Type:
Other

From: Liz Olson, Administrative Support Specialist

Item Activity:
Information

Subject: Correspondence

ACTION REQUESTED:

None.

INTRODUCTION:

There has been no correspondence since the last meeting.