

Tuesday, June 20, 2023

6:00 p.m. followed by a Special City Council / Planning Commission Work Session

REGULAR EDA MEETING – AGENDA #6

President Hollies Winston, Vice President Nichole Klonowski, Treasurer Boyd Morson,
Commissioners Christian Eriksen, Xp Lee, and Maria Tran,
Executive Director Kim Berggren, Assistant Executive Director Jay Stroebel, and Secretary Seng Moua.

Commissioner Christian Eriksen will be participating in the meeting by telephone or other electronic means pursuant to Minnesota Statutes, Section 13D.021 rather than in-person at the EDA's regular meeting place at City Hall, 5200 85th Avenue North, Brooklyn Park, Minnesota.

Members of the public can monitor the Regular EDA Meeting by calling 1-218-302-5973 and entering Meeting ID: 640 766 79 then pressing # when you are asked to enter a Participant ID.

If you need these materials in an alternative format or reasonable accommodations for an EDA meeting, please provide a 72-hours' notice to Seng Moua by calling 763-493-8059 or emailing Seng.Moua@brooklynpark.org. Para asistencia, 763-493-8059. Yog xav tau kev pab, hu 763-493-8059.

Our Vision: Brooklyn Park, a thriving community inspiring pride where opportunities exist for all.

Our Brooklyn Park 2025 Goals:

• A united and welcoming community, strengthened by our diversity • Beautiful spaces and quality infrastructure make Brooklyn Park a unique destination • A balanced economic environment that empowers businesses and people to thrive • People of all ages have what they need to feel healthy and safe • Partnerships that increase racial and economic equity empower residents and neighborhoods to prosper • Effective and engaging government recognized as a leader

I. ORGANIZATIONAL BUSINESS

1. CALL TO ORDER/ROLL CALL

2. PUBLIC COMMENT AND RESPONSE

Provides an opportunity for the public to address the EDA on items which are not on the agenda. Public Comment will be limited to 15 minutes (*if no one is in attendance for Public Comment, the regular meeting may begin*), and it may not be used to make personal attacks, to air personality grievances, to make political endorsements or for political campaign purposes. Commissioners will not enter into a dialogue with members of the public. Questions from the EDA will be for clarification only. Public Comment will not be used as a time for problem-solving or reacting to the comments made but, rather, for hearing from members of the public for informational purposes only.

2A. RESPONSE TO PRIOR PUBLIC COMMENT

2B. PUBLIC COMMENT

3A. APPROVAL OF AGENDA

3B. PUBLIC PRESENTATIONS

3B.1 None.

II. STATUTORY BUSINESS AND/OR POLICY IMPLEMENTATION

4. CONSENT

- 4.1** Consider Approving the 2023 EDA Meeting Minutes
 - A.** MAY 15, 2023 DRAFT REGULAR MEETING MINUTES
- 4.2** Consider Authorizing the Executive Director to Enter Into a Contract for Services of Up to \$84,570 at 6900 85th Avenue North
 - A.** RESOLUTION
 - B.** LOCATION MAP
 - C.** SCOPE OF WORK / SWORN CONSTRUCTION COST STATEMENT

The following items relate to the EDA's long-range policy-making responsibilities and are handled individually for appropriate debate and deliberation. (Those persons wishing to speak to any of the items listed in this section should fill out a speaker's form and give it to the Secretary. Staff will present each item, following in which audience input is invited. Discussion will then be closed to the public and directed to the EDA table for action.)

5. PUBLIC HEARINGS

- 5.1** None

6. GENERAL ACTION ITEMS

- 6.1** Consider Approving a Development Assistance Agreement Between the Brooklyn Park Economic Authority and Village Creek Reserves, LLC
 - A.** RESOLUTION
 - B.** DEVELOPMENT AGREEMENT
 - C.** PURCHASE AGREEMENT
 - D.** LOCATION MAP
 - E.** DRAFT RENDERINGS
- 6.2** Consider Approving the Engagement Policy for Development Projects on Land Owned by the Economic Development Authority
 - A.** RESOLUTION
 - B.** COMMUNITY ENGAGEMENT POLICY

III. DISCUSSION – These items will be discussion items, but the EDA may act upon them during the meeting.

7. DISCUSSION ITEMS

- 7.1** Status Update
- 7.2** Housing Update
- 7.3** Verbal Commissioner Reports and Announcements

IV. ADJOURNMENT

Since we do not have time to discuss every point presented, it may seem that decisions are preconceived. However, background information is provided for the EDA on each agenda item in advance from city staff; and decisions are based on this information and past experiences. Items requiring excessive time may be continued to another meeting.

City of Brooklyn Park

Request for EDA Action

Agenda Item:	4.1	Meeting Date:	June 20, 2023
Agenda Section:	Consent	Prepared By:	Seng Moua, EDA Secretary
Resolution:	N/A	Presented By:	Kim Berggren, Executive Director
Attachments:	1		
Item:	Consider Approving the 2023 EDA Meeting Minutes		

Executive Director's Proposed Action:

MOTION _____, SECOND _____, TO APPROVE THE MAY 15, 2023 EDA MEETING MINUTES.

Overview: N/A

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments:

4.1A MAY 15, 2023 DRAFT REGULAR MEETING MINUTES

THE BROOKLYN PARK ECONOMIC DEVELOPMENT AUTHORITY
OF THE CITY OF BROOKLYN PARK
MAY 15, 2023 MEETING MINUTES

I. ORGANIZATIONAL BUSINESS:

1. CALL TO ORDER: President Winston at 7:24 p.m.

ROLL CALL PRESENT: President Hollies Winston, Vice President Nichole Klonowski, and Commissioners Christian Eriksen, XP Lee, and Maria Tran. Staff: Executive Director Kim Berggren, Economic Development and Housing Director Breanne Rothstein, EDA Secretary Seng Moua, Attorney Jim Thomson, and Development Project Coordinator Sarah Abe.

ABSENT/EXCUSED: Treasurer Boyd Morson.

2. PUBLIC COMMENT AND RESPONSE:

2. A Response to Prior Public Comment:

Executive Director Kim Berggren stated that at the last meeting there were comments made to the Real Estate Equities project. She stated that would be addressed through standard public safety practices.

2. B Public Comment received:

Alissa Bentz, 4102 Fox Club Avenue N, thanked the EDA for their service. She felt that the working session was the first time this neighborhood was heard. She stated that while she would support more community engagement, she feels that the cart is before the horse. She stated that while she likes the changes to the proposal, she was unsure why the City continues to select MVP. She stated that the Scoring Committee was supposed to recommend a developer to the EDA but that did not happen, and the top scoring developer was not chosen. She asked for transparency on that decision.

Rich Xiong, 4034 Fox Club Avenue, commented that he was unable to attend the working session. He recognized that changes have been made by both the City and developer and appreciated that. He stated that he will listen to the audio from the meeting and will follow up with questions. He was unsure why a new community engagement consultant was chosen and who is funding that consultant. He stated that while they like MVP, this prime development location should be developed by someone that has experience. He believed that there would be other developers that would better fit this site.

President Winston asked if there is an issue with MVP because of their experience, or lack thereof.

Mr. Xiong commented that he would prefer someone with experience in this type of development to ensure it is done correctly.

President Winston asked if there would be an issue with someone that could do it correctly but did not have experience.

Mr. Xiong replied that he wants someone experienced.

President Winston stated that this concept has come up a number of times and that is a challenge in determining whether the issue is with the outcome or whether people are comfortable with what has been done before in terms of experience. He asked if it would work for the resident if the Council were able to work something out that achieved the desired outcome.

Mr. Xiong replied that he would prefer a developer with experience over the outcome. He stated that if someone has experience, they would most likely be able to provide the outcome.

3A. APPROVAL OF AGENDA

MOTION LEE, SECOND KLONOWSKI APPROVING THE AGENDA AS PRESENTED. MOTION PASSED UNANIMOUSLY.

3B. PUBLIC PRESENTATIONS

3B.1 None.

II. STATUTORY BUSINESS:

4. CONSENT:

4.1 Consider Approving EDA Meeting Minutes.

A. April 17, 2023 Draft Meeting Minutes

4.2 Consider Approving Contract Renewal for Metro North/Anoka County Chamber's ("Metro North") Contract to Continue Providing Chamber Support Services to Brooklyn Park

A. Resolution

B. Professional Services Agreement

4.3 Consider Amending the 2023 Adopted Budget for the Small Business Center

A. Resolution

B. Budget Amendment Financial Analysis

MOTION LEE, SECOND ERIKSEN TO APPROVE THE CONSENT AGENDA. MOTION PASSED UNANIMOUSLY.

5. PUBLIC HEARINGS:

5.1 None.

6. GENERAL ACTION ITEMS:

6.1 Consider Approving the Term Sheet Between the Brooklyn Park Economic Development Authority and George North Group for the Development of the Village Creek Apartment Project

A. Resolution

B. Preliminary Term Sheet

C. Letter from George North Group

D. Draft Renderings

E. Location Map

Development Project Coordinator Sarah Abe presented consideration of the Village Creek Apartment project with a new term sheet which would be located at 7621 Brooklyn Boulevard and would contain both housing units and commercial/public space. She reviewed the previous approvals that have been gained through the City process and provided project background information. She reviewed the changes being considered along with the proposed mix of units. She reviewed the project sources and uses and highlighted the next steps should this be approved tonight.

Commissioner Klonowski stated that there were substantially more market rate units along with programming on the ground level when this originally went through the Planning Commission. She asked for details on the changes.

Devean George, representing George North Group, replied that the programming will remain the same with the commercial kitchen and Health Roots and Building Blocks on the first level. He commented that they added more affordable units in order to better address the interest rate gap. He stated that this will still remain a mixed income building.

Commissioner Klonowski asked what would happen if the desired financing is not received.

Mr. George replied that if those funds were not allotted, they would find another way to move forward.

Commissioner Klonowski commented that she would be curious to hear the comments of the EDA as there are already large amounts of affordable housing units and not as much market rate. She also recognized that there is an affordable project near this location which residents may want to move out of and into this building with more bedrooms available.

President Winston replied that the key difference is that this would be more legacy as the City has been grappling with this site for some time. He recognized that there is a large amount of affordable housing already and there is a desire to have more market rate units. He commented that there is also a gap in commercial development. He stated that because of the long running nature between the developer and City, he would not be opposed to this moving forward but agreed that the City is looking to get the most market rate units it can.

Commissioner Eriksen asked if the City or developer foresee a significant change to the property value as an impact of the change in affordable units.

Mr. George replied that affordability is what is needed right now in the market. He commented that there would be risk to building a market rate building with the current economy. He commented that the original plan is not realistic in this economy.

Jason Aarsvold, Ehlers, commented that the value of the project will not change but the tax capacity will change because of the affordable housing rate.

Commissioner Eriksen commented that this is a smaller project for this larger area and may create energy in this area that sparks future development.

Mr. George replied that once this is completed, they would like to continue with phase two.

Commissioner Lee commented that the original plan was community centered, and the history of the George North Group has been to help develop the community not only in the building but surrounding area. He noted that the commercial kitchen is something residents are interested in.

Commissioner Klonowski thanked the developer for their interest in the site and willingness to develop this site. She commented that when looking at the larger corridor there have been issues over the years and buildings have been removed. She commented that this is a great opportunity to rebuild that corridor, which already has a lot of naturally occurring affordable housing. She stated that if the market is not supporting the higher rate of market rate units, she would suggest pausing the project. She stated that this mix of units is substantially different, and she liked the mix of units. She commented that the lower tax capacity also does not assist the City in bridging the gap.

Reggie Barner, representing George North Group, commented that when they talk about market rate units from a financing standpoint that brings more private equity. He explained the different financing in more detail and noted that the 80 percent AMI is actually the workforce housing. He stated that affordable housing is not what they are building, it is just how they are financing the project.

Commissioner Klonowski asked for more details on the commercial space.

Mr. George provided more details on Healthy Roots and the commercial kitchen space. He stated that his nonprofit group would also office in that location to determine community needs. He noted that there would also be a small incubator space for rent. He stated that there will also be a small grab and go restaurant space.

Commissioner Klonowski stated that she does like the youth focused Building Blocks program.

President Winston recognized that they have begun discussions about the Brooklyn Boulevard corridor and desire for market space units. He commented that some of this model fits within that newer vision while some does not. He stated that the funding gap of Brooklyn Park is real. He commented that given what they are considering perhaps this should be tabled for one or two months while they get more structure around the vision for the corridor.

Commissioner Eriksen stated that while he is not opposed to tabling, he also recognizes the timing for the developer's funding structure. He stated that in looking at the rent AMI in that area, the 80 percent would be an increase and add variety to the mix of units in that area. He noted that the 80 percent rent would also exceed the mortgage of his home. He commented that he does see value in this mix of units.

Commissioner Lee commented that he would not want to table this and asked for details on that timeline if it were to be tabled and how that could impact the developer.

Development Project Coordinator Sarah Abe commented that the next step for the developer would be to apply for financing in late June or early July, therefore there would be some space, but it is a tight timeline.

Executive Director Kim Berggren replied that grant funding has also been secured from the Metropolitan Council and Hennepin County for the project that support some of the desired features like the commercial kitchen. She stated that there would not be a lot of time to reconsider this project and extend the grants.

Commissioner Lee commented that there have been recent discussions about developing a scoring sheet for reviewing properties and proposals and noted that would come in handy in this situation where they could weigh different features. He stated that perhaps that would show that even though there would be a decrease in this situation, the overall project may still fall within the desired range.

Commissioner Klonowski stated that she loves the community aspect of this project but struggles as they are reviewing the broader corridor to develop a larger vision.

President Winston stated that after hearing the comments of Commissioner Eriksen, he could support approving the term sheet at this time. He noted that this would still come back in July and between now and then they will be discussing the overall vision for the corridor. He noted that this project would have to fit within that vision and wanted the developer to have some consideration of flexibility.

Commissioner Eriksen commented that this project has been on the table for some time and therefore does not believe it would be subject to the moratorium. He commented that even though they are modifying something it would seem that moving forward would honor the word of the City.

Executive Director Kim Berggren confirmed that there is a development agreement and approved land use applications, and this is a small change to the project. She commented that the community kitchen concept is something that has been desired for a long time and there is a lot of excitement about this feature.

President Winston commented that while there was an agreement, the timing changed and therefore other things have changed as well.

MOTION LEE, SECOND ERIKSEN, TO WAIVE THE READING AND ADOPT RESOLUTION #2023-__ APPROVING THE TERM SHEET BETWEEN THE BROOKLYN PARK ECONOMIC DEVELOPMENT AUTHORITY AND GEORGE NORTH GROUP FOR THE DEVELOPMENT OF THE VILLAGE CREEK APARTMENT PROJECT. MOTION PASSED 4 – 1 (TRAN OPPOSED).

III. DISCUSSION:

7. DISCUSSION ITEMS

7.1 Status Update

A. Small Business Center Budget

Executive Director Kim Berggren commented that BPDC has new members, along with Commissioners Lee and Morson continuing to serve. She commented that they are in the process of member selection for the Small Business Center (SBC). She stated that the updated budget information was also included in the packet for the SBC. She highlighted a recent business opening and the Summer Blossom Award process.

7.2 Housing Update

Executive Director Kim Berggren welcomed questions.

President Winston commented that it would seem there will be housing funds allocated by the legislature at the end of the session. He encouraged the City to work with its lobbyists to determine how to best access those funds. He stated that the City should aim to be as aggressive as possible in attempting to gain those dollars.

Commissioner Lee asked if the City is doing enough to promote getting people into the SBC and whether the space would be filled.

Executive Director Kim Berggren commented that the budget was updated by staff and the contracted operators based on the information known and process to get people into the SBC. She commented that membership startup has been a little slower as the focus has previously been on construction.

Economic Development and Housing Director Breanne Rothstein commented that there are no members signed up at this time. She stated that they begin to fill at 30 percent in June and moving forward conservatively in the budget aiming to be at 100 percent occupancy by October. She commented that they want to do things right rather than quickly.

Commissioner Lee asked if the marketing budget is appropriate.

Economic Development and Housing Director Breanne Rothstein replied that is in line with the quotes they have received from a consultant, along with the marketing that would be done by the operator and City. She stated that they are also working through partnerships with entities that work with small businesses to network in that manner as well. She stated that there is a lot of interest in the space, but they want to make sure all the systems and processes are in place before filling the space.

Commissioner Lee commented on the large proposal that had come in at Zane and Brooklyn Boulevard and asked if there are any updates.

Executive Director Kim Berggren replied that is referred to as the Regent Site and the developer is planning to come to present their ideas for the site to the EDA in a working session.

Commissioner Lee again noted that it would be helpful to have the score card that he mentioned showing the taxable value.

Commissioner Eriksen asked if there is marketing collateral for the SBC, such as a website.

Executive Director Kim Berggren replied that there is a webpage on the City website with information and a portal where interested parties can submit interest in the space. She noted that there is also a flyer available.

Commissioner Klonowski stated that she loves the idea of having a consultant review the Brooklyn Boulevard corridor sooner rather than later. She stated that is a big opportunity with very little land left and perhaps that area should have been included in the moratorium. She referenced the comments related to transparency from the residents in Fox Club and would like to see that formally addressed.

7.3 Commissioner Reports and Announcements

Commissioner Klonowski provided an update on recent discussions by the Charter Commission.

President Winston stated that he agrees with the desire to formally address the statements of transparency. He recognized the importance of building trust and doing things in the right way.

Commissioner Tran commented on the BIPOC community and housing that would be impacted by a MnDOT project.

President Winston commented that statement would perhaps better be addressed in a Council meeting versus the EDA.

Commissioner Lee asked if there was a reason a new consultant with chosen for community outreach.

Executive Director Kim Berggren explained that the original consultant was used for that initial community engagement portion, but it is standard to turn that over to the developer as their responsibility to continue to engage with the community during this process. She noted that staff would be the connection between the previous and current consultant.

IV. ADJOURNMENT: Meeting adjourned at 8:42 p.m.

City of Brooklyn Park

Request for EDA Action

Agenda Item:	4.2	Meeting Date:	June 20, 2023
Agenda Section:	Consent	Prepared By:	Sarah Abe, Development Project Coordinator
Resolution:	X	Presented By:	Sarah Abe, Development Project Coordinator
Attachments:	3		
Item:	Authorizing the Executive Director to Enter Into a Contract for Services of Up to \$84,570 at 6900 85th Avenue North		

Executive Director's Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT RESOLUTION #2023-_____ AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER INTO A CONTRACT FOR SERVICES OF UP TO \$84,570 AT 6900 85TH AVENUE NORTH.

Overview:

As part of the development of 6900 85th Avenue North (Tessman Ridge with Duffy Development), the single large parcel is being split into 4 properties that will be developed in different phases. Development of Phase I, a 71-unit apartment building, is commencing this summer. A small portion of the site at the intersection of College Parkway and 85th Avenue North is being reserved for a future commercial use. In order to save costs on the development of this commercial site, Tessman Ridge Limited Partnership and Duffy Development are including in its civil site work a proposal to complete various engineering and construction tasks to bring the site to a "pad-ready" developable state. Entering into the proposed agreement will allow the EDA to take advantage of the savings resulting from using a contractor already selected to do site work at the adjacent property, this proposal represents the best value for this work.

Background:

In 2021 the EDA selected Duffy Development as a partner to develop the property at 6900 85th Avenue North. The proposal included a multi-phased development with a portion of the site reserved for commercial use. The EDA is currently working with the developer and a possible commercial user to consider developing that 1-acre portion of the site.

Primary Issues/Alternatives to Consider:

- **What is the cost and scope of work?**

If approved, the various tasks will occur during construction of Phase I of Tessman Ridge and result in reduced future construction expenses. The anticipated cost is \$84,570 for the following tasks:

- Silt fence on west side of site bounding College Parkway
- Sidewalk removal along 85th west of point
- Sidewalk replacement along 85th
- Seeding / Erosion control stabilization for lot west of proposed apartment
- Silt fence on western perimeter
- Mass grading for western to hold-down slab elevation
- Approx. 311 LF 8" PVC Sanitary Sewer
- Approx. 30 LF 6" PVC Sanitary Sewer Service, cleanout, and stub / marker indicator
- 6" and 8" Fire & Domestic service adjacent to Tessman Circle North / College Court including taps, valves, marker posts, and associated pavement
- 15" HDPE Storm sewer stub with marking post

Budgetary/Fiscal Issues:

Completion of the scope of work is estimated to cost up to \$84,570 from the EDA's TIF 3 budget. The EDA may be able to be repaid for these expenses when the commercial site develops.

Next Steps:

Should this be approved the Executive Director of the EDA will negotiate and enter into a contract with Tessman Ridge Limited Partnership / Duffy Development for these services.

Recommendation:

The Executive Director of the EDA recommends approval.

Attachments:

- 4.2A RESOLUTION
- 4.2B LOCATION MAP
- 4.2C SCOPE OF WORK / SWORN CONSTRUCTION COST STATEMENT

THE BROOKLYN PARK ECONOMIC DEVELOPMENT AUTHORITY
OF THE CITY OF BROOKLYN PARK

RESOLUTION #2023 - _____

RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER INTO A CONTRACT
FOR SERVICES OF UP TO \$84,570 AT 6900 85TH AVENUE NORTH

WHEREAS, the Brooklyn Park Economic Development Authority (the “EDA”) was created pursuant to the Economic Development Authorities Act, Minnesota Statutes, Sections 469.090 to 469.1080 (the “EDA Act”) and is authorized to transact business and exercise its powers by a resolution of the City Council of the City of Brooklyn Park, Minnesota (the “City”) adopted on October 24, 1988 (the “Enabling Resolution”).

WHEREAS, the EDA has determined the need for development site services to prepare a portion of the property at 6900 85th Avenue North for future development; and

WHEREAS, Tessman Ridge Limited Partnership (“Tessman Ridge LP”) is completing these services at the adjacent site and will include the future commercial portion of the above property in its development services; and

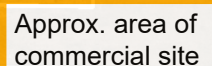
WHEREAS, using the contractor already selected to complete work at the adjacent site creates cost savings and an efficiency that makes this proposal the best value for this property; and

WHEREAS, in order to implement these activities, the EDA will enter into an agreement in the amount not to exceed \$84,570 for various civil services at the site.

NOW, THEREFORE, BE IT RESOLVED by Board of the Economic Development Authority of the City of Brooklyn Park (the “Board”) as follows:

1. The Executive Director is hereby directed to draft an Agreement and other documents (the “Agreement”), subject to the review and approval of the EDA legal counsel, necessary to to enter into an Agreement with Tessman Ridge LP based on the scope presented to the EDA.
2. The Executive Director is authorized to execute the Agreement on behalf of the EDA and to carry out, on behalf of the EDA, the EDA’s obligations thereunder.
3. The approval hereby given to the Agreement includes approval of such additional details therein as may be necessary and appropriate and modifications , deletions and additions to the scope presented to the EDA as may be necessary and appropriate and approved by legal counsel to the EDA and by the officers authorized herein to execute said documents prior to their execution; and said officers are hereby authorized to approve said changes on behalf of the EDA. The execution of any instrument by the appropriate officers of the EDA herein authorized shall be conclusive evidence of the approval of such document in accordance with the terms hereof. In the event of absence or disability of any such officers, any of the documents authorized by this Resolution to be executed may be executed without further act or authorization of the Board by any duly designated acting official, or by such other officer or officers of the Board as, in the opinion of legal counsel to the EDA, may act in their behalf.

4. The authority to approve, execute and deliver future amendments to the Agreement is hereby delegated to the Executive Director, subject to the following conditions: (a) such amendments or consents to not materially adversely affect the interests of the EDA; (b) such amendments or consents do not contravene or violate any policy of the EDA, the City or applicable provision of law, and (c) such amendments or consents are acceptable in form and substance to the counsel retained by the EDA to review such amendments. The execution of any instrument by the Executive Director shall be conclusive evidence of the approval of such instruments in accordance with the terms hereof.



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Map provided by the City of Brooklyn Park, MN. This map is for general reference only. It is not for legal, engineering, or surveying use. Please contact the sources of the information if you desire more details. www.brooklynpark.org

Daycare Pad Ready Cost Info – Proposal for Adjacent Site:

- C-003
- Silt fence on west side of site bounding College Parkway. If approved, deduct shall be provided from base bid for silt fence west of proposed apartment building.
- Sidewalk removal along 85th west of point called out on C-004.
- C-004
- Sidewalk removal along 85th west of point called out on plans.
- C-102
- Sidewalk replacement along 85th per removal limits above.
- C-202
- Seeding / Erosion control stabilization for lot west of proposed apartment.
- Silt fence on western perimeter. If approved, deduct provided for silt fence immediately west of proposed apartment.
- C-301
- Mass grading for western to hold-down slab elevation. If alternate not approved, grading for apartment building to tie into existing within 20' west of apartment.
- C-401
- Approx. 311 LF 8" PVC Sanitary Sewer
- SAN MH-1
- Approx: 30 LF 6" PVC Sanitary Sewer Service, cleanout, and stub / marker indicator
- 6" and 8" Fire & Domestic service adjacent to Tessman Circle North / College Ct. including taps, valves, marker posts, and associated pavement
- C-501
- 15" HDPE Storm sewer stub with marking post, Keynote 6.

City of Brooklyn Park Request for EDA Action

Agenda Item:	6.1	Meeting Date:	June 20, 2023
Agenda Section:	General Action Items	Prepared By:	Sarah Abe, Development Project Coordinator
Resolution:	X		Sarah Abe, Development Project Coordinator
Attachments:	5		
Item:	Consider Approving a Development Assistance Agreement Between the Brooklyn Park Economic Development Authority and Village Creek Reserves, LLC		

Executive Director's Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT RESOLUTION #2023-_____ APPROVING A DEVELOPMENT ASSISTANCE AGREEMENT BETWEEN THE BROOKLYN PARK ECONOMIC DEVELOPMENT AUTHORITY AND VILLAGE CREEK RESERVES, LLC.

Overview:

At its May 15 Brooklyn Park Economic Development Authority (EDA) meeting, the EDA approved a new term sheet with George Group North for the Village Creek Apartments project. The term sheet included an updated financing structure that uses tax-exempt bonds to address a financial gap that arose due to construction and interest rate increases resulting from the COVID-19 pandemic. Tonight, the EDA will consider a full updated development agreement for this project. This will allow the developer to move quickly forward with construction should it be awarded tax-exempt bonds in July 2023.

Since 2018 the EDA has worked with developer George Group North on the Village Creek Apartments project. Village Creek Apartments is a planned five story, 83-unit mixed-use development project proposed to be developed on EDA owned land located at 7621 Brooklyn Boulevard in the Village Creek neighborhood. Along with a proposed 83 apartment homes, there is also a 10,000 square foot commercial component that is planned to include pop-up retail incubation space and commercial kitchen. The EDA has supported this project through various actions including previous term sheet, purchase agreement, Tax Increment Financing (TIF) development agreement, and new TIF district approvals.

Background:

7621 Brooklyn Boulevard is part of the 133-acre Village Redevelopment Area located near the intersection of Zane Avenue North and Brooklyn Boulevard. Planning for the area began in 1997. Since the start of redevelopment efforts, the City, EDA, Hennepin County, and Metropolitan Council has invested more than \$28 million into preparing the Village Creek area for redevelopment. Preparation of the area has resulted in over \$82 million of investment to date, including:

- New housing
- New retail
- Public facilities
- Improvements to the Zane Avenue and Brooklyn Boulevard streetscapes
- Restoration and transformation of Shingle Creek
- Several remaining development opportunity sites

The redevelopment of the Village Creek Redevelopment Area follows the Village Master Plan/Shingle Creek Corridor Plan, adopted in 2000. A master development plan for this site was approved by the City Council in 2005 and includes the creation of additional, multi-story housing options.

The master development plan, adopted by the City Council in 2005, envisioned mixed use development with condominiums at this site. The development community and the lenders have shown little interest in supporting condos throughout the region because of market limitations and insurance/liability challenges. However, the proposed project is consistent with the vision of creating additional multi-family housing and commercial options on the site.

In addition to providing financing, the EDA assisted this project by applying for the Metropolitan Council's Livable Communities Demonstration Act (LCDA) program in 2018. The project received a \$832,000 award from that fund and \$750,000 from the Hennepin County Transit Oriented Development (TOD) grant program. The EDA requested and was granted an extension on the timeline to spend the funds to account for COVID and supply related delays to the project. The project has until December 31, 2023 to spend the funds according to the grant agreement guidelines.

In 2022, the EDA and City Council have reviewed and approved both the previous financing plans and the land use approvals for this project. The city and the developer have been working in partnership to deliver this project for many years.

Primary Issues/Alternatives to Consider:

- What is unique about this project?**

The design and layout support a walkable neighborhood and transit use. The building fronts the street and includes amenities such as wider sidewalks with landscaping, underground parking, an integrated bus shelter, and sustainable design features. The project includes 10,000 square feet of commercial on the main level fronting Brooklyn Boulevard and Welcome Avenue. The commercial components include kitchen space with a restaurant, a small business coworking space, a classroom area, and a small event space, which was a direct response to community desire for these types of uses.

The developer is anticipating that the commercial kitchen and its programming will be managed by LaChelle Cunningham who has experience running commercial kitchens through the organization Appetite for Change. The proposed restaurant, Chelles' Kitchen, will be available to residents and community members and will offer a coffee and juice bar with grab and go pantry and hot breakfast bar during the day. It is anticipated that the kitchen will be available to food entrepreneurs to test-run their concepts and develop their management processes and can also be rented as a catering kitchen. The kitchen can comfortably be rented by 4-6 food businesses at a given time. Additionally, Healthy Roots Institute, also managed by LaChelle Cunningham, will be hosting workshops and classes meant for both food entrepreneurs and the greater community. The additional commercial space will serve primarily as a coworking space with a small incubator element for businesses to host pop-up shops for short periods of time.

- What is the unit mix?**

Below is a table detailing the breakdown of units and rents. Units must remain at these affordability levels for a minimum of 30 years. Current market rate rents in this neighborhood are mostly in the 60-80% AMI range.

Table 1. Unit and bedroom mix

Unit size	Number of units	2023 estimated monthly rent
1-bedroom – 30% AMI	4	\$660
1-bedroom – 50% AMI	4	\$1,100
1-bedroom – 80% AMI	31	\$1,471
2-bedroom – 30% AMI	4	\$792
2-bedroom – 50% AMI	3	\$1,329
2-bedroom – 80% AMI	20	\$1,891
3-bedroom – 30% AMI	2	\$915
3-bedroom – 50% AMI	2	\$1,525
3-bedroom – Market rate	13	\$2,049

- **What are the proposed project sources and uses?**

SOURCES			
	Amount	Pct.	Per Unit
First Mortgage	15,051,900	57%	181,348
TIF Mortgage	830,000	3%	10,000
Tax Credits	6,740,790	26%	81,214
Deferred Developer Fee (39% of Total Fee)	301,717	1%	3,635
Local Grants	1,270,000	5%	15,301
Other Public Sources	1,582,000	6%	19,060
Private Sources	500,000	2%	6,024
TOTAL SOURCES	26,276,407	100%	316,583

USES			
	Amount	Pct.	Per Unit
Acquisition Costs	370,000	1%	4,458
Construction Costs	20,915,233	80%	251,991
Professional Services	703,983	3%	8,482
Financing Costs	2,243,085	9%	27,025
Developer Fee	768,000	3%	9,253
Cash Accounts/Escrows/Reserves	1,276,106	5%	15,375
TOTAL USES	26,276,407	100%	316,583

- **What funding is requested from the EDA?**

The EDA assistance approved in the term sheet on May 15 and contemplated in the revised development agreement include:

- \$370,000 land-write down
- \$900,000 in upfront Tax Increment Financing (TIF) funds (from Housing Set Aside)
- Up to \$535,000 in pay as you go (PAYGO) TIF funds over 15 years from newly created Housing TIF district (previously approved in the term sheet as \$830,000 and adjusted down due to the reduced 4d tax classification rate approved at the end of May by the State legislature)

- **What are the budget impacts?**

A portion of the EDA assistance for this project is proposed to come out of the TIF housing set aside account, which is required to be used for affordable housing development purposes (\$900,000). The remaining assistance is proposed to be financed from PAYGO TIF, which is an annual cash payment generated from the development's own annual tax payments as they are paid or pay-as-you-go. The EDA is also selling the land to the developer for \$1 to help close the funding gap for the project. The land was valued at \$370,000 in 2020.

- **What are the next steps?**

If the EDA approves the revised development agreement tonight, the project will apply for tax-exempt bonds from MN Housing on June 26. Allocations will be made on July 3, 2023. The developer is also applying to HUD for an expedited financing process.

The project is at risk of losing committed grant funds from Hennepin County and the Metropolitan Council if it does not begin construction this fall and substantially advance construction on foundations this year.

- **What BP 2025 goals are being achieved in this project?**

Village Creek Apartments is consistent with several of the Brooklyn Park stated community goals including access to healthy and safe housing, contributing to a thriving economy, the creation of beautiful spaces, and creating a more equitable community. This could also serve as a catalyst for the re-development of the remaining EDA owned parcels on Brooklyn Boulevard, bringing a high quality, higher density, mixed use project to the area.

Recommendation:

The Executive Director of the EDA recommends approval.

Attachments:

- 6.1A RESOLUTION
- 6.1B DEVELOPMENT AGREEMENT
- 6.1C PURCHASE AGREEMENT
- 6.1D LOCATION MAP
- 6.1E DRAFT RENDERINGS

THE BROOKLYN PARK ECONOMIC DEVELOPMENT AUTHORITY
OF THE CITY OF BROOKLYN PARK

RESOLUTION #2023-_____

RESOLUTION APPROVING A DEVELOPMENT ASSISTANCE AGREEMENT BETWEEN THE
BROOKLYN PARK ECONOMIC DEVELOPMENT AUTHORITY AND VILLAGE CREEK
RESERVES, LLC

WHEREAS, the City of Brooklyn Park, Minnesota (the “City”) and the Brooklyn Park Economic Development Authority, a public body corporate and politic (the “EDA”), have undertaken a program to promote economic development and job opportunities, promote the development and redevelopment of land which is underutilized within the City, and have created a development district known as Development District No. 1 (the “Development District”) in the City; and have adopted a Development Program therefor (the “Development Program”), pursuant to Minnesota Statutes, Sections 469.124 to 469.133 (the “Development District Act”), the administration of which has been transferred to the EDA; and

WHEREAS, on March 21, 2022, the EDA established Tax Increment Financing District No. 1-27, a housing tax increment financing district (the “TIF District”), within the Development District; adopted a Tax Increment Financing Plan (the “TIF Plan”) therefor; and authorized, among other things, the execution of (1) a certain Development Assistance Agreement (the “Original Development Agreement”), between the EDA and Village Creek Reserves, LLC, a Minnesota limited liability company (the “Developer”); all pursuant to and in conformity with applicable law, including Minnesota Statutes, Sections 469.174 through 469.1794, as amended (the “TIF Act”), Minnesota Statutes, Sections 469.001 to 469.047 and Sections 469.090 to 469.1081, all inclusive, as amended (collectively, and together with the TIF Act and the Development District Act, the “Act”) and (2) a certain Purchase Agreement between the Developer and the EDA (the “Original Purchase Agreement”) in connection with the conveyance of title to Parcel Identification Number 2811921210034 (the “Parcel”) to the Developer for the construction of the Development; and

WHEREAS, the Original Development Agreement and the Original Purchase Agreement have not been executed and the Developer has proposed certain revisions to (i) their plan to develop an 83-unit multifamily rental housing facility and related amenities with approximately 10,000 square feet of ground level commercial space to be dedicated to a commercial kitchen and rentable commercial space to be located at 7621 Brooklyn Boulevard North in the City (the “Development”) and (ii) the terms and conditions of the EDA’s assistance with financing certain costs of the Development; and

WHEREAS, the Original Development Agreement, as revised (the “Development Agreement”) and the Original Purchase Agreement, as revised (the “Purchase Agreement”), are hereby presented to the Board for consideration.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners (the “Board”) of the Brooklyn Park Economic Development Authority (the “EDA”), as follows:

1. The Board hereby approves the Development Agreement and the Purchase Agreement, in substantially the forms presented to the Board, together with any related documents necessary in connection therewith, including without limitation all documents, exhibits, certifications or consents referenced in or attached to the Development Agreement or the Purchase Agreement, including without limitation the TIF Note, the Declaration of Restrictive Covenants, the Minimum Assessment Agreement (all as defined in the Development Agreement) and a deed, (collectively, the “Development Documents”), and hereby authorizes the Executive Director, in their discretion and at such time, if any, as they may deem appropriate, to execute the

same on behalf of the EDA, and to carry out, on behalf of the EDA, the EDA's obligations thereunder when all conditions precedent thereto have been satisfied.

2. The approval hereby given to the Development Documents includes approval of such additional details therein as may be necessary and appropriate and such modifications thereof, deletions therefrom and additions thereto as may be necessary and appropriate and approved by legal counsel to the EDA and by the officers authorized herein to execute said documents prior to their execution; and said officers are hereby authorized to approve said changes on behalf of the EDA. The execution of any instrument by the appropriate officers of the EDA herein authorized shall be conclusive evidence of the approval of such document in accordance with the terms hereof. This resolution shall not constitute an offer and the Development Documents shall not be effective until the date of execution thereof as provided herein.

3. In the event of absence or disability of the officers, any of the documents authorized by this resolution to be executed may be executed without further act or authorization of the Board by any duly designated acting official, or by such other officer or officers of the Board as, in the opinion of the City Attorney, may act in their behalf. Upon execution and delivery of the Development Documents, the officers and employees of the Board are hereby authorized and directed to take or cause to be taken such actions as may be necessary on behalf of the Board to implement the Development Documents, including without limitation the issuance of tax increment revenue obligations thereunder when all conditions precedent thereto have been satisfied and reserving funds for the payment thereof in the applicable tax increment accounts.

4. The Board hereby determines that the execution and performance of the Development Documents will help realize the public purposes of the Act.

DEVELOPMENT ASSISTANCE AGREEMENT

BETWEEN

BROOKLYN PARK ECONOMIC DEVELOPMENT AUTHORITY

AND

VILLAGE CREEK RESERVES, LLC

This document drafted by:
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DEVELOPMENT ASSISTANCE AGREEMENT

THIS DEVELOPMENT ASSISTANCE AGREEMENT (the “Agreement”) is made as of the ____ day of _____, 2023, by and between the BROOKLYN PARK ECONOMIC DEVELOPMENT AUTHORITY (the “EDA”), a public body corporate and politic under the laws of the State of Minnesota, and VILLAGE CREEK RESERVES, LLC, a Minnesota limited liability company, (the “Developer”).

WITNESSETH:

WHEREAS, the EDA was created pursuant to Minnesota Statutes, Sections 469.090 to 469.1081, as amended (the “EDA Act”), and was authorized to transact business and exercise its powers by a resolution (the “Enabling Resolution”) of the City Council of the City of Brooklyn Park, Minnesota (the “City”); and

WHEREAS, under the EDA Act and the Enabling Resolution, the EDA has all the powers of a housing and redevelopment authority under Minnesota Statutes, Sections 469.001 to 469.047, as amended (the “HRA Act”); and

WHEREAS, pursuant to Minnesota Statutes, Sections 469.124 to 469.133 (the “Municipal Development Act”), the EDA and the City of Brooklyn Park, Minnesota (the “City”) have undertaken a program to promote economic development, promote the development and redevelopment of land which is underutilized within the City, and in this connection created a development district known as Development District No. 1 (the “Development District”) in the City, which is administered by the EDA; and

WHEREAS, pursuant to the provisions of Minnesota Statutes, Section 469.174 through 469.1794, as amended, (the “TIF Act”), the City and the EDA have established, within the Development District, Tax Increment Financing District No. 1-27 (a housing district), qualified as a housing tax increment financing district (the “TIF District”), the legal description of which is attached hereto as **Exhibit A**, and has adopted a tax increment financing plan therefor approved by the City Council of the City on July 26, 2021 and approved by the Board of the EDA on March 21, 2022 (the “TIF Plan”) which provides for the use of tax increment financing in connection with certain development within the Development District and TIF District; and

WHEREAS, the City and the EDA have established, within the Development District Tax Increment Financing District No. 15 (“TIF District 15”), pursuant to Minnesota Statutes, Sections 469.174 to 469.1794 (the “TIF Act”) and Minnesota Laws of 1994, Chapter 587, Article 9, Section 20 (the “1994 Special Law”), as amended by Minnesota Laws of 2005, Chapter 152, Article 3, Section 29 (the “2005 Special Law”), and as further amended by Minnesota Laws of 2006, Chapter 259, Article 10, Section 16 (the “2006 Special Law” and, together with the 2005 Special Law and the 1994 Special Law, the “TIF 15 Special Laws”); and

WHEREAS, the TIF 15 Special Laws authorize and require the EDA to spend up to 15% of the tax increment from TIF District 15 for the rehabilitation, acquisition, demolition, and

financing of new or existing single family or multifamily housing located anywhere in the City, if the occupants meet certain income qualifications (the “TIF 15 Housing Set Aside”); and

WHEREAS, the City and the EDA have established, within the Development District, Tax Increment Financing District No. 17 (“TIF District 17”) pursuant to the TIF Act and Minnesota Laws of 1996, Chapter 471, Article 7, Sections 28 through 31 (the “TIF 17 Special Law” and, together with the TIF 15 Special Laws, the “Special Laws”); and

WHEREAS, the TIF 17 Special Law authorizes and requires the EDA to deposit all of the tax increment from TIF District 17 in excess of the amount needed to pay the costs of relocation of tenants residing in a distressed rental property (as defined in the TIF 17 Special Law) into the TIF 15 Housing Set Aside account (the “TIF 17 Housing Set Aside TIF” and, together with the TIF 15 Housing Set Aside, the “Housing Set Aside TIF”); and

WHEREAS, the Developer proposes the development of the Development Property (as hereinafter defined) and constructing and equipping of a facility that will include approximately 83 units of multifamily rental housing, with at least 44 of the units having 2 or more bedrooms and related amenities, including outdoor space for families (the “Housing Facility”); approximately 10,000 square feet of ground level commercial space to be dedicated to a commercial kitchen and rentable commercial space (the “Commercial Facility”); and approximately 145 stalls of surface and underground parking (collectively, the “Project”); and

WHEREAS, the Developer has requested that the EDA use tax increment financing to assist the Developer with certain costs thereof in order to fill the gap between the Total Development Costs (as hereinafter defined) and the funds available to pay such costs; and

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

ARTICLE I

DEFINITIONS

Section 1.1. Definitions. All capitalized terms used and not otherwise defined herein shall have the following meanings unless a different meaning clearly appears from the context:

Administrative Costs has the meaning set forth in Section 3.6;

Affiliate means a corporation, partnership, joint venture, association, business trust or similar entity organized under the laws of the United States of America or a state thereof which is directly controlled by or under common control with the Developer or any other Affiliate. For purposes of this definition, control means the power to direct management and policies through the ownership of at least a majority of its voting securities, or the right to designate or elect at least a majority of the members of its governing body by contract or otherwise;

Agreement means this Development Assistance Agreement, as the same may be from time to time modified, amended or supplemented;

Architect means [REDACTED];

Assessment Agreement means the minimum assessment agreement, between the Developer and the EDA, in substantially the form of the agreement attached as **Exhibit G** hereto and made a part of this Agreement.

Business Day means any day except a Saturday, Sunday or a legal holiday or a day on which banking institutions in the City are authorized by law or executive order to close;

Certificate of Completion means a Certificate of Completion with respect to the Project executed by the EDA pursuant to Section 3.12, in substantially the form set forth in **Exhibit F** attached hereto;

City means the City of Brooklyn Park, Minnesota;

Commercial Facility means approximately 10,000 square feet of ground level commercial space dedicated to a commercial kitchen and rentable commercial space;

Completion Date means the date on which the Certificate of Completion with respect to the Project is executed by the EDA pursuant to Section 3.12;

Construction Documents means the following documents, all of which shall be in form and substance acceptable to the EDA: (a) evidence satisfactory to the EDA showing that the Project conforms to applicable zoning, subdivision and building code laws and ordinances, including a copy of the building permit for the Project; (b) a copy of the executed standard form of agreement between owner and architect for architectural services for the Project, if any; and (c) a copy of the executed General Contractor's contract for the Project, if any;

Construction Plans means the plans, specifications, drawings and related documents for the construction of the Project which shall be as detailed as the plans, specifications, drawings and related documents which are submitted to the building inspector of the EDA;

Construction Loan means any loan or loans to be made to provide financing for the construction of the Project;

County means Hennepin County, Minnesota;

Declaration means the Declaration of Restrictive Covenants in substantially the form set forth in **Exhibit H** attached hereto;

Design Drawings means the floor plans, renderings, elevations and material specifications for the Project prepared by the Architect;

Developer means Village Creek Reserves, LLC, a Minnesota limited liability company, and its authorized successors and assigns;

Development Contract means the Development Agreement, dated as of the date hereof, between the City and the Developer in connection with the construction of the Project, platting and related public infrastructure;

Development Property means the real property legally described in **Exhibit B** attached hereto;

EDA means the Brooklyn Park Economic Development Authority;

Event of Default means any of the events (and the passing of any applicable cure periods) described in Section 4.1 hereof;

Final Payment Date means the earliest of (i) the date on which the entire principal and accrued interest on the TIF Note have been paid in full; or (ii) February 1, 2040; or (iii) any earlier date this Agreement or the TIF Note is terminated or cancelled in accordance with the terms hereof or deemed paid in full; or (iv) the February 1 following the date the TIF District is terminated in accordance with the TIF Act; or (v) the date the EDA cancels the TIF Note upon a written request for termination from the Developer and a determination in the EDA's sole discretion that such termination will not limit or interfere with the EDA's ability to pool Tax Increments generated by the TIF District for affordable housing in accordance with the TIF Act (provided that there shall be no payment of any Tax Increments on such date unless it is a regular Payment Date);

General Contractor means [REDACTED];

Housing Facility means approximately 83 units of multifamily rental housing, with at least 44 of the units having 2 or more bedrooms and related amenities, including outdoor space for families;

Payment Date means August 1, 2025 and each February 1 and August 1 thereafter to and including the Final Payment Date; provided, that if any such Payment Date should not be a Business Day, the Payment Date shall be the next succeeding Business Day;

Permitted Encumbrances means those encumbrances set forth in **Exhibit J** attached hereto;

Pledged Tax Increments means for any six-month period, 90% of the Tax Increments received by the EDA since the previous Payment Date;

Pooled TIF means Housing Set Aside TIF, as defined in the recitals, which has been received by the EDA and which the EDA is authorized to retain in accordance with the provisions of Minnesota Statutes, Section 469.177 and the Special Laws from TIF District 15 and TIF District 17 (as those terms are defined in the recitals), and not otherwise pledged to other obligations of the EDA;

Project means the development of the Development Property and construction and equipping of the Housing Facility, the Commercial Facility, and approximately 145 stalls of surface and underground parking;

Public Development Costs means the public redevelopment costs of the Project identified on **Exhibit C** attached hereto and any other cost incurred by the Developer, or its assigns, that the EDA determines is eligible for reimbursement with Pledged Tax Increments or Pooled TIF;

Purchase Agreement means the Purchase Agreement, pursuant to the EDA has agreed to sell the Development Property to the Developer and the Developer has agreed to purchase the Development Property from the EDA;

Reimbursement Amount means the lesser of (i) \$1,435,000 (comprised of \$900,000 from Pooled TIF to reimburse the Developer for all or a portion of the costs of construction of underground parking for the Housing Facility, and up to \$535,000 from the TIF Note to reimburse the Developer for the costs of construction of the Housing Facility) or (ii) the Public Development Costs actually incurred and paid by the Developer, or (iii) the amount determined pursuant to Section 3.2(9);

Site Plan means the site plan prepared for the Development Property approved by the City;

State means the State of Minnesota;

Subcontractor Addendum means the Subcontractor Addendum, in substantially the form set forth in **Exhibit I** attached hereto;

Sworn Construction Cost Statement has the meaning set forth in Section 3.10(1) hereof;

Tax Increments means the tax increments derived from the Development Property and the improvements thereon which have been received and are permitted to be retained by the EDA in accordance with the TIF Act including, without limitation, Minnesota Statutes, Section 469.177; Section 469.176, subdivision 4h; and Section 469.175, subdivision 1a, as the same may be amended from time to time;

Termination Date means, with respect to this Agreement, the earlier of: (i) the date the TIF District is terminated in accordance with the TIF Act; or (ii) the date the TIF Note is paid in full; or (iii) the date the EDA cancels the TIF Note upon a written request for termination from the Developer and a determination in the EDA's sole discretion that such termination will not limit or interfere with the EDA's ability to pool Tax Increments generated by the TIF District for affordable housing in accordance with the TIF Act;

TIF Act means Minnesota Statutes, Sections 469.174 through 469.1794, as amended;

TIF District means the Tax Increment Financing District No. 1-27 (a housing district), within the Development District in the City, consisting of the property legally described in **Exhibit A** attached hereto, which was established as a housing district under the TIF Act;

TIF Note means the Taxable Tax Increment Revenue Note (Village Creek Apartments Project) to be executed by the EDA and delivered to the Developer pursuant to Article III hereof, a form of which is set forth in **Exhibit E** attached hereto;

TIF Plan means the tax increment financing plan approved for the TIF District;

Total Development Costs means the costs of the Project to be incurred by the Developer as set forth in **Exhibit D** attached hereto; and

Unavoidable Delays means delays, outside the control of the party claiming their occurrence, which are the direct result of pandemics, epidemics (or other health related disruptions), strikes, other labor troubles, unusually severe or prolonged bad weather, acts of God, acts of war or terrorism, civil strife, including protests, fire or other casualty to the Project, litigation commenced by third parties which, by injunction or other similar judicial action or by the exercise of reasonable discretion, directly results in delays, or acts of any federal, state or local governmental unit (other than the City or the EDA in properly exercising its rights under this Agreement) which directly result in delays, acts of the public enemy or acts of terrorism and discovery of unknown hazardous materials or other concealed site conditions or delays of contractors due to such discovery.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

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

(1) The EDA is a public body corporate and politic organized and existing under the Constitution and laws of the State and has the power to enter into this Agreement and carry out its obligations hereunder.

(2) The EDA has taken the actions necessary to establish the TIF District as a “housing district” within the meaning of Minnesota Statutes, Section 469.174, subdivision 11.

(3) The development contemplated by this Agreement is in conformance with the development objectives set forth in the Development Program and the TIF Plan.

(4) The EDA makes no representation or warranty, either express or implied, as to the Development Property or its condition, or that the Development Property shall be suitable for the Developer’s purposes or needs.

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

(1) The Developer is a Minnesota limited liability company duly and validly organized and existing in good standing under the laws of the State, and has power and authority to enter into this Agreement and to perform its obligations hereunder and is not in violation of any provision of the laws of the State.

(2) The construction of the Project would not be undertaken by the Developer, and in the opinion of the Developer would not be economically feasible within the reasonably foreseeable future, without the assistance and benefit to the Developer provided for in this Agreement.

(3) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with or results in a breach of, the terms, conditions or provision of any contractual restriction, evidence of indebtedness, agreement or instrument of whatever nature to which the Developer is now a party or by which it is bound, or constitutes a default under any of the foregoing.

(4) The Developer understands that the EDA or the City may subsidize or encourage the development of other developments in the City, including properties that compete with the Development Property and the Project, and that such subsidies may be more favorable than the terms of this Agreement, and that the EDA and the City have informed the Developer that development of the Development Property will not be favored over the development of other properties.

(5) No member of the Board of Commissioners or other officer of the EDA, has either a direct or indirect financial interest in this Agreement, nor will any member of the Board of Commissioners or other officer of the EDA, benefit financially from this Agreement within the meaning of Minnesota Statutes, Sections 412.311 and 471.87.

ARTICLE III

UNDERTAKINGS BY DEVELOPER AND EDA

Section 3.1. Total Development Costs and Public Costs.

(1) The Developer's estimate of the Total Development Costs of the Project and sources of revenue to pay such costs are set forth in **Exhibit D** attached hereto.

(2) Based on the Developer's representation that the Total Development Costs for the Project are approximately \$24,345,698, that the sources of revenue available to pay such costs, excluding the tax increment assistance contemplated herein, is \$22,025,698, and that the Developer is unable to obtain additional private financing for the estimated Total Development Costs, the EDA has agreed to provide tax increment financing subject to the terms and conditions as hereinafter set forth. The Developer shall provide the EDA copies of all executed financing documents related to financing the Total Development Costs of the Project.

(3) The parties agree that the Public Development Costs to be incurred by the Developer are essential to the successful completion of the Project. The Developer anticipates that the Public Development Costs for the Project which are identified in **Exhibit C** attached hereto will be at least \$1,435,000.

(4) As of January 2, 2025, for taxes payable in 2026, the estimated market value of the Development Property, as improved, is expected to be at least \$15,325,000.

(5) The Developer will acquire the Development Property from the EDA in accordance with the terms of the Purchase Agreement, and will cause the Project to be constructed in accordance with the terms of this Agreement, the Development Program, and all local, state, and federal laws and regulations including, but not limited to, environmental, zoning, energy conservation, building code and public health laws and regulations. The EDA acknowledges that this Agreement is the "Development Assistance Agreement" referred to in, and required as a contingency to closing under, the Purchase Agreement.

(6) The Developer shall, in a timely manner, comply with all requirements necessary to obtain, or cause to be obtained, all required permits, licenses and approvals, and will meet, in a timely manner, all requirements of all applicable local, state, and federal laws and regulations which must be obtained or met for the construction and operation of the Project.

(7) The Total Development Costs shall be paid by the Developer, and the EDA shall reimburse the Developer for the Public Development Costs solely in the Reimbursement Amount through the issuance of the TIF Note and Pooled Tax Increment Assistance as provided herein.

Section 3.2. TIF Note.

(1) The TIF Note will be originally issued to the Developer, as provided in Section 3.2(2), in a principal amount not to exceed the lesser of (i) up to \$535,000 of the Reimbursement Amount not reimbursed with Pooled TIF or (ii) the amount determined pursuant to Section 3.2(9), and shall be dated as of its date of issuance. The principal of the TIF Note and

interest thereon shall be payable on a pay-as-you-go basis solely from the Pledged Tax Increments as provided below.

(2) The TIF Note shall be issued, in substantially the form attached hereto as **Exhibit E** and interest will commence to accrue on the TIF Note only when: (A) the Developer shall have submitted written proof and other documentation as may be reasonably satisfactory to the EDA of the exact nature and amount of the Public Development Costs incurred by the Developer, together with such other information or documentation as may be reasonably necessary and satisfactory to the EDA to enable the EDA to substantiate the Developer's tax increment expenditures for Public Development Costs in accordance with **Exhibit C** attached hereto and/or to comply with its increment reporting obligations to the Commissioner of Revenue, the Office of the State Auditor or other applicable official; (B) the EDA shall have received evidence that the Declaration has been recorded against the Development Property; (C) the Developer shall have obtained a certificate of occupancy from the City for all residential units in the Project and a Certificate of Completion as provided in this Agreement; (D) the Developer shall have paid all of the EDA's Administrative Costs required to have been paid as of such date in accordance with Section 3.6 hereof; and (E) the Developer is in material compliance with each term or provision of this Agreement this Agreement required to have been satisfied as of such date and (F) the Developer has submitted the final sources and uses for the Project in accordance with Section 3.2(9) and the EDA shall have determined any adjustment to the Reimbursement Amount pursuant to Section 3.2(9). The documentation provided in accordance with Section 3.2(2)(A) shall include specific invoices for the particular work from the contractor or other provider and shall include paid invoices, copies of remittances and/or other suitable documentary proofs of the Developer's payment thereof.

(3) Subject to the provisions thereof, the TIF Note shall bear simple, non-compounding interest at the rate equal to the lesser of 5.95% per annum or the actual rate per annum on the Developer's permanent first mortgage financing for the Project. Interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. Principal and interest on the TIF Note will be payable on each Payment Date; however, the sole source of funds required to be used for payment of the EDA's obligations under this Section and correspondingly under the TIF Note shall be the Pledged Tax Increments received in the 6-month period preceding each Payment Date. On each Payment Date the Pledged Tax Increment shall be credited against the accrued interest then due on the TIF Note and then applied to reduce the principal. In the event the Pledged Tax Increments are not sufficient to pay the accrued interest, the unpaid accrued interest shall be carried forward without interest. All Tax Increments in excess of the Pledged Tax Increments necessary to pay the principal and accrued interest on the TIF Note are not subject to this Agreement, and the EDA retains full discretion as to any authorized application thereof. To the extent that the Pledged Tax Increments are insufficient through the Final Payment Date, to pay all amounts otherwise due on the TIF Note, said unpaid amounts shall then cease to be any debt or obligation of the City or the EDA whatsoever. No interest will accrue during any period in which payments have been suspended pursuant to Section 4.2.

(4) Any interest accruing on Pledged Tax Increments held by the EDA pending payment to the Developer on the TIF Note shall accrue to the account of the TIF District.

(5) The TIF Note shall be a special and limited obligation of the EDA and not a general obligation of the City or the EDA, and only Pledged Tax Increments shall be used to pay the principal of and interest on the TIF Note.

(6) The EDA's obligation to make payments on the TIF Note on any Payment Date is subject to adjustment as set forth in Sections 3.7 and 3.17 and shall be conditioned upon the requirement that (A) there shall not at that time be an Event of Default that has occurred and is continuing under this Agreement that has not been cured during the applicable cure period, (B) this Agreement shall not have been terminated pursuant to Section 4.2, and (C) all conditions set forth in Section 3.2(2) have been satisfied as of such date.

(7) The TIF Note shall be governed by and payable pursuant to the additional terms thereof, as actually executed, in substantially the form set forth in **Exhibit E** attached hereto. In the event of any conflict between the terms of the TIF Note and the terms of this Section 3.2, the terms of the TIF Note shall govern. The issuance of the TIF Note is pursuant and subject to the terms of this Agreement.

(8) The Developer must execute and deliver the Assessment Agreement all as further provided in Section 3.8 and must file such Assessment Agreement with the Hennepin County Recorder and Registrar of Titles at the Developer's sole cost.

(9) The financial assistance to the Developer under this Agreement is based on certain assumptions regarding likely costs and expenses associated with constructing the Project. The EDA and Developer agree that the Developer's representations of the Total Development Costs will be reviewed at the time of completion of construction of the Project. Upon submitting the request for the Certificate of Completion under Section 3.12, the Developer shall submit the final sources and uses for the Project in the form set forth in **Exhibit D** based on actual Total Development Costs as incurred and documented. If the actual Total Development Costs at completion have decreased below the amount shown in **Exhibit D**, the Reimbursement Amount will be reduced by the same percentage as the decrease in the Total Development Costs and such reduction will be reflected in a reduced principal amount of the TIF Note.

Section 3.3. Reimbursement: Pooled Tax Increment Assistance. In addition to the TIF Note, the EDA will use existing Pooled Tax Increment from the TIF Districts to reimburse the Developer for up to \$900,000 of the Reimbursement Amount subject to the terms of this Section. Pooled Tax Increment shall be used to reimburse the Developer for costs related to the construction of underground parking for the Housing Facility. To be reimbursed from Pooled Tax Increment, the Developer must first satisfy the conditions set forth in Section 3.2(2).

Section 3.4. Income and Rent Restrictions. The Developer hereby represents, covenants and agrees as follows:

(1) The Project is intended for occupancy by persons or families of low and moderate income, as defined in chapter 462A, Title II of the National Housing Act of 1934, the National Housing Act of 1959, the United States Housing Act of 1937, as amended, Title V of the Housing Act of 1949, as amended, any other similar present or future federal, state or municipal legislation, or the regulations promulgated under any of those acts; and

(2) No more than 20% of the square footage of any building of the Project financed with the proceeds of the TIF Note will consist of commercial, retail or other non-residential uses; and

(3) In accordance with the Declaration, commencing on the Completion Date and continuing until the end of the Qualified Project Period (as defined in the Declaration), (i) at least 51 of the residential units in the Project shall be occupied or available for occupancy by persons or families whose income does not exceed 80% of the area-wide median family income for the standard metropolitan statistical area which includes the City, as that figure is determined and announced from time to time by HUD, as adjusted for family size (“Median Income”) and rents (including utilities paid by tenant) for such units shall not exceed 30% of 80% of Median Income; (ii) at least 9 of the residential units in the Project shall be occupied or available for occupancy by persons or families whose income does not exceed 50% of Median Income and rents (including utilities paid by tenant) for such units shall not exceed 30% of 50% of Median Income; and (iii) at least 10 of the residential units in the Project shall be occupied or available for occupancy by persons or families whose income does not exceed 30% of the Median Income and rents (including utilities paid by tenant) for such units shall not exceed 30% of 30% of Median Income. The rent levels for all such residential units will be established at a level that is affordable under rental guidelines for that income; and

(4) The Developer will provide the EDA an annual certification in the form attached as Exhibit C to the Declaration (the “Compliance Certificate”) evidencing compliance with the requirements of paragraph (3) above, and, if requested by the EDA, the income verifications from tenants used to meet such requirements. The annual certification shall also include the vacancy rate for the preceding calendar year and the rents for all residential units broken down by unit type, size and monthly rent. The annual certification shall be provided on or before July 1 of each year commencing July 1, 2025 and shall cover the preceding calendar year.

(5) The Developer shall not concentrate Qualifying Tenants (as defined in the Declaration) in any floor or any area of any building in the Project. The units occupied by Qualifying Tenants shall be located throughout the Project and shall reflect the following unit mix of the whole Project:

	30% Area Median Income	50% Area Median Income	80% Area Median Income
# of Bedrooms	Number of units	Number of units	Number of units
1	4	4	31
2	4	3	20
3	2	2	0

(6) The Developer 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. During the term of the Declaration, the Developer shall not adopt any policies specifically excluding rental to tenants holding Section 8 certificate/voucher holders. For certificate/voucher holders, the

Developer shall restrict rents to an amount which does not exceed the rent permitted, assuming the total tenant payment does not exceed 40% of the household's monthly adjusted income.

(7) Developer and its agents must adhere to Equal Opportunity, Affirmative Marketing, and Fair Housing practices in all marketing efforts, eligibility determinations and other transactions. The Equal Housing Opportunity logo or statement ("We do business in accordance with the Federal Fair Housing Law. It is illegal to discriminate against any person because of race, color, religion, sex, handicap, familial status, or national origin.") must be used in all advertising of vacant units.

(8) The provisions of this Section 3.4 shall be incorporated into the Declaration in substantially the form attached hereto as **Exhibit H**, and recorded against the Development Property prior to the issuance of the TIF Note.

(9) A household that is a Qualifying Tenant at initial occupancy may be treated as qualifying for additional rental periods so long as the income of the household does not exceed 140% of the applicable Median Income; however, thereafter, the first available residential unit must be rented to a Qualifying Tenant meeting the applicable income requirements.

Section 3.5. Public Use of Commercial Facility. The Developer shall construct the Commercial Facility in accordance with the approved Construction Plans and this Agreement. During the term of this Agreement, the Developer shall operate the Commercial Facility and shall make at least 6,000 square of the Commercial Facility available for rent by the general public on a short term basis for a commercial kitchen or for small commercial business start-ups and pop-ups and shall not enter into leases of such portion with a duration of more than a month without the prior written consent of the EDA.

Section 3.6. Developer to Pay EDA's Fees and Expenses. The Developer will pay all of the reasonable Administrative Costs (as defined below) of the City and the EDA and must pay such costs to the EDA within 30 days after receipt of a written invoice from the City or the EDA describing the amount and nature of the costs to be reimbursed. For the purposes of this Agreement, the term "Administrative Costs" means out of pocket costs incurred by the City or the EDA together with staff and consultant (including reasonable legal, financial advisor, etc.) costs of the City or the EDA, all attributable to or incurred in connection with the establishment of the TIF District and the TIF Plan and review, negotiation and preparation of this Agreement (together with any other agreements entered into between the parties hereto contemporaneously therewith) and review and approvals of other documents and agreements in connection with the Project. In addition, certain engineering, environmental advisor, legal, land use, zoning, subdivision and other costs related to the development of the Development Property are required to be paid, or additional funds deposited in escrow, as provided in accordance with the City's planning, zoning, and building fee schedules. The EDA acknowledges that the Developer has deposited \$10,000 with the EDA toward payment of the City's and the EDA's Administrative Costs. If such costs exceed such amount, then at any time, but not more often than monthly, the EDA will deliver written notice to Developer setting forth any additional fees and expenses and Developer agrees to pay all fees and expenses within 30 days of the EDA's written request. Any unused amount of such deposit shall be returned to the Developer.

Section 3.7. Lookback.

(1) *Generally.* The financial assistance to the under this Agreement is based on certain assumptions regarding likely performance of the Project including operating revenues, expenses and development costs of constructing the Project. The EDA and the Developer agree that the actual financial performance of the property will be reviewed at the times described in this Section, and that the amount of tax increment assistance provided under Section 3.2 will be adjusted accordingly. The EDA and the Developer further agree that the Developer has provided the EDA and its municipal advisor (the “Consultant”) with the Pro Forma Financial Statement showing a target cumulative Cash on Cash Return of 10%.

(2) *Definitions.* For the purposes of this Section, the following terms have the following meanings:

“Calculation Date” means both (A) 90 days after the earlier of (i) the date of Stabilization of the Project; or (ii) three years after the date of completion of the Project, as evidenced by the EDA’s issuance of a Certificate of Completion pursuant to Section 3.12 and (B) 10 days prior to the scheduled closing of the first Transfer Date if the Transfer Date occurs within three (3) years following the issuance of the Certificate of Completion.

“Cash on Cash Return” means the cumulative Net Cash Flow divided by the sum of the Developer’s actual equity, which excludes any grants or City, EDA, Federal or State funds received by the Developer, and the principal amount of the TIF Note, calculated as set forth in the sample lookback calculation attached as **Exhibit K**.

“Project Financing” means the first mortgage loan for financing the acquisition, construction and equipping of the Project.

“Net Cash Flow” means total annual income and other project-derived annual revenue, including payments under the TIF Note (but excluding proceeds, or the financial effect of the proceeds, from a sale or refinancing), less Operating Expenses in accordance with the Pro Forma Financial Statement for the Project, less first mortgage debt service and debt service on the TIF Note, if applicable.

“Operating Expenses” means reasonable and customary expenses actually incurred in operating the Project, consistent with the Pro Forma Financial Statement, including deposits to commercially reasonable capital replacement reserves, any deposits for debt service interest reserves and payment of real estate taxes, but excluding debt service payments.

“Pro Forma Financial Statement” the Developer’s cash flow pro forma model financial statement projecting future returns, a summary of which is attached to this Agreement as **Exhibit K**.

“Stabilization” means the date on which the Project has first achieved an occupancy of 90% of the housing units.

“Transfer Date” means the first closing date (if any), that occurs on or during the first three (3) years after the issuance of a Certificate of Completion, of (i) any refinancing of the Project

Financing (provided, however, the conversion of construction debt to (or the replacement of construction debt with) permanent debt on the Project will not constitute a refinance giving rise to the review as described in this Section); or (ii) any Transfer (as defined in Section 5.3 other than leases with tenants in the ordinary course of business) of the Project to any person or entity which is not an Affiliate of the Developer.

(3) On each Calculation Date, the Developer shall deliver to the EDA and Consultant (i) the Developer's actual financial statement, in the same form as the Pro Forma Financial Statement submitted to the EDA pursuant to clause (1) above and showing Net Cash Flow, the Developer's calculation of the cumulative Cash on Cash Return, and such other financial information as the Consultant shall reasonably require, for the trailing 12-month period preceding the Calculation Date calculated as of the Calculation Date as provided herein and as set forth in the Pro Forma Financial Statement and (ii) evidence, reasonably satisfactory to the EDA, of the debt service with respect to the Project Financing as refinanced or the proceeds of the Transfer, as applicable.

(4) The cumulative Cash on Cash Return shall be reviewed and calculated by the Consultant based on the Developer's financial statement submitted to the EDA pursuant to clause (3) above in a manner comparable to the sample attached as **Exhibit K** based on the Developer's financial statements submitted to the City pursuant to clause (3) above, with all elements of Net Cash Flow determined in accordance with generally accepted accrual accounting principles.

(5) If the cumulative Cash on Cash Return does not exceed 10%, the TIF Note will remain set at the principal amount established in Section 3.2(1).

(6) If the Consultant determines, based on such review, that the cumulative Cash on Cash Return exceeds 10% during that period (to be calculated in a manner comparable to the sample attached as **Exhibit K**), then (i) first the amount payable under Section 3.3 and (ii) then the principal balance of the TIF Note will be reduced by an amount equal to 50% of the difference between (a) the sum of the amount payable under Section 3.3 plus the stated principal amount of the TIF Note and (b) the principal amount of Pledged Tax Increments needed to achieve a 10% cumulative Cash on Cash Return (the "Participation Amount"). Such reduction will be effective upon delivery to the Developer of a written notice stating the Participation Amount as determined by the Consultant in accordance with this Section, accompanied by the Consultant's report and the Developer shall deliver the TIF Note in exchange for a new TIF Note in the principal amount reduced by the Participation Amount.

Section 3.8. Execution of Assessment Agreement.

(1) The Developer and the EDA agree to execute an Assessment Agreement relating to the Development pursuant to the provisions of Minnesota Statutes, Section 469.177, Subdivision 8, specifying the minimum market value for the Development Property for calculation of real property taxes. Specifically, the Developer shall agree to a market value for the Development Property of \$15,325,000, commencing as of January 2, 2025 (the "Minimum Market Value").

(2) Nothing in the Assessment Agreement or this Agreement limits the discretion of the City Assessor or County Assessor to assign a market value to the property in excess of the

Minimum Market Value nor prohibits the Developer from seeking, through the exercise of legal or administrative remedies, a reduction in such market value for property tax purposes; provided however, the Developer shall not seek a reduction of such market value below the Minimum Market Value for any year so long as the Assessment Agreement remains in effect for that year.

(3) The Assessment Agreement shall remain in effect until the earlier of (i) January 31, 2038, with respect to taxes payable in 2039, or (ii) the date on which the TIF District expires or is otherwise terminated.

(4) The Assessment Agreement shall be certified by the City Assessor as provided in Minnesota Statutes, Section 469.177, Subdivision 8, upon a finding by the City Assessor that the Minimum Market Value represents a reasonable estimate based upon the plans and specifications for the Project to be constructed on the Development Property and the market value previously assigned to the Development Property.

(5) Pursuant to Minnesota Statutes, Section 469.177, Subdivision 8, the Assessment Agreement shall be filed for record in the office of the county recorder or registrar of titles of the County, and such filing shall constitute notice to any subsequent encumbrancer or purchaser of the Development Property, whether voluntary or involuntary, and such Assessment Agreement shall be binding and enforceable in its entirety against any such subsequent purchaser or encumbrancer, including the holder of any mortgage on the Development Property.

(6) The Assessment Agreement shall be filed, at the sole cost of the Developer, against the Development Property prior to any lien or encumbrance on the Development Property, including any mortgager.

Section 3.9. Compliance with Environmental Requirements.

(1) The Developer shall comply with all applicable local, state, and federal environmental laws and regulations, and will obtain, and maintain compliance under, any and all necessary environmental permits, licenses, approvals or reviews.

(2) The City and the EDA make no warranties or representations regarding, nor do they indemnify the Developer with respect to, the existence or nonexistence on or in the vicinity of the Development Property or anywhere within the TIF District of any toxic or hazardous substances or wastes, pollutants or contaminants (including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products, or any hazardous substance as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. §§ 961-9657, as amended) (collectively, the "Hazardous Substances").

(3) The Developer agrees to take all necessary action to remove or remediate any Hazardous Substances located on the Development Property to the extent required by and in accordance with all applicable local, state and federal environmental laws and regulations.

Section 3.10. Construction Plans.

(1) Prior to the commencement of construction of the Project, the Developer will deliver to the EDA the Construction Plans, Construction Documents and a sworn construction cost statement certified by the Developer and the General Contractor (the “Sworn Construction Cost Statement”) all in form and substance reasonably acceptable to the EDA. The Construction Plans for the Project shall be consistent with the Development Program, this Agreement, and all applicable State and local laws and regulations and the Site Plan and Design Drawings previously submitted to the EDA. The City’s building official and the Executive Director of the EDA on behalf of the EDA shall promptly review any Construction Plans upon submission and deliver to the Developer a written statement approving the Construction Plans or a written statement rejecting the Construction Plans and specifying in reasonable detail the deficiencies in the Construction Plans. Approval of the Construction Plans may be withheld unless: (i) the Construction Plans substantially conform to the terms and conditions of this Agreement; (ii) the Construction Plans are consistent with the goals and objectives of the Development Program and the TIF Plan; (iii) the Construction Plans comply with the Site Plan and Design Drawings; (iv) at least 44 of the 83 units are designed with two or more bedrooms; and (v) the Construction Plans do not violate any applicable federal, State or local laws, ordinances, rules or regulations. If the Construction Plans are not approved by the EDA, then the Developer shall make such changes as the EDA may reasonably require and resubmit revised Construction Plans to the EDA for approval. The provisions of this Section relating to approval, rejection and resubmission of corrected Construction Plans shall continue to apply until the Construction Plans have been approved by the EDA. The EDA’s approval shall not be unreasonably withheld or conditioned. Said approval shall constitute a conclusive determination that the Construction Plans comply to the EDA’s satisfaction with the provisions of this Agreement relating thereto.

(2) No changes shall be made to the Construction Plans for the Project without the EDA’s prior written approval, unless the aggregate of such changes does not increase or decrease the Total Development Costs by more than 10%. No changes which materially alter (a) the Project’s Site Plan, (b) exterior appearance, (c) construction quality, or (d) exterior materials included in the final Design Drawings and Construction Plans shall be made without the EDA’s prior written consent. The approval of the EDA will not be unreasonably withheld, conditioned or delayed.

(3) The approval of the Construction Plans, or any proposed amendment to the Construction Plans, by the EDA does not constitute a representation or warranty by the EDA that the Construction Plans or the Project comply with any applicable building code, health or safety regulation, zoning regulation, environmental law or other law or regulation, or that the Project will meet the qualifications for issuance of a certificate of occupancy, or that the Project will meet the requirements of the Developer or any other users of the Project. Approval of the Construction Plans, or any proposed amendment to the Construction Plans, by the EDA will not constitute a waiver of an Event of Default. Nothing in this Agreement shall be construed to relieve the Developer of its obligations to receive any required approval of the Construction Plans from any department of the City.

Section 3.11. Commencement and Completion of Construction. Subject to the terms and conditions of this Agreement and to Unavoidable Delays, the Developer will commence

construction of the Project by December 31, 2023 and shall substantially complete construction of the Project by December 31, 2024. Notwithstanding the foregoing, failure of the Developer to commence construction or substantially complete the Project shall not be an Event of Default hereunder unless the Developer fails to commence construction of the Project by December 31, 2023 or fails to obtain a certificate of occupancy for the Project by June 30, 2026. The Project will be constructed by the Developer on the Development Property in conformity with the Construction Plans approved by the EDA. Prior to completion, upon the request of the EDA, and subject to applicable safety rules, the Developer will provide the EDA reasonable access to the Development Property. "Reasonable access" means at least one site inspection per week during regular business hours. During construction, marketing and rentals of the Project, the Developer will deliver progress reports to the EDA from time to time as reasonably requested by the EDA.

Section 3.12. Certificate of Completion. The Developer shall notify the EDA when construction of the Project has been substantially completed. The EDA shall conduct any inspections of the Project it determines necessary in order to determine whether the Project has been constructed in substantial conformity with the approved Construction Plans. If the EDA determines that the Project has not been constructed in substantial conformity with the approved Construction Plans, the EDA shall deliver a written statement to the Developer indicating in adequate detail the specific respects in which the Project has not been constructed in substantial conformity with the approved Construction Plans and Developer shall have a reasonable period of time to remedy such deficiencies. The EDA shall re-inspect the Project within a reasonable period of time after receiving notice that such deficiencies have been remedied in order to determine whether the Project has been constructed in substantial conformity with the approved Construction Plans and this Agreement. Within a reasonable period of time after determining that the Project has been constructed in substantial conformity with the approved Construction Plans and determining that the following conditions precedent have been satisfied, the EDA will furnish to the Developer a Certificate of Completion substantially in the form set forth in **Exhibit F** attached hereto certifying the completion of the Project:

- (1) There shall exist no uncured Event of Default hereunder;
- (2) The City shall have issued a Certificate of Occupancy for all of the Improvements (provided, however, that the Developer shall not be required to obtain a Certificate of Occupancy with respect to any tenant improvements);
- (3) The EDA's Executive Director, or designee, on behalf of the EDA shall have reasonably determined that the Project has been substantially completed and constructed in accordance with all local, state and federal laws and regulations (including without limitation environmental, zoning, building code, housing code, and public health laws and regulations), and any applicable permits and in substantial conformity with this Agreement, the Development Contract and the final construction plans approved by the City in connection with issuing construction permits, each as applicable;
- (4) The Developer shall certify to the EDA that all costs related to the Project and the development of the Development Property, including without limitation, payments to all contractors, subcontractors, and project laborers, have been paid prior to the date of the request to the EDA.

The Certificate of Completion issued for the Project shall conclusively satisfy and terminate the agreements and covenants of the Developer in this Agreement solely with respect to construction of the Project. The issuance of a Certificate of Completion under this Agreement shall not be construed to relieve the Developer of any inspection or approval required by any City department in connection with the construction, completion or occupancy of the Project nor shall it relieve the Developer of any other obligations under this Agreement.

Section 3.13. Additional Responsibilities of the Developer.

(1) The Developer will construct, operate and maintain, or cause to be operated and maintained, the Project substantially in accordance with the terms of this Agreement, the Development Program and all local, state, and federal laws and regulations including, but not limited to zoning, building code, public health laws and regulations, except for approved variances necessary to construct the Project contemplated in the Construction Plans approved by the EDA.

(2) The Developer will 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 or has been approved by the utility involved.

(3) The Developer, at its own expense, will replace any public facilities and public utilities damaged during the construction of the Project, in accordance with the technical specifications, standards and practices of the owner thereof.

(4) The Developer will comply with all applicable local, state, and federal environmental laws and regulations, as they relate to the Project.

(5) The Developer will provide and maintain or cause to be maintained at all times and, from time to time at the request of the EDA, furnish the EDA with proof of payment of premiums on insurance of amounts and coverages normally held by owners of property similar to the Project.

(6) The Developer shall prepare, utilize in its contract with the General Contractor and all subcontracts, and enforce the Subcontractor Addendum, in substantially the form attached as **Exhibit I** hereto, which outlines fair labor law compliance, and allows general contractor to withhold payment or cancel contract if violations are discovered.

(7) The Developer shall prohibit use of all disqualified contractors listed on the Minnesota State “Suspended/Debarred Vendor Detailed Information” website; review list prior to construction commencement with respect to each subcontractor; remove any subcontractor added to the list.

(8) The Developer and all contractors and subcontractors shall comply with all federal, state, and local labor laws.

(9) If a third party files a claim with the Minnesota Department Labor regarding any contractor or subcontractor doing work on the Property, the Developer shall fully cooperate with the Department, including taking any action required by the Department. Developer shall also fully enforce the contracts with the General Contractor and subcontractors, including enforcing and requiring the General Contractor to enforce the Subcontract Addendum.

(10) The Developer shall cause the General Contractor to use the Subcontract Addendum with all subcontractors, and shall require the General Contractor to cooperate with the Department of Labor regarding any claim that the Department elects to enforce and cause the General Contractor to enforce the Subcontract Addendum.

(11) The Developer acknowledges that failure to comply with this Section will be an Event of Default under in accordance with Section 4.1 hereof and could result in a penalty (such as non-issuance of the TIF Note and non-payment of other assistance, or, if the TIF Note has already been issued, delaying, reducing and/or ceasing TIF Note payments).

Section 3.14. Encumbrance of the Development Property. Until the Termination Date, without the prior written consent of the EDA, neither the Developer nor any successor in interest to the Developer will engage in any financing or any other transaction creating any mortgage or other encumbrance or lien upon the Development Property, or portion thereof, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attach to the Development Property except for the purpose of obtaining funds only to the extent necessary for financing or refinancing the acquisition and construction of the Project (including, but not limited to, land and building acquisition, labor and materials, professional fees, development fees, real estate taxes, reasonably required reserves, construction interest, organization and other direct and indirect costs of development and financing, costs of constructing the Project, and an allowance for contingencies) including without limitation regulatory agreements and land use restriction agreements in connection with such financings; provided, however, this provision shall not be considered a waiver of the requirements of Section 5.3 with respect to any Transfer of the TIF Note in connection with any such financing or refinancing nor shall anything contained in this Section prohibit the Developer from making transfers in accordance with Section 5.3. The EDA hereby consents to any mortgages securing the financing or refinancing of the construction of the Project and to the succession of the mortgagee thereunder (or any assignee of the mortgagee) or any purchasers at or after foreclosure thereof, by the successful bidder at the sale, to title to the Development Property and to any other Permitted Encumbrances set forth in **Exhibit J**; provided, however, this provision shall not be considered a waiver of the requirements of Section 5.3 with respect to any Transfer (as hereinafter defined) of the TIF Note in connection with any such mortgage. Notwithstanding the foregoing, the TIF Note shall be terminated by the EDA in the event that any mortgagee (or any assignee of the mortgagee) or any purchasers at or after foreclosure thereof, by the successful bidder at the sale, to the title to the Development Property, terminates the Declaration, in accordance with its terms, or does not otherwise comply with the Declaration.

Section 3.15. Business Subsidy Act.

(1) The subsidy granted to the Developer pursuant to this Agreement is assistance for housing and therefore the provisions of Minnesota Statutes, Sections 116J.993 through 116J.995, as amended (the “Business Subsidy Act”) do not apply. No portion of the tax increment assistance shall be used to construct the Commercial Facility or any commercial space. However, pursuant to the Purchase Agreement, the EDA has agreed to reduce the purchase price of the Parcel to \$1, which is approximately \$370,000 below its current estimated market value, a portion of which constitutes a business subsidy with respect to the Commercial Facility (the “Business Subsidy”) within the meaning of the Business Subsidy Act, and this Agreement constitutes a “business

subsidy agreement” as required under the Business Subsidy Act. The Developer acknowledges and agrees that the amount of the “Business Subsidy” granted to the Developer under this Agreement with respect to the Commercial Facility is the amount of the write-down of the Purchase Price of the proportion of the land allocable to the Commercial Facility, which is approximately \$27,918, and that the Business Subsidy is needed because the construction of the Commercial Facility is not sufficiently feasible for the Developer to undertake without the Business Subsidy. The public purpose of the Business Subsidy is to remove blight in the area in and around the Development Property (the “Village Creek neighborhood”), to put underutilized property to productive use, increase the tax base, provide neighborhood level business and amenities consistent with the Village Creek Master Redevelopment Plan and provide affordable housing and a commercial kitchen to the Village Creek neighborhood and surrounding areas. After holding a public hearing on March 21, 2022, the EDA has determined that creation and retention of jobs is not a goal of the Commercial Facility and consequently set the wage and job goals (the “Goals”) hereunder at zero.

(2) Because the Goals are set at zero, the Developer is not subject to the prepayment provisions of the Business Subsidy Law.

(3) To the extent required by the Minnesota Department of Employment and Economic Development, within 30 days of a request from the EDA, the Developer agrees to (i) report its progress on achieving the Goals to the EDA until the later of the date the Goals are met or two years from the date of the certificate of occupancy for the Minimum Improvements (the “Benefit Date”), (ii) include in the report the information required in Section 116J.994, Subdivision 7 of the Business Subsidies Act on forms developed by the Minnesota Department of Employment and Economic Development, and (iii) send completed reports to the EDA; provided, however, that such reporting obligations will not affect the terms of this Agreement which set the Goals at zero and will not impose any obligation for Developer to meet any greater Goals than those contemplated herein

(4) Because the Goals are set at zero and the amount of the “Business Subsidy” is less than \$150,000, the Developer is not subject to the other provisions of the Business Subsidy Law.

Section 3.16. Right to Collect Delinquent Taxes. The Developer acknowledges that the EDA is providing substantial aid and assistance in furtherance of the Project through reimbursement of Public Development Costs. To that end, the Developer agrees for itself, its successors and assigns, that in addition to the obligation pursuant to statute to pay real estate taxes, it is also obligated by reason of this Agreement, to pay before delinquency all real estate taxes assessed against the Development Property and the Project. The Developer acknowledges that this obligation creates a contractual right on behalf of the EDA through the Termination Date to sue the Developer or its successors and assigns, to collect delinquent real estate taxes related to the Development Property and any penalty or interest thereon and to pay over the same as a tax payment to the county auditor. In any such suit in which the EDA is the prevailing party, the EDA shall also be entitled to recover its costs, expenses and reasonable attorney fees.

Section 3.17. Review of Taxes.

(1) The Developer agrees that prior to the Termination Date it will not cause a reduction in the real property taxes paid in respect of the Development Property through: (i) willful destruction of the Development Property or any part thereof; or (ii) willful refusal to reconstruct damaged or destroyed property. The Developer also agrees that it will not, prior to the Termination Date, apply for an exemption from or a deferral of property tax on the Development Property pursuant to any law, or transfer or permit transfer of the Development Property to any entity whose ownership or operation of the property would result in the Development Property being exempt from real property taxes under State law; provided, however, that the Developer may apply for and obtain designation of the Development Property as low income rental property classified as “4d” under Minnesota Statutes, Section 273.13, subdivision 25 (“4d Classification”).

(2) Other than 4d Classification, the Developer shall notify the EDA within 10 days of filing any petition to seek reduction in market value or property taxes on any portion of the Development Property under any State law (referred to as a “Tax Appeal”). If as of any Payment Date, any Tax Appeal is then pending, the EDA will withhold the Pledged Tax Increment. The EDA will release any withheld amount to the extent not reduced as a result of the Tax Appeal for payment of the TIF Note promptly after the Tax Appeal is fully resolved and the amount of Pledged Tax Increment, as applicable, attributable to the disputed tax payments is finalized.

ARTICLE IV

EVENTS OF DEFAULT

Section 4.1. Events of Default Defined. The following shall be “Events of Default” under this Agreement and the term “Event of Default” shall mean whenever it is used in this Agreement any one or more of the following events:

(1) Failure by the Developer to timely pay any ad valorem real property taxes assessed with respect to the Development Property.

(2) Subject to Unavoidable Delays, failure by the Developer to commence construction of the Project by December 31, 2023, and to proceed with due diligence to substantially complete the construction of the Project pursuant to the terms, conditions and limitations of this Agreement and obtain a certificate of occupancy from the City by June 30, 2026.

(3) Failure of the Developer to observe or perform any other material covenant, condition, obligation or agreement on its part to be observed or performed under the Declaration, the Development Contract, or this Agreement, including, without limitation, compliance with the requirements set forth in Section 3.4 hereof.

(4) If, prior to the Completion Date, the Developer shall

(a) 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

(b) be adjudicated as bankrupt or insolvent; or if a petition or answer proposing the adjudication of the 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 the Developer, or of the Project, or part thereof, shall be appointed in any proceeding brought against the Developer, and shall not be discharged within 90 days after such appointment, or if the Developer, shall consent to or acquiesce in such appointment.

Section 4.2. Remedies on Default. Whenever any Event of Default referred to in Section 4.1 occurs and is continuing after the applicable cure period as specified in Section 4.1 above, the City or the EDA may take any one or more of the following actions after the giving of 30 days' written notice to the Developer, but only if the Event of Default has not been cured within said 30 days; provided that if such Event of Default cannot be reasonably cured within the 30 day period, and the Developer has provided assurances reasonably satisfactory to the EDA that it is proceeding with due diligence to cure such default, such 30 day cure period shall be extended for a period deemed reasonably necessary by the EDA to effect the cure, but in any event not to exceed 180 days:

(1) The EDA may suspend its performance under this Agreement and the TIF Note until such default is cured or the EDA determines that it has received assurances, deemed adequate by the City, from the Developer that the Developer will cure its default and continue its performance under this Agreement. Interest on the TIF Note shall not accrue during the period of any suspension of payment.

(2) The EDA may terminate this Agreement and/or cancel the TIF Note.

(3) The EDA may take any action, including legal or administrative action, in law or equity, which may appear necessary or desirable to enforce performance and observance of any obligation, agreement, or covenant of the Developer under this Agreement.

Notwithstanding anything to the contrary set forth in this Agreement, the lenders providing construction or permanent financing for the Project, and the members of the Developer shall have the right, but not the obligation, to cure an Event of Default during the cure period provided for the Developer and such cure shall be deemed a cure tendered by the Developer and shall be accepted or rejected on the same basis as if made or tendered by the Developer on its own behalf.

Section 4.3. No Remedy Exclusive. No remedy herein conferred upon or reserved to the City or the EDA is intended to be exclusive of any other available remedy or remedies, 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.

Section 4.4. No Implied Waiver. In the event any agreement contained in this Agreement should be breached by any party and thereafter waived by any other 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.

Section 4.5. Indemnification of EDA and City.

(1) The Developer releases from and covenants and agrees that the City and the EDA, and their governing bodies' members, officers, agents, including the independent contractors, consultants and legal counsel, servants and employees thereof (for purposes of this Section, collectively the "Indemnified Parties") shall not be liable for and agrees to indemnify and hold harmless the Indemnified Parties against any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the Project, or any other loss, cost expense, or penalty, except to the extent caused by any willful misrepresentation or any willful or wanton misconduct of the Indemnified Parties.

(2) Except for any willful misrepresentation or any willful or wanton misconduct of the Indemnified Parties, the Developer agrees to protect and defend the Indemnified Parties, now and forever, and further agrees to hold the Indemnified Parties harmless from any claim, demand, suit, action or other proceeding whatsoever by any person or entity whatsoever arising or purportedly arising from the actions or inactions of the Developer (or if other persons acting on its behalf or under its direction or control) under this Agreement, or the transactions contemplated hereby or the acquisition, construction, installation, ownership, and operation of the Project; including, without limitation, any pecuniary loss or penalty (plus interest thereon at the rate of 5.00% per annum from the date such loss is incurred or penalty is paid by the EDA of the City) as a result of the Project failing to cause the TIF District to qualify as a "housing district" under Section 469.174, subdivision 11, of the TIF Act, or to violate limitations as to the use of Tax Increments as set forth in Section 469.176, subdivision 4d of the TIF Act.

(3) All covenants, stipulations, promises, agreements and obligations of the EDA or the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the EDA or the City and not of any governing body member, officer, agent, servant or employee of the EDA or the City, as the case may be.

Section 4.6. Reimbursement of Attorneys' Fees. If the Developer shall default under any of the provisions of this Agreement, and the EDA or the City shall employ attorneys or incur other reasonable expenses for the collection of payments due hereunder, or for the enforcement of performance or observance of any obligation or agreement on the part of the Developer contained in this Agreement, the Developer will within 30 days reimburse the City or the EDA, as applicable, for the reasonable fees of such attorneys and such other reasonable expenses so incurred.

ARTICLE V

ADDITIONAL PROVISIONS

Section 5.1. Restrictions on Use. The Developer agrees for itself, its successors and assigns and every successor in interest to the Development Property, or any part thereof, that the Developer and such successors and assigns shall operate, or cause to be operated, the Project in accordance with this Agreement and as an affordable multifamily rental housing development in accordance with this Agreement and the Declaration until the end of the Qualified Project Period (as defined in the Declaration).

Section 5.2. Reports. The Developer shall provide the EDA reports in a timely manner with such information about the Project as the EDA may reasonably request for purposes of satisfying any reporting requirements imposed by law on the EDA.

Section 5.3. Limitations on Transfer and Assignment.

(1) Except as provided in Sections 3.14 and 5.3(4), and subject to Section 5.3(5), the Developer will not sell, assign, convey, lease or transfer in any other mode or manner (collectively, “Transfer”) this Agreement, the TIF Note, or the Development Property or the Project, or any interest therein, without the express written approval of the EDA, which consent will not be unreasonably withheld, conditioned or delayed. The EDA shall deliver a written statement to the Developer indicating whether the Transfer is approved or specifying the additional conditions to be satisfied in accordance with Section 5.3(2). The provisions of this Section 5.3 apply to all subsequent Transfers by authorized transferees;

(2) The EDA shall be entitled to require, as conditions to any approval of any Transfer of this Agreement, the Development Property, the Project, or the TIF Note in connection therewith, which approval will not be unreasonably withheld, conditioned or delayed, that:

(a) Any proposed transferee shall have the qualifications and financial responsibility, as reasonably determined by the EDA, necessary and adequate to fulfill the obligations undertaken in this Agreement by the Developer;

(b) Any proposed transferee, by instrument in writing satisfactory to the EDA shall, for itself and its successors and assigns, and expressly for the benefit of the EDA have expressly assumed any of the remaining obligations of the Developer under this Agreement and agreed to be subject to all the conditions and restrictions to which the Developer is subject;

(c) There shall be submitted to the EDA for review all instruments and other legal documents involved in effecting transfer, and if approved by the EDA, its approval shall be indicated to the Developer in writing;

(d) Any proposed transferee of the TIF Note shall (i) execute and deliver to the EDA the Acknowledgment Regarding TIF Note that in the form included in Exhibit 2 to the TIF Note and (ii) surrender the TIF Note to the EDA either in exchange for a new fully

registered note or for transfer of the TIF Note on the registration records for the TIF Note maintained by the EDA;

(e) The Developer and its transferees shall comply with such other conditions as are necessary in order to achieve and safeguard the purposes of the Act, the TIF Act and this Agreement; and

(f) In the absence of a specific written agreement by the EDA to the contrary, no such transfer or approval by the EDA thereof shall be deemed to relieve the Developer or any other party bound in any way by this Agreement or otherwise with respect to the construction of the Project, from any of its obligations with respect thereto.

(3) The Developer agrees to pay all reasonable legal fees and expenses of the EDA, including fees of the City Attorney's office and outside counsel retained by the EDA to review the documents submitted to the EDA in connection with any Transfer.

(4) Nothing contained in this Section shall prohibit the Developer from (i) entering into leases with tenants in the ordinary course of business, (ii) entering into easements or other agreements necessary for the construction or operation of the Project, or (iii) admitting or removing members in the Developer, in accordance with the applicable organizational documents.

(5) Subject to satisfying the conditions set forth in 2(c), 2(d) and (3), the EDA agrees to the assignment of the TIF Note, once issued, to a lender providing a loan to finance or refinance the cost of constructing the Project to allow the Developer to monetize the TIF Note.

(6) The Developer shall be relieved of its obligations under this Agreement only to the extent such obligations have been assumed by an approved transferee under a Transfer permitted as provided herein.

Section 5.4. Conflicts of Interest. No member of the governing body or other official of the City or the EDA shall have any financial interest, direct or indirect, in this Agreement, the Development Property or 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 this 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 EDA shall be personally liable to the City or the EDA in the event of any default or breach by the Developer or successor or on any obligations under the terms of this Agreement.

Section 5.5. Titles of Articles and Sections. Any titles of the several parts, articles and sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 5.6. 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 sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, and

- (a) in the case of the Developer is addressed to or delivered personally to:

Village Creek Reserves, LLC
2205 Golden Valley Road
Minneapolis MN 53441
Attn: Devean George

- (b) in the case of the EDA is addressed to or delivered personally to the EDA at:

Brooklyn Park Economic Development Authority
5200 85th Ave. N.
Brooklyn Park, MN 55443
Attn: Executive Director

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.

Section 5.7. No Additional Waiver Implied by One Waiver. If any agreement contained in this Agreement should be breached by either party and thereafter waived by the other 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.

Section 5.8. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 5.9. Law Governing. This Agreement will be governed and construed in accordance with the laws of the State.

Section 5.10. Term; Termination. Except as provided in the Declaration, and unless this Agreement is terminated earlier in accordance with its terms this Agreement shall terminate on the Termination Date. Early termination upon a written request from the Developer shall be in the EDA's sole discretion and upon a determination that such termination will not limit or interfere with the EDA's ability to pool Tax Increments generated by the TIF District for affordable housing in accordance with the TIF Act. After the Termination Date, if requested by the Developer, the EDA will provide a termination certificate as to the Developer's obligations hereunder.

Section 5.11. Provisions Surviving Rescission, Expiration or Termination. Sections 4.5 and 4.6 shall survive any rescission, termination or expiration of this Agreement with respect to or arising out of any event, occurrence or circumstance existing prior to the date thereof.

Section 5.12. Superseding Effect. This Agreement reflects the entire agreement of the parties with respect to the development of the Development Property, and supersedes in all respects all prior agreements of the parties, whether written or otherwise, with respect to the development of the Development Property.

Section 5.13. 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. All covenants, stipulations, promises, agreements and obligations of the City or the EDA contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the City or the EDA, respectively, and not of any governing body member, officer, agent, servant or employee of the City or the EDA.

Section 5.14. Venue. All matters, whether sounding in tort or in contract, relating to the validity, construction, performance, or enforcement of this Agreement shall be controlled by and determined in accordance with the laws of the State of Minnesota, and the Developer agrees that all legal actions initiated by the Developer or the EDA with respect to or arising from any provision contained in this Agreement shall be initiated, filed and venued exclusively in the State of Minnesota, Hennepin County, District Court and shall not be removed therefrom to any other federal or state court.

Section 5.15. Interpretation; Concurrence. The language in this Agreement shall be construed simply according to its generally understood meaning, and not strictly for or against any party and no interpretation shall be affected by which party drafted any part of this Agreement. By executing this Agreement, the parties acknowledge that they (a) enter into and execute this Agreement knowingly, voluntarily and willingly of their own volition with such consultation with legal counsel as they deem appropriate; (b) have had a sufficient amount of time to consider this Agreement's terms and conditions, and to consult an attorney before signing this Agreement; (c) have read this Agreement, understand all of its terms, appreciate the significance of those terms and have made the decision to accept them as stated herein; and (d) have not relied upon any representation or statement not set forth herein.

IN WITNESS WHEREOF, the EDA has caused this Agreement to be duly executed in its name and on its behalf, and the Developer has caused this Agreement to be duly executed in its name and on its behalf, on or as of the date first above written.

BROOKLYN PARK ECONOMIC
DEVELOPMENT AUTHORITY

By _____
Its President

By _____
Its Executive Director

This is a signature page to the Development Assistance Agreement

VILLAGE CREEK RESERVES, LLC, a Minnesota
limited liability company

By: _____

Its: _____

This is a signature page to the Development Assistance Agreement.

EXHIBIT A

DESCRIPTION OF TIF DISTRICT

The area encompassed by the TIF District shall also include all street or utility rights-of-way located upon or adjacent to the property described below.

Lot 2, Block 1, Village Creek 2nd Addition, Parcel ID #281192120034

EXHIBIT B

DESCRIPTION OF DEVELOPMENT PROPERTY

The property located in the City of Brooklyn Park, Hennepin County, Minnesota described as:

Lot 2, Block 1, Village Creek 2nd Addition

EXHIBIT C

PUBLIC DEVELOPMENT COSTS

Land acquisition

Site grading and improvements

Surface and underground parking

Underground and above ground utilities

All rental housing construction costs eligible for reimbursement under the TIF Act

EXHIBIT D
PROJECT SOURCES AND USES

EXHIBIT E**FORM OF TAXABLE TIF NOTE**

No. R-1

\$535,000

UNITED STATES OF AMERICA
 STATE OF MINNESOTA
 COUNTY OF HENNEPIN
 BROOKLYN PARK ECONOMIC DEVELOPMENT AUTHORITY
 TAXABLE TAX INCREMENT REVENUE
 NOTE (VILLAGE CREEK APARTMENTS PROJECT)
 _____, 20__

The Brooklyn Park Economic Development Authority (the “EDA”), hereby acknowledges itself to be indebted and, for value received, hereby promises to pay the amounts hereinafter described (the “Payment Amounts”) to Village Creek Reserves, LLC, or its registered assigns (the “Registered Owner”), the principal amount of FIVE HUNDRED THIRTY-FIVE THOUSAND and 00/100 Dollars (\$535,000), but only in the manner, at the times, from the sources of revenue, and to the extent hereinafter provided.

This Note is issued pursuant to that certain Development Assistance Agreement, dated as of _____, 2023, as the same may be amended from time to time (the “TIF Agreement”), by and between the EDA and Village Creek Reserves, LLC (the “Developer”). Unless otherwise defined herein or unless context requires otherwise, undefined terms used herein shall have the meanings set forth in the TIF Agreement.

The outstanding and unpaid principal amount of this Note shall bear simple, non-compounding interest at the rate equal to _____% per annum (which is the lesser of the rate equal to the lesser of 5.95% per annum or the actual rate per annum on the Developer’s permanent first mortgage financing for the Project); provided that no interest shall accrue on this Note during any period that an Event of Default has occurred, and such Event of Default is continuing, under the TIF Agreement and EDA has exercised its remedy under the TIF Agreement to suspend payment on the Note. Interest shall be computed on the basis of a 360-day year of twelve 30-day months.

The amounts due under this Note shall be payable on August 1, 2025 and on each February 1 and August 1 thereafter to and including the earliest of (i) the date on which the entire principal and accrued interest on the TIF Note has been paid in full; or (ii) February 1, 2040; or (iii) any earlier date the TIF Agreement or this Note is cancelled in accordance with the terms of the TIF Agreement or deemed paid in full; or (iv) the February 1 following the date the TIF District is terminated in accordance with the TIF Act; or (v) the date the EDA cancels the TIF Note upon a written request for termination from the Developer and a determination in the EDA’s sole discretion that such termination will not limit or interfere with the EDA’s ability to pool Tax Increments generated by the TIF District for affordable housing in accordance with the TIF Act (provided that there shall be no payment of any Tax Increments on such date unless it is a regular

Payment Date) (the “Final Payment Date”) or, if the first should not be a Business Day (as defined in the TIF Agreement) the next succeeding Business Day (collectively, the “Payment Dates”). On each Payment Date, the EDA shall pay by check or draft mailed to the person that was the Registered Owner of this Note at the close of the last business day preceding such Payment Date an amount equal to 90% of the Tax Increments (as hereinafter defined) received by the EDA during the 6-month period preceding such Payment Date (“Pledged Tax Increments”).

“Tax Increments” are the tax increments derived from the Development Property (as defined in the TIF Agreement) and the improvements thereon which have been received and are permitted to be retained by the EDA in accordance with the Minnesota Statutes, Sections 469.174 through 469.1794, as the same may be amended or supplemented from time to time (the “TIF Act”) including, without limitation, Minnesota Statutes, Section 469.177; 469.176, Subd. 4h; and 469.175, Subd. 1a, as the same may be amended from time to time.

Payments on this Note shall be payable solely from the Pledged Tax Increments. All payments made by the EDA under this Note shall first be applied to accrued interest and then to principal. If Pledged Tax Increments are insufficient to pay any accrued interest due, such unpaid interest shall be carried forward without interest.

This Note shall terminate and be of no further force and effect following the Final Payment Date defined above, or any date upon which the EDA shall have terminated the TIF Agreement under Section 4.2 thereof or on the date that all principal and interest payable hereunder shall have been or deemed paid in full, whichever occurs earliest. This Note may be prepaid in whole or in part at any time without penalty.

The EDA makes no representation or covenant, express or implied, that the Pledged Tax Increments will be sufficient to pay, in whole or in part, the amounts which are or may become due and payable hereunder. There are risk factors in the amount of Tax Increments that may actually be received by the EDA and some of those factors are listed on the attached Exhibit 1. The Registered Owner acknowledges these risk factors and understands and agrees that payments by the EDA under this Note are subject to these and other factors.

The EDA’s payment obligations hereunder shall be subject to adjustment pursuant to Sections 3.7, 3.13(11), and 3.17(3) of the TIF Agreement and are further subject to the conditions that (i) no Event of Default under Section 4.1 of the TIF Agreement shall have occurred and be continuing at the time payment is otherwise due hereunder, including without limitation failure to submit the Compliance Certificate in accordance with Section 3.4 of the TIF Agreement and deliver the Declaration (as defined therein), and (ii) the TIF Agreement shall not have been terminated pursuant to Section 4.2 thereof, and (iii) all conditions set forth in Section 3.2(2) of the TIF Agreement have been satisfied as of such date. Any such suspended and unpaid amounts shall become payable, without interest accruing thereon in the meantime, if this Note has not been terminated in accordance with Section 4.2 of the TIF Agreement and said Event of Default shall thereafter have been cured in accordance with Section 4.2 of the TIF Agreement. If pursuant to the occurrence of an Event of Default under the TIF Agreement the EDA elects, in accordance with the TIF Agreement to cancel and rescind the TIF Agreement and/or this Note, the EDA shall have no further debt or obligation under this Note whatsoever. Reference is hereby made to all of the provisions of the TIF Agreement, for a fuller statement of the rights and obligations of the

EDA to pay the principal of this Note and the interest thereon, and said provisions are hereby incorporated into this Note as though set out in full herein.

THIS NOTE IS A SPECIAL, LIMITED REVENUE OBLIGATION OF THE EDA AND NOT A GENERAL OBLIGATION OF THE CITY OF BROOKLYN PARK, MINNESOTA (THE "CITY") OR THE EDA AND IS PAYABLE BY THE EDA ONLY FROM THE SOURCES AND SUBJECT TO THE QUALIFICATIONS STATED OR REFERENCED HEREIN. THIS NOTE IS NOT A GENERAL OBLIGATION OF THE CITY OR THE EDA, AND THE FULL FAITH AND CREDIT AND TAXING POWERS OF NEITHER THE CITY NOR THE EDA ARE PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THIS NOTE AND NO PROPERTY OR OTHER ASSET OF THE CITY OR THE EDA, SAVE AND EXCEPT THE ABOVE-REFERENCED PLEDGED TAX INCREMENTS, IS OR SHALL BE A SOURCE OF PAYMENT OF THE EDA'S OBLIGATIONS HEREUNDER.

The Registered Owner shall never have or be deemed to have the right to compel any exercise of any taxing power of the EDA or the City or of any other public body, and neither the EDA nor any person executing or registering this Note shall be liable personally hereon by reason of the issuance or registration thereof or otherwise.

This Note is issued by the EDA in aid of financing a project pursuant to and in full conformity with the Constitution and laws of the State of Minnesota, including the TIF Act.

This Note may be assigned only as provided in Section 5.3 of the TIF Agreement and subject to the assignee executing and delivering to the EDA the Acknowledgment Regarding TIF Note in the form set forth in Exhibit 2 attached hereto. Additionally, in order to assign the Note, the assignee shall surrender the same to the EDA either in exchange for a new fully registered note or for transfer of this Note on the registration records maintained by the EDA for the Note. Each permitted assignee shall take this Note subject to the foregoing conditions and subject to all provisions stated or referenced herein.

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 EDA outstanding on the date hereof and on the date of its actual issuance and delivery, does not cause the indebtedness of the EDA to exceed any constitutional or statutory limitation thereon.

IN WITNESS WHEREOF, the Brooklyn Park Economic Development Authority, by its Board of Commissioners, has caused this Note to be executed by the manual signatures of its President and Executive Director and has caused this Note to be issued on and dated as of the date first written above.

BROOKLYN PARK ECONOMIC
DEVELOPMENT AUTHORITY

By _____
Its President

By _____
Its Executive Director

Signature Page for Tax Increment Revenue Note (Village Creek Apartments)

CERTIFICATION OF REGISTRATION

It is hereby certified that the foregoing Note was, as of the latest date listed below, registered in the name of the last Registered Owner noted below on the books kept by the undersigned for such purposes and any prior registrations are null and void as of such date.

NAME AND ADDRESS OF <u>REGISTERED OWNER</u>	DATE OF <u>REGISTRATION</u>	SIGNATURE OF <u>EXECUTIVE DIRECTOR</u>
Village Creek Reserves, LLC 2205 Golden Valley Rd. Minneapolis, MN 55411 Attn: Trustee _____ _____ _____ _____ _____ _____ _____ _____ 	 _____, 20__ _____, 20__ _____, 20__ 	 _____ _____ _____

Exhibit 1
to Taxable TIF Note

RISK FACTORS

Risk factors on the amount of Tax Increments that may actually be received by the EDA include but are not limited to the following:

1. Value of Project. If the contemplated Project (as defined in the TIF Agreement) constructed in the tax increment financing district is completed at a lesser level of value than originally contemplated, it will generate fewer taxes and fewer tax increments than originally contemplated.
2. Damage or Destruction. If the Project is damaged or destroyed after completion, its value will be reduced, and taxes and tax increments will be reduced. Repair, restoration or replacement of the Project may not occur, may occur after only a substantial time delay, or may involve property with a lower value than the Project, all of which would reduce taxes and tax increments.
3. Change in Use to Tax-Exempt. The Project could be acquired by a party that devotes it to a use which causes the property to be exempt from real property taxation. Taxes and tax increments would then cease.
4. Depreciation. The Project could decline in value due to changes in the market for such property or due to the decline in the physical condition of the property. Lower market valuation will lead to lower taxes and lower tax increments.
5. Non-payment of Taxes. If the property owner does not pay property taxes, either in whole or in part, the lack of taxes received will cause a lack of tax increments. The Minnesota system of collecting delinquent property taxes is a lengthy one that could result in substantial delays in the receipt of taxes and tax increments, and there is no assurance that the full amount of delinquent taxes would be collected. Amounts distributed to taxing jurisdictions upon a sale following a tax forfeiture of the property are not tax increments.
6. Reductions in Taxes Levied. If property taxes are reduced due to decreased municipal levies, taxes and tax increments will be reduced. Reasons for such reduction could include lower local expenditures or changes in state aids to municipalities. For instance, in 2001 the Minnesota Legislature enacted an education funding reform that involved the state increasing school aid in lieu of the local general education levy (a component of school district tax levies).
7. Reductions in Tax Capacity Rates. The taxable value of real property is determined by multiplying the market value of the property by a tax capacity rate. Tax capacity rates vary by certain categories of property; for example, the tax capacity rates for residential homesteads are currently less than the tax capacity rates for commercial and industrial property. In 2001 the Minnesota Legislature enacted property tax reform that lowered various tax capacity rates to

“compress” the difference between the tax capacity rates applicable to residential homestead properties and commercial and industrial properties.

8. Changes to Local Tax Rate. The local tax rate to be applied in the tax increment financing district is the lower of the current local tax rate or the original local tax rate for the tax increment financing district. In the event that the Current Local Tax Rate is higher than the Original Local Tax Rate, then the “excess” or difference that comes about after applying the lower Original Local Tax Rate instead of the Current Local Tax Rate is considered “excess” tax increment and is distributed by Hennepin County to the other taxing jurisdictions and such amount is not available to the EDA as tax increment.

9. Legislation. The Minnesota Legislature has frequently modified laws affecting real property taxes, particularly as they relate to tax capacity rates and the overall level of taxes as affected by state aid to municipalities.

10. Affordable Housing Declaration. The TIF District will cease to qualify as a housing tax increment financing district and the TIF Note will terminate if the Project ceases to be operated in accordance with the Declaration required by and defined in the TIF Agreement defined in the attached Note.

Exhibit 2
to Taxable TIF Note

ACKNOWLEDGMENT REGARDING TIF NOTE

The undersigned, _____, a _____ (“Note Holder”), hereby certifies and acknowledges that:

A. On the date hereof the Note Holder has [acquired from]/[made a loan (the “Loan”) [to/for the benefit] of] Village Creek Reserves, LLC (the “Developer”) [secured in part by] the Taxable Tax Increment Revenue Note (Village Creek Apartments Project), a pay-as-you-go tax increment revenue note in the original principal amount of \$535,000 [dated _____, 20__] [to be] issued by the Brooklyn Park Economic Development Authority (the “EDA”), [a copy of which is attached hereto] (the “Note”).

B. The Note Holder has had the opportunity to ask questions of and receive from the Developer all information and documents concerning the Note as it requested, and has had access to any additional information the Note Holder thought necessary to verify the accuracy of the information received. In determining to [acquire the Note]/[make the Loan], the Note Holder has made its own determinations and has not relied on the EDA or information provided by the EDA.

C. The Note Holder represents and warrants that:

1. The Note Holder is acquiring [the Note]/[an interest in the Note as collateral for the Loan] for investment and for its own account, and without any view to resale or other distribution.

2. The Note Holder has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of acquiring [the Note]/[an interest in the Note as collateral for the Loan].

3. The Note Holder understands that the Note is a security which has not been registered under the Securities Act of 1933, as amended, or any state securities law, and must be held until its sale is registered or an exemption from registration becomes available.

4. The Note Holder is aware of the limited payment source for the Note and interest thereon and risks associated with the sufficiency of that limited payment source.

5. The Note Holder is [a bank or other financial institution] / [the owner of the property from which the tax increments which are pledged to the Note are generated].

D. The Note Holder understands that the Note is payable solely from certain tax increments derived from certain properties located in a tax increment financing district, if and as received by the EDA. The Note Holder acknowledges that the EDA has made no representation or covenant, express or implied, that the revenues pledged to pay the Note will be sufficient to pay, in whole or in part, the principal and interest due on the Note. Any amounts which have not been

paid on the Note on or before the final maturity date of the Note shall no longer be payable, as if the Note had ceased to be an obligation of the EDA. The Note Holder understands that the Note will never represent or constitute a general obligation, debt or bonded indebtedness of the City of Brooklyn Park, Minnesota (the “City”), the EDA, the State of Minnesota, or any political subdivision thereof and that no right will exist to have taxes levied by the City, the EDA, the State of Minnesota or any political subdivision thereof for the payment of principal and interest on the Note.

E. The Note Holder understands that the Note is payable solely from certain tax increments, which are taxes received on improvements made to certain property (the “Project”) in a tax increment financing district from the increased taxable value of the property over its base value at the time that the tax increment financing district was created, which base value is called “original net tax capacity”. There are risk factors in relying on tax increments to be received, which include, but are not limited to, the following:

1. Value of Project. If the contemplated Project constructed in the tax increment financing district is completed at a lesser level of value than originally contemplated, it will generate fewer taxes and fewer tax increments than originally contemplated.

2. Damage or Destruction. If the Project is damaged or destroyed after completion, its value will be reduced, and taxes and tax increments will be reduced. Repair, restoration or replacement of the Project may not occur, may occur after only a substantial time delay, or may involve property with a lower value than the Project, all of which would reduce taxes and tax increments.

3. Change in Use to Tax-Exempt. The Project could be acquired by a party that devotes it to a use which causes the property to be exempt from real property taxation. Taxes and tax increments would then cease.

4. Depreciation. The Project could decline in value due to changes in the market for such property or due to the decline in the physical condition of the property. Lower market valuation will lead to lower taxes and lower tax increments.

5. Non-payment of Taxes. If the property owner does not pay property taxes, either in whole or in part, the lack of taxes received will cause a lack of tax increments. The Minnesota system of collecting delinquent property taxes is a lengthy one that could result in substantial delays in the receipt of taxes and tax increments, and there is no assurance that the full amount of delinquent taxes would be collected. Amounts distributed to taxing jurisdictions upon a sale following a tax forfeiture of the property are not tax increments.

6. Reductions in Taxes Levied. If property taxes are reduced due to decreased municipal levies, taxes and tax increments will be reduced. Reasons for such reduction could include lower local expenditures or changes in state aids to municipalities. For instance, in 2001 the Minnesota Legislature enacted an education funding reform that

involved the state increasing school aid in lieu of the local general education levy (a component of school district tax levies).

7. Reductions in Tax Capacity Rates. The taxable value of real property is determined by multiplying the market value of the property by a tax capacity rate. Tax capacity rates vary by certain categories of property; for example, the tax capacity rates for residential homesteads are currently less than the tax capacity rates for commercial and industrial property. In 2001 the Minnesota Legislature enacted property tax reform that lowered various tax capacity rates to “compress” the difference between the tax capacity rates applicable to residential homestead properties and commercial and industrial properties.

8. Changes to Local Tax Rate. The local tax rate to be applied in the tax increment financing district is the lower of the current local tax rate or the original local tax rate for the tax increment financing district. In the event that the Current Local Tax Rate is higher than the Original Local Tax Rate, then the “excess” or difference that comes about after applying the lower Original Local Tax Rate instead of the Current Local Tax Rate is considered “excess” tax increment and is distributed by Hennepin County to the other taxing jurisdictions and such amount is not available to the EDA as tax increment.

9. Legislation. The Minnesota Legislature has frequently modified laws affecting real property taxes, particularly as they relate to tax capacity rates and the overall level of taxes as affected by state aid to municipalities.

10. Affordable Housing Declaration. The TIF District will cease to qualify as a housing tax increment financing district and the TIF Note will terminate if the Project ceases to be operated in accordance with the Declaration required by and defined in the TIF Agreement defined below.

F. The Note Holder acknowledges that the Note was issued as part of a Development Assistance Agreement between the EDA and the Developer dated _____, 2023 (the “TIF Agreement”), and that the EDA has the right to suspend payments under the Note and/or terminate the Note upon an Event of Default under the TIF Agreement.

G. The Note Holder acknowledges that the EDA makes no representation about the tax treatment of, or tax consequences from, the Note Holder’s acquisition of [the Note]/[an interest in the Note as collateral for the Loan].

WITNESS our hand this ____ day of _____, 20__.

Note Holder:

By: _____

Name: _____

Its: _____

EXHIBIT F**CERTIFICATE OF COMPLETION OF PROJECT**

_____, 20____

WHEREAS, the BROOKLYN PARK ECONOMIC DEVELOPMENT AUTHORITY, a public body corporate and politic under the laws of the State of Minnesota (the “EDA”), and VILLAGE CREEK RESERVES, LLC, a Minnesota limited liability company (the “Developer”), have entered into a Development Assistance Agreement (the “TIF Agreement”), dated _____, 2023; and

WHEREAS, the TIF Agreement requires the Developer to construct the Project (as that term is defined in the TIF Agreement); and

WHEREAS, the Developer has constructed the Project in a manner deemed sufficient by the EDA to permit the execution of this certification in accordance with Section 3.12 of the TIF Agreement; and

NOW, THEREFORE, this is to certify that the Developer has constructed the Project in accordance with the TIF Agreement. The remaining covenants of the Developer under the TIF Agreement are not intended to run with title to the Development Property (as that term is defined in the TIF Agreement) or bind successors in title to the Development Property.

The EDA has, as of the date and year first above written, set its hand hereon.

BROOKLYN PARK ECONOMIC
DEVELOPMENT AUTHORITY

By _____
Its 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 Brooklyn Park Economic Development Authority, a public body corporate and politic organized and existing under the laws of the State of Minnesota, on behalf of said EDA.

Notary Public

EXHIBIT G

FORM OF MINIMUM ASSESSMENT AGREEMENT

THIS AGREEMENT, dated as of this ___ day of _____, 2023, is between the Brooklyn Park Economic Development Authority (the “EDA”) and Village Creek Reserves, LLC, a Minnesota limited liability company (the “Developer”).

WITNESSETH

WHEREAS, on or before the date hereof the EDA and Developer have entered into a Development Assistance Agreement dated as of _____, 2023 (the “TIF Agreement”) regarding certain real property located in the City of Brooklyn Park, Minnesota (the “City”) the legal description of which is attached hereto as **Exhibit A** (the “Development Property”).

WHEREAS, it is contemplated that pursuant to said Agreement, the Developer will undertake the construction of approximately 83 units of multifamily rental housing, with at least 44 of the units having 2 or more bedrooms, and related amenities, including outdoor space for families (the “Housing Facility”); approximately 10,000 square feet of ground level commercial space to be dedicated to a commercial kitchen and rentable commercial space (the “Commercial Facility”); and approximately 145 stalls of surface and underground parking (altogether, the “Development”).

WHEREAS, the EDA and Developer desire to establish a minimum market value for the Development Property and the improvements constructed or to be constructed thereon, pursuant to Minnesota Statutes, Section 469.177.

WHEREAS, the Developer has acquired the Development Property.

WHEREAS, the EDA and the Assessor have reviewed plans and specifications for the Project.

NOW, THEREFORE, the parties to this Agreement, in consideration of the promises, covenants and agreements made by each to the other, do hereby agree as follows:

1. As of January 2, 2025, the minimum market value, which shall be assessed for the Development Property for taxes payable 2026 and in each year thereafter, shall not be less than \$15,325,000.

2. The minimum market values herein established shall be of no further force and effect after assessment on or before January 31, 2038 for taxes payable in 2039; provided, however, this Agreement shall terminate earlier upon such date as the earliest to occur of (i) the date on which the entire principal and accrued interest on the TIF Note (as defined in the TIF Agreement) has been paid in full; or (ii) any earlier date the TIF Agreement or the TIF Note is cancelled in accordance with the terms thereof or deemed paid in full; or (iii) the date the TIF District (as defined in the TIF Agreement) is terminated in accordance with the TIF Act (as defined in the TIF Agreement); or (iv) the date the EDA cancels the TIF Note upon a written request for termination from the Developer (the “Termination Date”). If the Termination Date is

earlier than the assessment on or before January 31, 2038, for taxes payable in 2039, the EDA shall duly execute and record a release of this Agreement upon the written request and sole expense of the then holder of fee title to the Developer Property.

3. This Agreement shall be recorded by the EDA with the County Recorder of Hennepin County, Minnesota and in the Office of the Hennepin County Registrar of Titles. The Developer shall pay all costs of recording.

4. Neither the preambles nor provisions of this Agreement are intended to, or shall they be construed as, modifying the terms of the TIF Agreement between the EDA and the Developer.

5. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties, shall be governed by, and interpreted pursuant to Minnesota law, and may be executed in counterparts, each of which shall constitute an original hereof and all of which shall constitute one and the same instrument.

This Instrument Drafted By:
Kennedy & Graven, Chartered (JSB)
700 Fifth Street Towers
150 South Fifth Street
Minneapolis, MN 55402

IN WITNESS WHEREOF, the EDA and the Developer have caused this Minimum Assessment Agreement to be executed in their names and on their behalf all as of the date set forth above.

ECONOMIC DEVELOPMENT
AUTHORITY OF THE CITY OF
BROOKLYN PARK

By _____
President

By _____
Executive Director

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023 by _____, the President of the Economic Development Authority of the City of Brooklyn Park, a public body corporate and politic organized and existing under the Constitution and laws of the State of Minnesota, on behalf of said Authority.

Notary Public

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023 by _____, the Executive Director of the Economic Development Authority of the City of Brooklyn Park, a public body corporate and politic organized and existing under the Constitution and laws of the State of Minnesota, on behalf of said Authority.

Notary Public

VILLAGE CREEK RESERVES, LLC

By: _____

Name: _____

Its: _____

STATE OF MINNESOTA)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____, 2023, by
_____, the _____ of Village Creek Reserves, LLC, a Minnesota limited
liability company.

Notary Public

CERTIFICATION BY CITY ASSESSOR

The undersigned, having reviewed the Assessment Agreement dated as of the date first written above by and between the Economic Development Authority of the City of Brooklyn Park and Village Creek Reserves, LLC, the plans and specifications for the Development, as defined in the foregoing Minimum Assessment Agreement, and the market value currently assigned to land upon which the improvements are to be constructed and being of the opinion that the minimum market value contained in the Minimum Assessment Agreement appears reasonable, hereby certifies as follows:

The undersigned Assessor, being legally responsible for the assessment of the above-described property, hereby certifies that the minimum market value of \$15,325,000 as of January 2, 2025, assigned to such land and improvements is reasonable.

Brooklyn Park City Assessor

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

This instrument was acknowledged before me on _____, 2023, by _____, the Brooklyn Park City Assessor.

Notary Public

EXHIBIT A TO MINIMUM ASSESSMENT AGREEMENT

The property located in the City of Brooklyn Park, Hennepin County, Minnesota described as:

Lot 2, Block 1, Village Creek 2nd Addition

EXHIBIT H

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS, dated _____, 2023 (the “Declaration”), by VILLAGE CREEK RESERVES, LCC, a Minnesota limited liability company (the “Developer”), is given for the benefit of the BROOKLYN PARK ECONOMIC DEVELOPMENT AUTHORITY, a public body corporate and politic organized and existing under the laws of the State of Minnesota (the “EDA”).

RECITALS

WHEREAS, the EDA and the Developer entered into that certain Development Assistance Agreement, dated _____, 2023, (the “TIF Agreement”); and

WHEREAS, pursuant to the TIF Agreement, the Developer is obligated to cause construction of approximately 83 units of multifamily rental housing, with at least 44 of the units having 2 or more bedrooms, and related amenities, including outdoor space for families (the “Housing Facility”); approximately 10,000 square feet of ground level commercial space to be dedicated to a commercial kitchen and rentable commercial space (the “Commercial Facility”); and approximately 145 stalls of surface and underground parking (altogether, the “Project”) to be located on the property described in Exhibit A attached hereto (the “Property”), and to cause compliance with certain affordability covenants described in Section 3.4 of the TIF Agreement; and

WHEREAS, Section 3.4 of the TIF Agreement requires that the Developer cause to be executed an instrument in recordable form substantially reflecting the covenants set forth in Section 3.4 of the TIF Agreement; and

WHEREAS, the Developer intends, declares, and covenants that the restrictive covenants set forth herein will be and are covenants running with the Property for the term described herein and binding upon all subsequent owners of the Property for the term described herein, and are not merely personal covenants of the Developer; and

WHEREAS, capitalized terms in this Declaration have the meaning provided in the TIF Agreement unless otherwise defined herein.

NOW, THEREFORE, in consideration of the promises and covenants hereinafter set forth, and of other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Developer agrees as follows:

1. Term of Restrictions.

(a) Occupancy Restrictions. The term of the Occupancy Restrictions set forth in Section 3 of this Declaration will commence on the date a certificate of occupancy is received from the City

for all residential units on the Property and continue through the Declaration Termination Date defined below (the “Qualified Project Period”).

(b) Termination of Declaration. This Declaration shall terminate on December 31, 2054.

In addition, in the event of foreclosure or transfer of title by deed in lieu of foreclosure, upon completion of the foreclosure and expiration of the applicable mortgagee redemption period, or recording of a deed in lieu of foreclosure, any mortgagee (or any assignee of the mortgagee) or any purchasers at or after foreclosure thereof, by the successful bidder at the sale, to the title to the Development Property, may terminate this Declaration, by providing written notice to the EDA and by filing a termination document in the applicable real property records in Hennepin County, and thereafter this Declaration shall be of no further force and effect; provided, however, that the preceding provisions of this sentence shall cease to apply and the restrictions contained herein shall be reinstated if, at any time subsequent to the termination of this Declaration as the result of the foreclosure, or the delivery of a deed in lieu of foreclosure, or a similar event, the Developer or any related person (within the meaning of Section 1.103-10(e) of the Treasury Regulations) obtains an ownership interest in the Project for federal income tax purposes.

Each of the events set forth in the first two paragraphs of this Section 1(b) are referred to individually and collectively herein as the “Declaration Termination Date.” The Developer acknowledges, on behalf of itself and its successors and assigns that, upon any termination of this Declaration prior to the payment in full of the TIF Note, the EDA will terminate the TIF Note.

(c) Removal from Real Estate Records. After the Declaration Termination Date of this Declaration, the EDA will, upon request by the Developer or its assigns, file any document appropriate to remove this Declaration from the real estate records of Hennepin County, Minnesota.

2. Project Restrictions.

(a) The Developer represents, warrants, and covenants that:

(i) All leases of residential units to Qualifying Tenants (as defined in Section 3(a) hereof) will contain clauses, among others, wherein each individual lessee:

(1) Certifies the accuracy of the statements made in its application and Eligibility Certification (as defined in Section 3(b) hereof); and

(2) Agrees that the family income at the time the lease is executed will be deemed a substantial and material obligation of the lessee’s tenancy; that the lessee will comply promptly with all requests for income and other information relevant to determining low or moderate income status from the Developer or the EDA, and that the lessee’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 lessee’s tenancy.

(b) The Developer will permit any duly authorized representative of the EDA to inspect the books and records of the Developer pertaining to the income of Qualifying Tenants residing in the Project.

3. Occupancy Restrictions. The Developer represents, warrants, and covenants that:

(a) Qualifying Tenants. Throughout the Qualified Project Period the Project shall satisfy the following income restrictions (collectively, the “Occupancy Restrictions”):

(i) 30% Qualifying Tenants. At least 10 of the residential units in the Project shall be occupied (or treated as occupied as provided herein) or held vacant and available for occupancy by persons or families whose combined adjusted income is 30% or less of Median Income (“30% Qualifying Tenants”).

(ii) 50% Qualifying Tenants. At least 9 of the residential units in the Project shall be occupied (or treated as occupied as provided herein) or held vacant and available for occupancy by persons or families whose combined adjusted income is 50% or less of Median Income (“50% Qualifying Tenants”).

(iii) 80% Qualifying Tenants. At least 51 of the residential units in the Project shall be occupied (or treated as occupied as provided herein) or held vacant and available for occupancy by persons or families whose combined adjusted income is 80% or less of Median Income (“80% Qualifying Tenants”).

(iv) Gross Rents. Gross Rents (including utilities paid by tenant) for the units subject to the Occupancy Restrictions shall be restricted to not exceed 30% of the imputed income limitation, as noted in Section 3(a)(i) or (ii), as applicable, for the units subject to the Occupancy Restrictions.

(b) Additional Definitions. “Median Income” means the area-wide median family income for the standard metropolitan statistical area which includes Brooklyn Park, Minnesota, as that figure is determined and announced from time to time by HUD, as adjusted for family size for the applicable calendar year. “Qualifying Tenants” means, collectively as applicable, 30% Qualifying Tenants, 50% Qualifying Tenants and 80% Qualifying Tenants; for purposes of this definition, the occupants of a residential unit will not be deemed to be Qualifying Tenants if all the occupants of such residential unit at any time are “students,” as defined in Section 152(f)(2) of the Internal Revenue Code of 1986, as amended (the “Code”), not entitled to an exemption under the Code. The determination of whether an individual or family is of low or moderate income will be made at the time the tenancy commences and, with respect to each 30% Qualifying Tenant, each 50% Qualifying Tenant and each 80% Qualifying Tenant, on an ongoing basis thereafter, determined at least annually. If during their tenancy a 30% Qualifying Tenant’s, a 50% Qualifying Tenant’s or a 80% Qualifying Tenant’s income exceeds 140% of the maximum income qualifying as low or moderate income for a family of its size, the next available residential unit (determined in accordance with the Code and applicable regulations) (the “Next Available Unit Rule”) must be leased to a Qualifying Tenant or held vacant and available for occupancy by a Qualifying Tenant qualifying as to the applicable income level. If the Next Available Unit Rule is violated, the affected unit will not continue to be treated as occupied by a Qualifying Tenant.

(c) Certification of Tenant Eligibility. As a condition to initial and continuing occupancy, each person or household who is intended to be a 30% Qualifying Tenant, a 50% Qualifying Tenant, or a 80% Qualifying Tenant will be required annually to sign and deliver to the Developer a Certification of Tenant Eligibility substantially in the form attached as Exhibit B hereto, or in any other form as may be approved by the EDA (the “Eligibility Certification”), in which the prospective Qualifying Tenant certifies as to having a qualifying low or moderate income at the applicable level. In addition, the Qualifying Tenant will be required to provide whatever other information, documents, or certifications are deemed necessary by the EDA to substantiate the Eligibility Certification, on an ongoing annual basis, and to verify that the tenant continues to be a Qualifying Tenant within the meaning of Section 3(a) hereof. Eligibility Certifications will be maintained on file by the Developer until the later of (i) December 31, 2051 or (ii) two years after the date the TIF District is terminated in accordance with the TIF Act with respect to each Qualifying Tenant who resides in a residential unit or resided therein during the Qualified Project Period.

(d) Lease. The form of lease to be utilized by the Developer in renting any residential units in the Project to any person who is intended to be a Qualifying Tenant will provide for termination of the lease and consent by the person to immediate 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. The Developer covenants and agrees that during the Qualified Project Period it will not increase the rent charged to any tenant of a rental unit within the Project during such tenant’s lease term and, at any rate, will not increase the rent charged to any tenant more than once in any 6-month period.

(e) Annual Report. The Developer covenants and agrees that during the term of this Declaration, it will prepare and submit to the EDA on or before July 1 of each year, a certificate substantially in the form of **Exhibit C** attached hereto, executed by the Developer, (a) identifying the tenancies and the dates of occupancy (or vacancy) for all Qualifying Tenants in the Project, including the percentage of the residential 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; (b) describing all transfers or other changes in ownership of the Project or any interest therein; and (c) stating, that to the best knowledge of the person executing the certificate after due inquiry, all the residential units were rented or available for rental on a continuous basis during the year to members of the general public and that the Developer was not otherwise in default under this Declaration during the year.

(f) Notice of Non-Compliance. The Developer will immediately notify the EDA if at any time during the term of this Declaration dwelling units in the Project than the percentages set forth in Section 3(a) above are occupied or available for occupancy as required by the terms of this Declaration.

(g) Section 8 Housing. The Developer 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. During the term of this Declaration, the Developer shall not adopt any policies specifically excluding rental to tenants holding Section 8 certificate/voucher holders. For certificate/voucher holders, the Developer shall restrict rents to an amount which does not exceed

the rent permitted, assuming the total tenant payment does not exceed 40% of the household's monthly adjusted income.

(h) Reasonable Distribution. The Developer shall not concentrate Qualifying Tenants in any floor or any area of any building in the Project. The units occupied by Qualifying Tenants shall be located throughout the Project and shall reflect the following unit mix:

	30% Area Median Income	50% Area Median Income	80% Area Median Income
# of Bedrooms	Number of units	Number of units	Number of units
1	4	4	31
2	4	3	20
3	2	2	0

4. Transfer Restrictions. Except as provided in Section 1(b) above, the Developer covenants and agrees that the Developer will cause or require as a condition precedent to any conveyance, transfer, assignment, or any other disposition of the Project prior to the termination of the Occupancy Restrictions provided herein (the "Transfer") that the transferee of the Project pursuant to the Transfer assume in writing, in a form acceptable to the EDA, all duties and obligations of the Developer under this Declaration, including this Section 4, in the event of a subsequent Transfer by the transferee prior to expiration of the Occupancy Restrictions provided herein (the "Assumption Agreement"). The Developer will deliver the Assumption Agreement to the EDA prior to the Transfer.

5. Enforcement.

(a) The Developer will permit, during normal business hours and upon reasonable notice, any duly authorized representative of the EDA to inspect any books and records of the Developer regarding the Project with respect to the incomes of Qualifying Tenants.

(b) The Developer will submit any other information, documents or certifications requested by the EDA which the EDA deems reasonably necessary to substantiate the Developer's continuing compliance with the provisions specified in this Declaration.

(c) The Developer acknowledges that the primary purpose for requiring compliance by the Developer with the restrictions provided in this Declaration is to ensure compliance of the property with the housing affordability covenants set forth in Section 3.4 of the TIF Agreement, and by reason thereof, the Developer, in consideration for assistance provided by the EDA under the TIF Agreement that makes possible the construction of the Project (as defined in the TIF Agreement) on the Property, hereby agrees and consents that the EDA will be entitled, for any breach of the provisions of this Declaration, and in addition to all other remedies provided by law or in equity, to enforce specific performance by the Developer of its obligations under this Declaration in a state court of competent jurisdiction. The Developer hereby further specifically acknowledges that the EDA cannot be adequately compensated by monetary damages in the event of any default hereunder.

(d) The Developer understands and acknowledges that, in addition to any remedy set forth herein for failure to comply with the restrictions set forth in this Declaration, the EDA may exercise any remedy available to it under Article IV of the TIF Agreement.

6. Indemnification. The Developer hereby indemnifies, and agrees to defend and hold harmless, the EDA from and against all liabilities, losses, damages, costs, expenses (including attorneys' fees and expenses), 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 the Developer to comply with the terms of this Declaration, or on account of any representation or warranty of the Developer contained herein being untrue.

7. Agent of the EDA. The EDA will have the right to appoint an agent to carry out any of its duties and obligations hereunder, and will inform the Developer of any agency appointment by written notice.

8. Compliance with Local Codes. Developer agrees to keep all units in compliance with all applicable local codes including state and local building codes to ensure the units are decent, safe, and sanitary at all times.

9. Equal Opportunity, Affirmative Marketing. Developer and its agents must adhere to Equal Opportunity, Affirmative Marketing, and Fair Housing practices in all marketing efforts, eligibility determinations and other transactions. The Equal Housing Opportunity logo or statement ("We do business in accordance with the Federal Fair Housing Law. It is illegal to discriminate against any person because of race, color, religion, sex, handicap, familial status, or national origin.") must be used in all advertising of vacant units.

10. Severability. The invalidity of any clause, part or provision of this Declaration will not affect the validity of the remaining portions thereof.

11. Notices. All notices to be given pursuant to this Declaration must be in writing and will be deemed given when mailed by certified or registered mail, return receipt requested, to the parties hereto at the addresses set forth below, or to any other place as a party may from time to time designate in writing. The Developer and the EDA may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, or other communications are sent. The initial addresses for notices and other communications are as follows:

To the EDA: Brooklyn Park Economic Development Authority
5200 85th Ave. N.
Brooklyn Park, MN 55443
Attn: Executive Director

To the Developer: Village Creek Reserves, LLC
2205 Golden Valley Rd.
Minneapolis, MN 55411
Attn: Devean George

12. 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.

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

14. Declaration Binding. This Declaration and the covenants contained herein will run with the real property comprising the Project and will bind the Developer and its successors and assigns and all subsequent owners of the Project or any interest therein, and the benefits will inure to the EDA and its successors and assigns until the Declaration Termination Date of this Declaration as provided in Section 1(b) hereof.

IN WITNESS WHEREOF, the Developer has caused this Declaration of Restrictive Covenants to be signed by its respective duly authorized representatives, as of the day and year first written above.

VILLAGE CREEK RESERVES, LLC, a Minnesota
limited liability company

By: _____

Its: _____

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____, 20__, by _____, _____ of Village Creek Reserves, LLC, a Minnesota limited liability company, on behalf of the company.

Notary Public

THIS INSTRUMENT WAS DRAFTED BY:
Kennedy & Graven, Chartered (JSB)
700 Fifth Street Towers
150 South Fifth Street
Minneapolis, Minnesota 55402
(P) 612-337-9300
(F) 612-337-9310

This Declaration is acknowledged and consented to by:

BROOKLYN PARK ECONOMIC
DEVELOPMENT AUTHORITY

By _____
Its President

By _____
Its Executive Director

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____, 20__, by _____, the President of the Brooklyn Park Economic Development Authority, a public body corporate and politic organized and existing under the laws of the State of Minnesota, on behalf of the EDA.

Notary Public

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____, 20__, by _____, the Executive Director of the Brooklyn Park Economic Development Authority, a public body corporate and politic organized and existing under the laws of the State of Minnesota, on behalf of the EDA.

Notary Public

Exhibit A to Declaration of Restrictive Covenants

Description

The property located in the City of Brooklyn Park, Hennepin County, Minnesota described as:

Lot 2, Block 1, Village Creek 2nd Addition

Exhibit B to Declaration of Restrictive Covenants**Certification of Tenant Eligibility**

TENANT INCOME CERTIFICATION <input type="checkbox"/> Initial Certification <input type="checkbox"/> Recertification <input type="checkbox"/> Other _____	Effective Date: _____ Move-in Date: _____ (MM/DD/YY): _____
PART I. DEVELOPMENT DATA	
Property Name: Village Creek Apartments Address: _____, Brooklyn Park, Minnesota	County: _____ Unit Number: _____
	BIN #: _____ # Bedrooms: _____

PART II. HOUSEHOLD COMPOSITION						
HH Br #	Last Name	First Name & Middle Initial	Relationship to Head of Household	Date of Birth (MM/DD/Y Y)	F/T Student (Y or N)	Social Security or Alien Reg. No.
1			HEAD			
2						
3						
4						
5						
6						

PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)				
HH Br #	(A) Employment or Wages	(B) Soc. Security / Pensions	(C) Public Assistance	(D) Other Income
TOTAL	\$	\$	\$	\$
Add totals from (A) through (D) above			TOTAL INCOME (E):	\$

PART IV. INCOME FROM ASSETS

HH 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 2.00 %		= (J) Imputed Income
Enter the greater of the total 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**

TOTAL ANNUAL HOUSEHOLD
INCOME FROM ALL SOURCES
From Item (L) on page 1

\$

Household Meets
Income Restriction

at:

- ☐ 80% ☐ 60%
☐ 50% ☐ 30%
☐ ____%

Current Income Limit per Family Size: \$ _____

Household Income at Move-in
\$ _____

RECERTIFICATION ONLY:
Current Income Limit x 140%

\$ _____

Household income exceeds 140% at
recertification:

☐ Yes ☐ No

Household Size at Move-in:

PART VI. RENT

Tenant Paid Rent \$ _____ Rent Assistance: \$ _____
 Utility Allowance \$ _____ Other non-optional charges: \$ _____

GROSS RENT FOR UNIT:

Tenant paid rent plus Utility

\$

Allowance and other non-optional charges

Unit Meets Rent Restriction at:

☐ 80% ☐ 60% ☐ 50% ☐ 30% ☐ ____%

Maximum Rent Limit for this unit: \$ _____

PART VII. STUDENT STATUS

ARE ALL OCCUPANTS FULL-
TIME
STUDENTS?

☐ yes ☐ no

If yes, enter student explanation**
(also attach documentation)

Enter
1-4

Student explanation:

1. TANF assistance
2. Job training program
3. Single parent/dependent child
4. Married/joint return*

***Exception for married/joint return is the only exception available for units necessary to qualify tax-exempt bonds.**

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 ☐ b. HOME ☐ c. Tax Exempt ☐ d. AHDP ☐ e. _____ ☐
 (Name of Program)

See Part V above.

Income Status

☐ ≤ 50% AMGI
☐ ≤ 60% AMGI
☐ ≤ 80% AMGI
☐ ≤ 0I **

Income Status

☐ 50% AMGI
☐ 60% AMGI
☐ 80% AMGI
☐ 0I **

Income Status

☐ ≤ 50% AMGI
☐ ≤ 80% AMGI
☐ ≤ 0I **

Income Status

☐ _____
☐ _____
☐ ≤ 0I **

** 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 Declaration Of Restrictive Covenants 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).

Move-in Date	Enter the date the tenant has or will take occupancy of the unit.
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.
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).
Address	Enter the unit number.
Unit Number	Enter the unit number.
# Bedrooms	Enter the number of bedrooms in the unit.

Part II – Household Composition

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

H	Head of household	S	Spouse
A	Adult co-tenant	O	Other family member
C	Child	F	Foster child
L	Live-in caretaker	N	None of the above

Enter the date of birth, student status, and Social Security number or alien registration number for each occupant.

If there are more than seven 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 12 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 12 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 five 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 move-in Household size at move-in	For recertifications only. Enter the household income from the move-in certification. On the adjacent line, enter the number of household members from the move-in certification.
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 recertification 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 the amount of rent assistance, if any.
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 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 affordable housing income compliance.

The responsibility for compliance with the Declaration of Restrictive Covenants lies with the owner of the building(s) to which it applies.

Exhibit C to Declaration of Restrictive CovenantsCertificate of
Continuing Program Compliance

Date: _____

The following information with respect to the Project located at _____, Brooklyn Park, Minnesota (the “Project”), is being provided by Village Creek Reserves, LLC (the “Owner”) to the Brooklyn Park Economic Development Authority (the “EDA”), pursuant to that certain Declaration of Restrictive Covenants, dated _____, 2023 (the “Declaration”), with respect to the Project:

(A) The total number of residential units which are available for occupancy is 83. The total number of these units occupied is _____. The total number of these units occupied or held open for occupancy by 30% Qualifying Tenants is _____ (at least 10 units), the total number of these units occupied or held open for occupancy by 50% Qualifying Tenants is _____ (at least 9 units) and the total number of these units occupied or held open for occupancy by 80% Qualifying Tenants is _____ (at least 51 units).

(B) The following residential units which are included in (C) below, have been re-designated as residential units for Qualifying Tenants since _____, 20____, the date on which the last “Certificate of Continuing Program Compliance” was filed with the EDA by the Owner:

Unit Number	Previous Designation of Unit (if any)	Replacing Unit Number
_____	_____	_____
_____	_____	_____

(C) The following residential units are considered to be occupied by “Qualifying Tenants” based on the information set forth below (for a total of at least the greater of 70 residential units or 20% of the residential units in the Project):

	<i>Unit Number</i>	<i>Last Name of Tenant</i>	<i>Number of Persons Residing in the Unit</i>	<i>Number of Bedrooms</i>	<i>Total Adjusted Gross Income</i>	<i>Income Qualification Level (30%, 50%, 80%)</i>	<i>Monthly Rent</i>	<i>Date of Initial Occupancy</i>	<i>Date Vacated and Held for Qualifying Tenants, if Applicable</i>
1									
2									
3									
4									
5									

6									
7									
8									
9									
10									
11									
12									
13									
14									
15									
16									
17									
18									
19*									

*Expand to include 70 rows.

(D) The Owner has obtained a “Certification of Tenant Eligibility,” in the form provided as Exhibit B to the Declaration, from each Tenant named in (D) above, and each such Certificate is being maintained by the Owner in its records with respect to the Project. Attached hereto is the most recent “Certification of Tenant Eligibility” for each Tenant named in (C) above who signed such a Certification since _____, 20____, the date on which the last “Certificate of Continuing Program Compliance” was filed with the EDA by the Owner.

(E) In renting the residential units in the Project, the Owner 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 (C) above have been rented for occupancy entirely by students, no one of which is entitled to file a joint return for federal income tax purposes. 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 12 months.

(F) The information provided in this “Certificate of Continuing Program Compliance” is accurate and complete, and no matters have come to the attention of the Owner 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.

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

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

VILLAGE CREEK RESERVES, LLC

By: _____
Its: _____

EXHIBIT I

FORM OF SUBCONTRACTOR ADDENDUM

EXHIBIT I | TO SUBCONTRACT AGREEMENT

SUBCONTRACTOR CERTIFICATION

- A. **No Undocumented Employees.** Subcontractor certifies that Subcontractor does not knowingly employ any undocumented employees.
- B. **Wage Enforcement.** Subcontractor shall report, and shall require its Sub-subcontractors to report, all complaints or adverse determinations of wage theft or payroll fraud arising out of this project against Subcontractor or its Sub-subcontractors to Contractor within seven (7) days of notification of the complaint or adverse determination. If an adverse decision is rendered against the Subcontractor, Contractor may terminate the Contract or exercise any other remedy under the Subcontractor Agreement or available under applicable law, including the right to withhold amounts otherwise owed to Subcontractor to protect Contractor against damage that may be incurred by Contractor. Subcontractor certifies that there has not been any adverse determination against Subcontractor within the proceeding 3-year period for wage theft or payroll fraud.
- C. **Worker's Compensation.** Subcontractor and its Sub-subcontractors and legal representatives shall comply with all laws, rules, regulations, and orders governing worker's compensation insurance. Subcontractor agrees to procure and maintain worker's compensation insurance as required by the Subcontract and applicable law.
- D. **Combating Trafficking in Persons.** Subcontractor shall notify employees of the Government's "zero tolerance" policy towards trafficking in persons and to take action against employees or subcontractors that violate the policy. Subcontractor agrees that it will not engage in any unlawful trafficking of persons and will take all commercially reasonable measures to prevent and protect against the trafficking of persons by Subcontractor and its employees.
- E. **Human Rights.** Subcontractor shall conduct its activities in a manner that respects human rights. Subcontractor shall not use any form of child, slave, forced, bonded, indentured, or involuntary labor, including prison labor. Subcontractor shall not engage in human trafficking or exploitation, or import goods that have been manufactured, procured, produced, or transported by slavery or human trafficking. Subcontractor shall not retain employees' government-issued identification, passports or work permits as a condition of employment.
- F. **Wages and Benefits.** Subcontractor shall ensure that its employees are paid lawful wages, including overtime, premium pay, and equal pay for equal work without discrimination. There shall be no disciplinary deductions from pay.

- G. **Non-Discrimination.** Subcontractor shall ensure that no person shall on the grounds of race, color, religions, sex, sexual orientation, gender identity, handicap, familial status, national origin, or any other protected category be subjected to unlawful discrimination under any scope of work carried out by Subcontractor or any of its lower-tier subcontractors or labor suppliers.
- H. **Flow-Down.** Subcontractor shall require all lower-tier subcontractors and labor suppliers to certify compliance with the terms of this Exhibit.
- I. **Certification.** Subcontractor agrees that execution of the subcontract constitutes a certification on the part of the Subcontractor that it is compliant with all of the representations and requirements set forth in this Exhibit and that Subcontractor will remain in compliance with all terms of this Exhibit. Subcontractor agrees to indemnify, defend, and hold Contractor harmless from and against all damages, expenses, costs, claims, and liabilities (including attorneys' fees) suffered by Contractor as a result of Subcontractor's failure to comply with this Exhibit.

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of the date of the Subcontract Agreement

Subcontractor:

By: _____

Name: _____

Its: _____

EXHIBIT J

PERMITTED ENCUMBRANCES

[ADD]

EXHIBIT K
LOOKBACK PROFORMA

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (the “**Agreement**”) is made and entered into this ____ day of _____, 2023 (the “**Effective Date**”) by and between the BROOKLYN PARK ECONOMIC DEVELOPMENT AUTHORITY, a body corporate and politic organized and existing under the laws of the State of Minnesota (the “**Seller**”) and VILLAGE CREEK RESERVES, LLC, a Minnesota limited liability company (“**Buyer**” and, together with Seller, the “**Parties**” or individually each a “**Party**”).

Recitals

WHEREAS, the Seller is the fee title owner of that certain real property located in Brooklyn Park, Minnesota legally described as Lot 2, Block 1, Village Creek 2nd Addition, Hennepin County, Minnesota according to the recorded plat thereof located at 7621 Brooklyn Blvd. N., Brooklyn Park, Minnesota (the “**Property**”);

WHEREAS, the Buyer wishes to purchase the Property from Seller subject to the terms and conditions of this Agreement to construct and equip a facility that will includes approximately 83 units of multifamily rental housing, with at least 44 of the units having 2 or more bedrooms, and related amenities, including outdoor space for families (the “**Housing Facility**”); approximately 10,000 square feet of ground level commercial space dedicated to a commercial kitchen and rentable commercial space (the “**Commercial Facility**”); and approximately 145 stalls of surface and underground parking (altogether, the “**Development**”);

WHEREAS, the Seller believes that the development of the Property is vital and is in the best interests of the Seller and City of Brooklyn Park (the “**City**”), will result in preservation and enhancement of their tax base, provide additional affordable housing options in the City, and is in accordance with the public purpose and provisions of the applicable state and local laws and requirements under which the Development will be undertaken;

WHEREAS, the Seller is willing to sell the Property to the Buyer under the terms and conditions provided herein.

Terms of the Agreement

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, the Parties agree as follows:

1. Recitals. The recitals as set forth above are hereby incorporated into this Agreement.
2. Purchase Price. The total purchase price for the Property shall be determined as follows: \$1 (the “**Purchase Price**”).
3. Closing. Subject to the terms of this Agreement, the closing of the purchase and sale of the Property contemplated by this Agreement (the “**Closing**”) shall occur at the office of the Title Company, or at another location mutually agreed upon by the Parties, on the date 30 days after the expiration of the Due Diligence Period defined below or such other date as agreed to by the Parties in writing (the “**Closing Date**”).
4. Due Diligence Investigation. The Buyer, at its sole cost and expense, shall have a due diligence period commencing on the Effective Date and ending 180 days thereafter (“**Due Diligence Period**”) to make all such investigations as the Buyer, in its sole and absolute discretion, deems reasonable and necessary in determining the suitability of the Property for the Buyer’s needs including:
 - a. To examine and inspect the Property, to review the Due Diligence Documents, to conduct feasibility studies with regard to the ownership and operation of the Property, including, but not limited to, environmental reviews, soil condition testing, surveying, engineering studies, appraisals and any other physical inspections of the Property as determined by the Buyer, and to investigate all physical aspects of the Property, and to review all other due diligence matters related to the Property. Buyer may enter upon the Property to inspect the same, and may conduct tests and examinations with regard thereto, provided that Buyer’s activities do not unreasonably interfere with the ongoing operation of the Property. Buyer shall promptly restore the Property to substantially the same condition in which it existed immediately prior to any physical tests conducted by or on behalf of Buyer. Seller shall cooperate with Buyer in obtaining reliance letters related to any existing environmental conditions affecting the Property.
 - b. To investigate all zoning, code and governmental regulations or requirements in place at the Property, and to obtain all land use and rezoning approvals and permits determined necessary by the Buyer for Buyer’s intended Development and use of the Property.
 - c. To secure funding for the purchase and development of the Property on terms acceptable to Buyer, in Buyer’s sole discretion. The Parties contemplate that such funding may include, without limitation, one or more of the following:

- i. Assistance from the Seller to reimburse the Buyer for costs of construction of the Housing Facility, in accordance with the terms of the Development Assistance Agreement defined below, in the amount of up to \$830,000 in the form of a pay-as-you-go tax increment revenue note bearing simple, non-compounding interest at a rate per annum of up to 5.95% payable from 90% of the tax increment generated from the Development for a period of up to 15 years (the “**TIF Note**”);
 - ii. Assistance from the Seller to reimburse the Buyer for costs associated with the construction of underground parking for the Housing Facility, in accordance with the terms of the Development Assistance Agreement defined below, in the amount of \$900,000 from the Seller’s Housing Set Aside Fund (the “**Pooled TIF Reimbursement**”); and
 - iii. Commercial loans for the purchase and/or development of the Property.
- d. To obtain, at Buyer’s sole cost, an appraisal of the Property that is satisfactory to Buyer and all of Buyer’s funding sources.
- e. Buyer shall have until the last day of the Due Diligence Period to provide written notice to Seller of Buyer’s intention to terminate this Purchase Agreement for any reason. If Buyer terminates this Agreement within the Due Diligence Period, the transactions contemplated herein shall be considered terminated and the Earnest Money will be returned immediately to Buyer.

5. Right of Entry. During the Due Diligence Period, the Buyer shall have the right to enter upon the Property for the purpose of taking soil tests and borings, making surveys and maps and performing investigative work, including environmental testing and assessment, as the Buyer may deem necessary; provided, however, the Buyer shall indemnify and hold the Seller harmless from any mechanics’ liens or claims arising out of such investigative work by the Buyer. The Buyer may assign this right to its agents, employees or contractors at its sole discretion. Nothing in this Agreement shall be deemed a waiver of defenses or limitations available to the Seller under Minnesota Statutes Chapter 466.

- a. In consideration for such right of entry, Buyer agrees to:
 - i. Notify Seller at least 48 hours in advance of the date and time that Buyer, its agents, employees, or contractors, will enter the Property for the purpose for the entry, in order to permit Seller to be present during the time any work is being done by Buyer, its agents, employees or contractors;
 - ii. Provide to Seller a copy of all test results and reports prepared by Buyer or its consultants evaluating the conditions present on the Property, as soon as reasonably possible following final completion thereof;

- iii. Dispose of all solid waste generated during the course of Buyer's sampling activities and other work on the Property in accordance with applicable federal, state and local laws, rules and regulations;
- iv. Coordinate activities with Seller so as to avoid unnecessary disruption to or interference with the Seller's use of the Property;
- v. Do no unnecessary damage to the Property and restore the Property to substantially the same condition as the condition in which it was found by Buyer at the time of entry by Buyer, its agents, employees, or contractors;
- vi. Hold Seller harmless from and indemnify and defend Seller from any and all claims, damages, judgments or obligations, including the cost of defense of suit, arising out of damage to the Property or arising out of injury to anyone incurred or alleged to have been incurred in connection with or as a result of any work done pursuant to this right of entry, or as a result of the intentional torts or negligence of Buyer, its agents, employees or contractors; and

6. Title Review and Objections. Within 30 days following the Effective Date, Buyer shall obtain and provide a copy to Seller a commitment for an ALTA owner's title insurance policy, which shall be periodically updated in accordance with the Development Documents as subsequently defined herein, and any survey desired by Buyer (the "Survey"). Within 30 days after receipt of the title commitment and the Survey, Buyer shall notify Seller in writing of any objections to title and Survey, or the objections shall be deemed waived. If any objections are so made, the Seller may be allowed until the Closing Date to cure such objections and make the title to the Property good and marketable of record in Seller. Notwithstanding the foregoing, Seller shall have no obligation to cure any title objections. If a timely objection has been made by Buyer pursuant to this Section and such objection remains uncured by the Seller on the Closing Date, Buyer, as its sole and exclusive remedy, may either: (A) terminate this Agreement by giving written notice to the Seller; or (B) elect to accept the title in its unmarketable condition and without reduction of the Purchase Price by giving written notice to the Seller.

7. Conveyance Subject to Right of Re-entry. The Seller's conveyance of the Property to the Buyer pursuant to this Agreement shall be made in the form of a quit claim deed (the "**Deed**"), in substantially the form set forth in **Exhibit A**. The Deed shall include a right of re-entry for breach of a condition subsequent in favor of the Seller (the "**Right of Re-entry**"). The condition subsequent is that the Buyer shall have commenced construction of the foundation of the Development within 12 months of the Closing Date. If Buyer breaches such condition subsequent, the Buyer shall re-convey the Property back to the Seller, subject to matters then of record. If the Buyer fails to re-convey the Property to the Seller, the Seller may elect to exercise its right of reentry by commencing an action in Hennepin County District Court to establish the breach of the condition subsequent. If the Seller establishes a breach of the condition subsequent, title to and the right to possession of the Property and title to all improvements located thereon reverts to the Seller, and the Buyer is not entitled to any compensation from the Seller for the Property or the value of any improvements the Buyer has made to the Property. The Buyer must

record any certificate of completion or certificate of release of the Right of Re-entry in the proper County land records at its expense.

8. Contingencies.

- a. Buyer's Contingencies. The Buyer's obligation to purchase the Property shall be contingent on the following:
 - i. By the end of the Due Diligence Period, the Buyer shall have determined, in its sole and absolute discretion, that it is satisfied with the results and matters disclosed by the Buyer's investigation of the Property pursuant to Section 4 of this Agreement.
 - ii. By the Closing Date, the Buyer shall have obtained, or caused to be obtained, in a timely manner, all required permits, licenses and approvals, including without limitation zoning and land use approvals, and all other approvals which must be obtained for the Development.
 - iii. By the Closing Date, the Buyer shall have obtained approval from the Seller, following a duly noticed public hearing and the satisfaction of all other conditions required by Minnesota law, of assistance in the forms of both the TIF Note and the Pooled TIF Reimbursement.
 - iv. By the Closing Date, the Buyer shall have obtained all necessary financing for the Development.
 - v. By the Closing Date, the condition of title shall be satisfactory to the Buyer following the Buyer's examination of title as provided herein.
- b. The contingencies set forth above are for the benefit of the Buyer and may be waived by the Buyer in the Buyer's sole discretion. Notwithstanding any other provision in this Agreement, a waiver of a contingency must be in writing to be effective. At the end of the Due Diligence Period, the Buyer will give written notice to the Seller of the contingencies that have been waived, satisfied, or neither waived nor satisfied.
- c. Seller's Contingencies. The Seller's obligation to convey the Property shall be contingent on the following:
 - i. By the Closing Date, the Buyer shall have obtained, or cause to be obtained, in a timely manner and at its sole and absolute expense, all required permits, licenses and approvals, and shall have met, in a timely manner, all requirements of all applicable local, state, and federal laws and regulations which must be obtained or met for the Development including without limitation a building permit, any needed variances, final plat or subdivision approval, and zoning and land use approvals;

- ii. The Buyer shall have obtained approval from the Seller of the sale of the Property pursuant to this Agreement subject to and in accordance with Minnesota Statutes, Section 469.105 and following the satisfaction of all other conditions required by Minnesota law;
- iii. By the Closing Date, the Buyer shall have obtained approval from the Seller, following satisfaction of all conditions required by Minnesota law, of the tax increment assistance in accordance with the Development Assistance Agreement;
- iv. The Buyer and the Seller shall have negotiated and mutually agreed to, the Board of Commissioners of the EDA shall have approved following the satisfaction of all conditions required by Minnesota law, and the Seller and the Buyer shall have executed, effective not later than the Closing Date, a Development Assistance Agreement (the “**Development Assistance Agreement**”), providing, among other things, for (i) the site plan; (ii) the construction of the Development by the Buyer in accordance with plans, specifications and a timeline approved by the Seller, and (iii) the tax increment assistance to reimburse the Buyer for a portion of the costs of constructing the proposed Development on the Property in the amount determined in accordance with applicable law, (iv) the terms and conditions of a minimum assessment agreement and a declaration of restrictive covenants related to income qualified tenants of the Development; and any documents ancillary thereto (collectively, the “**Development Documents**”);
- v. Buyer shall have performed all of the obligations required to be performed by the Buyer under this Agreement or the Development Documents as of the Closing Date and any further contingencies to Closing set forth in such Development Documents shall have been satisfied as provided therein, including without limitation execution and delivery of all Development Documents;
- vi. Buyer shall have delivered to the Seller all of the Buyer’s Documents described in Section 14.
- vii. The Buyer shall have submitted the construction plans for the Development to the Seller and the City, and the Seller and the City shall have approved the construction plans pursuant to the Development Documents;
- viii. By the Closing Date, the Buyer shall have obtained and provided to the Seller evidence of all necessary financing for the Development; and
- ix. The Seller shall have determined that the Development to be undertaken by the Buyer on the Property is in conformance with this Agreement

and the development objectives set forth in resolutions of the Seller authorizing the Development Documents.

- d. The contingencies set forth in Section 8(c) are for the benefit of the Seller and may be waived only by the Seller in its sole and absolute discretion. Notwithstanding any other provision in this Agreement, a waiver of a contingency must be in writing to be effective. At the end of the Due Diligence Period, the Seller will give written notice to the Buyer of the contingencies that have been waived, satisfied, or neither waived nor satisfied.
- e. Seller's and Buyer's Options. In the event that any of the foregoing contingencies fail to be satisfied on or before the Closing Date or the end of the Due Diligence Period, as applicable:
 - i. The applicable party may terminate this Agreement, and Buyer and Seller shall execute and deliver to each other documentation effecting the termination of this Agreement and the Seller shall return the Earnest Money to Buyer; or
 - ii. The applicable party may waive such failure and proceed to Closing; provided that the contingencies in Section 8(a) are solely for the benefit of the Buyer and may be waived only by the Buyer as provided in Section 8(b) and the contingencies in Section 8(c) are solely for the benefit of the Seller and may be waived only by the Seller as provided in Section 8(d); or
 - iii. Buyer and the Seller may mutually agree to extend the Closing Date.
- f. If the above contingencies are satisfied at the end of the Due Diligence Period or the applicable party elects to waive any unsatisfied contingencies and proceed to Closing, then the Earnest Money shall become non-refundable to the Buyer except in the event of Seller's default.

9. Real Estate Taxes and Special Assessments. Seller shall not be responsible for the payment of any real estate taxes due or special assessments due with respect to the Property. Buyer shall be responsible for all real estate taxes and special assessments due with respect to the Property.

10. Representations and Warranties of Seller. The Property is sold AS-IS. Except as provided herein, Seller makes no representations or warranties regarding the condition of the Property, its use, or the marketability of its title. Buyer shall be satisfied solely on the basis of its own investigation. Notwithstanding the foregoing, Seller represents and warrants to Buyer:

- a. Unrecorded Agreements. To Seller's knowledge, there are no unrecorded agreements, undertakings or restrictions which affect the Property.
- b. Leases. There are no leases or possessory rights of others regarding the Property.

- c. No Default Notice. Seller has not received notice of a default or breach of any agreement related to the Property, and is not aware of any facts that would result in Seller being in default or breach of any such agreement.
- d. Due Diligence Documents. The Due Diligence Documents delivered or to be delivered to Buyer hereunder are to Seller's actual knowledge correct and complete and, to Seller's actual knowledge, do not contain any false information.
- e. Operations. Seller has received no notice of actual or threatened cancellation or suspension of any utility services at or on the Property, nor has Seller received any notice of any violation of any laws, ordinances or regulations.
- f. Condition. To Seller's actual knowledge, the Property complies with all applicable laws, ordinances, regulations, permits, and any applicable restrictive covenants.
- g. FIRPTA. Seller is not a "foreign person," "foreign partnership," "foreign trust," or "foreign estate," as those terms are defined in Internal Revenue Code Section 1445 and the regulations promulgated thereunder.
- h. No Proceedings. No legal or administrative proceeding is pending or, to Seller's actual knowledge, threatened (i) which would adversely affect Seller's right to convey the Property to Buyer as contemplated in this Agreement, or (ii) affecting the Property. There are no condemnation or eminent domain proceedings pending or, to Seller's knowledge, threatened with respect to the Property.
- i. Private Sewage Systems; Wells. There are no private sewage systems or wells of any kind located on the Property. Sewage generated at the Property goes to a facility permitted by the Minnesota Pollution Control Agency.
- j. Use of Property. To Seller's actual knowledge, no methamphetamine production has occurred on the Property.
- k. Unpaid Labor and Materials. Seller is not indebted for labor or material that might give rise to the filing of notice of mechanic's lien against any portion of the Property.
- l. Approval of Sale. Prior to Closing, Seller will take all applicable action to seek approval of the sale of the Property to the Buyer pursuant to the terms of this Agreement, including without limitation consideration of approval of this Agreement by the Board of Commissioners of the Seller subject to and in accordance with Minnesota Statutes, Section 469.105 and following the satisfaction of all other conditions required by Minnesota law.
- m. Current Conditions. Seller shall maintain the Property in its present condition, ordinary wear and tear excepted. To the actual knowledge of the undersigned

Executive Director of the Seller there are no conditions that are protected by federal or state law (such as American Indian burial grounds, other human burial grounds, historical structures or materials, or archeological sites).

- n. The obligations of Buyer under this Agreement are contingent upon the representations and warranties of Seller contained in this Agreement being true as of the Effective Date and on the Closing Date as if made on the Closing Date. Each of the foregoing representations and warranties shall be deemed remade as of the Closing Date and, as so remade, shall survive the Closing.

11. Due Diligence Documents. Within 30 days after the Effective Date, Seller shall deliver to Buyer copies of the documents set forth on **Exhibit B** attached hereto and incorporated herein (the “**Due Diligence Documents**”).

12. Closing Costs.

- a. The Buyer shall pay all costs of the preparation of a title commitment, including the abstracting fees, if required by the title company and all recording fees and charges related to the filing of any instrument required to make title marketable. The Buyer shall also pay the cost of obtaining any title evidence desired by Buyer, including a title commitment, the fees for standard searches with respect to the Seller and the Property, all premiums required for issuance of a title insurance policy any survey costs and all Closing fees charged by the title company and any escrow fees charged by any escrow agent engaged by the parties in connection with this Agreement.
- b. Buyer shall also pay the following costs: (1) all costs for obtaining government approvals that may be required in order to close on the Property or as required for the Buyer’s intended use of the Property; (2) the cost of preparation of any necessary platting or other subdivision documents, (3) the filing fee to record the deed, (4) the premium for any owner’s or lender’s title insurance policies obtained by or for the benefit of Buyer, (5) Mortgage Registration Tax, (6) any state deed tax, conservation fee or other federal, state or local documentary or revenue stamps or transfer tax with respect to the Deed to be delivered by the Sellers; recording fees and charges related to the filing of the Deed; (7) Buyer’s attorney’s fees; (8) the Seller’s reasonable legal, accounting fees and other out of pocket costs incurred in connection with this Agreement and the Development Documents as further provided in the Development Documents; and (9) all other costs as outlined in the Development Documents entered into between the Parties.

13. Seller’s Closing Documents. At Closing, Seller shall execute and deliver to Buyer the following documents (collectively, the “**Seller’s Closing Documents**”):

- a. A Quit Claim Deed conveying the Property to Buyer.

- b. A closing statement prepared by the Title Company to be executed by Seller, Buyer, and the Title Company at the Closing that accurately describes the economic terms of the transaction described this Agreement.
- c. An Assignment of any Due Diligence Documents that are consented to and approved by Buyer, and miscellaneous documents conveying Seller's interest to Buyer together with the consent of all parties having a right to consent to such Assignment.
- d. A non-foreign affidavit, properly executed, containing such information as is required by Code Section 1445(b)(2) and the regulations promulgated thereunder.
- e. Any executed documents that may be required in the State of Minnesota in order for the deed to be recorded on the Closing Date.
- f. An affidavit of title with respect to the Property in a form satisfactory to the Title Company so as to enable the Title Company to remove standard title insurance exceptions that can be removed with such affidavit.
- g. Such other documents as may be required to complete the transaction as set forth in this Agreement.

14. Documents to be Delivered by the Buyer. The Buyer agrees to deliver to the Seller the following documents (the "**Buyer's Documents**"), duly executed as appropriate, at Closing:

- a. Such affidavits of Buyer, Certificates of Value or other documents as may be reasonably required in order to complete the transaction contemplated by this Agreement.
- b. Any documentary evidence required to satisfy the contingencies set forth herein.
- c. The Development Assistance Agreement and any documents required pursuant to the terms of the Development Documents.
- d. Such other documents as shall be required to carry out the intent of this Agreement.

15. Casualty or Condemnation. If before the recording of the Deed any of the improvements on the Property are destroyed or substantially damaged by fire or any other casualty or any substantial part of the Property shall be taken by condemnation (including a deed given in lieu thereof), Buyer shall have the option of (i) enforcing this Agreement (and in such event the insurance proceeds or condemnation award shall belong to Buyer) or (ii) canceling the Agreement by written notice given within 30 days after Buyer receives notice of such casualty or condemnation from Seller. If this Agreement is canceled under this Section, the Earnest Money shall be returned to Buyer, this Agreement shall be null and void, and the Parties' obligations hereunder shall be of no further force and effect.

16. Remedies. If either Party defaults under this Agreement, the non-defaulting party shall have the right to terminate this Agreement by giving written notice to the defaulting party. If the defaulting party fails to cure such default within 14 days of the date of such written notice, this Agreement will terminate. The termination of this Agreement shall be the sole and absolute remedy available to the non-defaulting Party for such default.

17. Commissions. Each party represents that it has not engaged any broker in connection with the transactions contemplated by this Agreement and agrees to indemnify and hold the other harmless from anyone claiming a commission/fee through them.

18. Notices. Any notices required herein shall be deemed given when sent in the U.S. Mail, either registered or certified, return receipt requested, or by Federal Express or other overnight delivery service requiring a signature upon receipt, to the parties at the following addresses:

SELLER: Brooklyn Park Economic Development Authority
5200 85th Avenue North
Brooklyn Park, MN 55443
Attn: Executive Director

With a copy to: Jenny Boulton
Kennedy and Graven, Chartered
Fifth Street Towers
150 South Fifth Street, Suite 700
Minneapolis, MN 55402

BUYER VILLAGE CREEK RESERVES, LLC
2205 Golden Valley Road
Minneapolis, MN 55411
Attn: Devean George

19. Survival. All representations, warranties, and indemnities set forth herein shall survive the Closing, except as otherwise provided herein.

20. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

21. Assignment. Buyer shall have the right to assign its interest to this Agreement to an entity in which Buyer has an ownership interest, is a member or is otherwise affiliated with. The consent of the Seller shall be required if Buyer assigns this Agreement to any third party with which Buyer has no connection.

22. Binding Effect. This Agreement is binding upon the Parties and their respective permitted successors and assigns.

23. Construction. This Agreement shall not be construed more strictly against one Party than the other, merely by virtue of the fact that it may have been prepared primarily by counsel for one of the Parties, it being recognized that both Buyer and Seller have contributed substantially and materially to the preparation of this Agreement.

24. Headings. The headings preceding the text of the sections and subsections hereof are inserted solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

25. Severability. The invalidity or unenforceability of any term or terms of this Agreement shall not invalidate, make unenforceable or otherwise affect any other term of this Agreement, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted, and in such event, the remaining terms of this Agreement shall remain in full force and effect.

26. Computation of Time. In computing any period of time pursuant to this Agreement, the day of the act or event from which the designated period of time begins to run will not be included. The last day of the period so computed will be included, unless it is a Saturday, Sunday or federal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or federal holiday.

27. Time of the Essence. All times, wherever specified herein for the performance by Seller or Buyer of their respective obligations hereunder, are of the essence of this Agreement.

28. 1031 Exchange Cooperation. At Buyer's request, Seller shall cooperate with Buyer in effectuating a tax-deferred exchange under Section 1031 of the Internal Revenue Code and related regulations; provided, however, that the Closing shall not be delayed and Seller shall incur no greater expense or liability in connection with the transactions contemplated under this Agreement than Seller would have incurred without said exchange. Seller shall execute all documents reasonably requested by Buyer or any "Qualified Intermediary" as that term is defined by Internal Revenue Service Regulations, Rev. Proc. 2000-12, 2000-4 I.R.B. 387, to effectuate said exchange.

29. Complete Agreement. This instrument and any exhibits, schedules or addendums attached hereto contain the entire Agreement of the Parties regarding the subject matter hereof, and supersedes all prior negotiations, agreements or understandings, whether oral or in writing. This Agreement may not be changed orally but only by an Agreement in writing signed by the Parties.

30. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute an original but all of which, taken together, shall constitute but one and the same instrument.

IN WITNESS WHEREOF, said Parties hereby execute this Purchase Agreement effective the date first above written.

SELLER:

BROOKLYN PARK ECONOMIC
DEVELOPMENT AUTHORITY

By: _____
Its Executive Director

BUYER:

VILLAGE CREEK RESERVES, LLC

By: _____
Its: _____

QUIT CLAIM DEED

DATE: _____, 2023

together with all hereditaments and appurtenances and subject to the Right of Re-Entry for Breach of Condition Subsequent in favor of Grantor which is described on **Exhibit A**.

Check applicable box:

- ☐ The Seller certifies that the Seller does not know of any wells on the described property.
- ☐ A well disclosure certificate accompanies this document (If electronically filed, insert WDC number: _____).
- ☐ I am familiar with the property described in this instrument and I certify that the status and number of wells on the described real property have not changed since the last previously filed well disclosure certificate.

BROOKLYN PARK ECONOMIC DEVELOPMENT
AUTHORITY

By: _____

Its: Executive DirectorState of Minnesota, County of HENNEPIN

This instrument was acknowledged before me on _____, 2023 by _____, as Executive Director, of the Brooklyn Park Economic Development Authority, a body corporate and politic organized and existing under the laws of the State of Minnesota, on behalf of the body corporate and politic.

*Notary Public*THIS INSTRUMENT WAS DRAFTED BY:
(insert name and address)

Kennedy & Graven, Chartered (JSB)
470 U.S. Bank Plaza
200 South 6th Street
Minneapolis, MN 55402

TAX STATEMENTS FOR THE REAL PROPERTY
DESCRIBED IN THIS INSTRUMENT SHOULD BE
SENT TO:
*(insert name and address of Grantee to whom tax
statements should be sent)*

VILLAGE CREEK RESERVES, LLC
Attn: _____
2205 Golden Valley Rd.
Minneapolis, MN 55411

EXHIBIT A

TO QUIT CLAIM DEED
EXECUTED BYTHE BROOKLYN PARK ECONOMIC DEVELOPMENT AUTHORITY, GRANTOR,
IN FAVOR OF VILLAGE CREEK RESERVES, LLC, GRANTEE.

The BROOKLYN PARK ECONOMIC DEVELOPMENT AUTHORITY, Grantor, is conveying the property described in the attached Quit Claim Deed (the “Development Property”) to VILLAGE CREEK RESERVES, LLC, Grantee, subject to a right of re-entry for breach of conditions subsequent in favor of Grantor. The condition subsequent is that, barring any Unavoidable Delays, the Grantee shall have commenced construction of the foundation of the Project, as defined in that certain Development Assistance Agreement between the Grantor and Grantee dated as of _____, 2023 (the “Development Assistance Agreement”), within twelve (12) months of the Closing Date. If Grantee breaches a condition subsequent, Grantee shall re-convey the Development Property back to Grantor. If Grantee fails to re-convey the Development Property to the Grantor, Grantor may elect to exercise its right of reentry by commencing an action in Hennepin County District Court to establish the breach of the condition subsequent. If Grantor establishes a breach of the condition subsequent, title to and the right to possession of the Development Property, and title to all improvements located thereon reverts to Grantor, and Grantee is not entitled to any compensation from Grantor for the value of any improvements Grantee has made to the Development Property.

The Certificate of Completion issued under the Development Assistance Agreement shall conclusively satisfy and terminate the right of re-entry of the Grantor in this Quit Claim Deed or pursuant to the Development Assistance Agreement.

EXHIBIT B**Due Diligence Documents**

Copies of the following in Seller's possession and related to the Property:

1. Copies of real estate tax bills and special assessments (if any), and payment status for the preceding three (3) full calendar years;
2. Statements of any and all expenses related to the Property for the preceding three (3) full calendar years;
3. Copies of all agreements affecting the Property, including any assignable warranties;
4. All studies and reports in the possession of Seller relating to environmental status, soil tests, and any other information regarding the environmental and soil conditions;
5. Copies of all written citations from any governmental entities including those pertaining to any uncured violations of any applicable laws and codes or compliance with the same;
6. All site plans, construction documents, engineer reports, and property assessments performed to date;
7. Any existing surveys of the Property;
8. All certificates of insurance relating to the Property and claims made in the last three years; and
9. Copies of any documents regarding any flooding of the Property.

Village Creek Apartments Location

2/14/2022



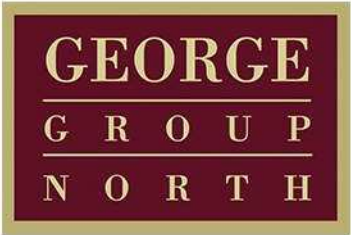
Map Scale = 1: 1,187

99 ft ————— 1 in

Map provided by the City of Brooklyn Park, MN. This map is for general reference only. It is not for legal, engineering, or surveying use. Please contact the sources of the information if you desire more details. www.brooklynpark.org

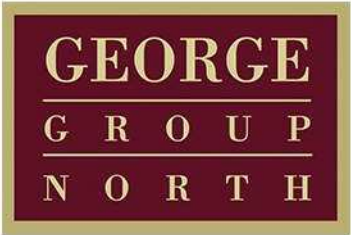


view looking west from Welcome Ave & Brooklyn Blvd.



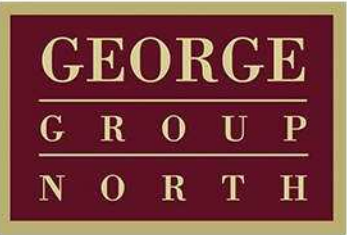


view looking west from Welcome Ave & Brooklyn Blvd.



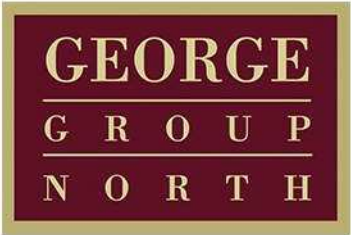


view looking west from Welcome Ave & Brooklyn Blvd.





view looking west from Welcome Ave & Brooklyn Blvd.





view looking west from Welcome Ave & Brooklyn Blvd.





view looking southwest from Welcome Ave & Brooklyn Blvd.



City of Brooklyn Park Request for EDA Action

Agenda Item:	6.2	Meeting Date:	June 20, 2023
Agenda Section:	General Action Items	Prepared By:	Sarah Abe, Development Project Coordinator
Resolution:	X	Presented By:	Sarah Abe, Development Project Coordinator
Attachments:	2		
Item:	Approving the Engagement Policy for Development Projects on Land Owned by the Economic Development Authority		

Executive Director's Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT RESOLUTION #2023-_____ RESOLUTION APPROVING THE ENGAGEMENT POLICY FOR DEVELOPMENT PROJECTS ON LAND OWNED BY THE ECONOMIC DEVELOPMENT AUTHORITY.

Overview:

At its March 20 meeting, the Brooklyn Park Economic Development Authority (EDA) passed a resolution that included direction to staff to propose an approach to neighborhood and community-wide engagement to bring community voice into the decision-making process regarding EDA-owned properties. The proposed policy is presented below.

Background:

The EDA has historically used various methods of community engagement for EDA-owned sites, including small area planning processes, neighborhood meetings, mailings, and online communications to collect input on projects from neighbors and community members. In spring of 2022, staff developed community engagement guidelines for all development in the city. That proposed community engagement approach has been revised into a new policy for consideration and identifies a comprehensive list of engagement strategies as well as establishes a planning template for use on future projects on EDA-owned properties.

Primary Issues/Alternatives to Consider:

• What is the proposed policy?

This policy includes a Community Engagement Plan (included as an attachment) template to be completed for each project. Project-specific considerations to be contemplated before beginning engagement include land use regulations, previous engagement for that location, the impact of the project, timeline, and key questions for community. The policy involves three steps: 1) completing the Community Engagement Plan template, 2) implementing identified activities, and 3) selecting a developer. In some cases, developer selection may take place before or in the middle of implementation of activities.

There are a wide range of approaches that can be used to collect input on any given site. Because each neighborhood, each site, and each project is different, this document allows some flexibility to tailor outreach based on the project needs. Approaches that may be used are:

- Corridor Development Initiative process run by LISC – Twin Cities (Local Initiatives Support Corporation) or another consultant
- Predevelopment planning funded by an LCDA pre-development grant process
- A small area or corridor plan process
- Community charette exercise

- Neighborhood meeting
- Online feedback
- A community review of a Request for Qualifications/Proposals

Budgetary/Fiscal Issues:

The EDA may need to financially support community engagement activities at EDA-owned sites, depending on the size and scale of the effort.

Next Steps:

Should the EDA approve this policy, it will go into effect for future projects on EDA-owned property.

Recommendation:

The Executive Director of the EDA recommends approval.

Attachments:

- 6.2A RESOLUTION
- 6.2B COMMUNITY ENGAGEMENT POLICY

THE BROOKLYN PARK ECONOMIC DEVELOPMENT AUTHORITY
OF THE CITY OF BROOKLYN PARK

RESOLUTION #2023-_____

RESOLUTION APPROVING THE ENGAGEMENT POLICY FOR DEVELOPMENT PROJECTS
ON LAND OWNED BY THE ECONOMIC DEVELOPMENT AUTHORITY

WHEREAS, on March 20, the Brooklyn Park Economic Development Authority (EDA) passed a resolution directing staff to propose an approach to neighborhood and community-wide engagement to bring community voice into the decision-making process; and

WHEREAS, the EDA recognizes and supports a variety of strategies that can be used to accomplish the above goals; and

WHEREAS, the EDA approves the community engagement policy as presented to the EDA.

NOW, THEREFORE, BE IT RESOLVED by the Brooklyn Park Economic Development Authority Board of Commissioners as follows:

1. The EDA directs staff to implement the community engagement approach for development projects on EDA owned land.

POLICY

DEVELOPMENT PROJECTS ON EDA-OWNED LAND (EARLY ENGAGEMENT)

Overview:

Where there are development projects on land owned by the Brooklyn Park Economic Development Authority (EDA), the EDA typically leads the project as the landowner and/or sells the land for a specific type of development. The intent on these sites is to engage with community members in a proactive way before development is proposed as well as during the development approval process. Because each neighborhood and site is different, there are a variety of strategies available to the EDA during the engagement process.

Steps:

The engagement approach on EDA-owned sites includes the following steps:

1. **Complete the attached Community Engagement Plan template for each project.** Identify goals, stakeholders, previous planning guidance, and the appropriate level of engagement on the IAP2 spectrum for the stakeholders and the site.
2. **Implement the community engagement and planning activities.** Some examples that could be considered are:
 - Corridor Development Initiative process run by LISC – Twin Cities (Local Initiatives Support Corporation) or another consultant. This is a series of workshops that may include a block exercise, developer panel, and more activities to identify goals and guiding principles for development on a site. This process was used for the former Park and Ride site at 4201 95th Ave N in 2021/2022, the Tessman Ridge project on NHCC land in 2017, and the Regent site in 2008.
 - Predevelopment planning funded by an LCDA pre-development grant process. Predevelopment activities such as community engagement, soil testing, site design and phasing planning, financial feasibility analysis, and more can be funded in part by the Metropolitan Council. This was used for the Small Business Center in 2019/2020 and both the Regent site and the EDA-owned properties on the southwest corner of Zane Ave and Brooklyn Blvd in 2022.
 - A small area or corridor plan process.
 - Community charette exercise.
 - Neighborhood meeting. When there are directly-adjacent neighbors, the EDA or the developer, if selected, may host a neighborhood meeting to get feedback on the project site plan to ensure compatibility with adjacent properties.
 - Online feedback. In some cases, the EDA or a developer may publish information about the site online and seek feedback via an online feedback form. A webpage can also be used as a tool to update interested stakeholders.
 - A community review of a Request for Qualifications/Proposals. Staff may draft an RFQ/RFQ for review by community stakeholders, which could include participants in the previous community engagement process or additional neighborhood groups such as an adjacent Homeowners Association (HOA). Various stakeholders will be identified in the engagement planning process in step 1.

3. **Select a development partner, if applicable.** A decision to select a development partner will be made by the EDA. This step may also occur prior to or during the engagement steps identified above in order to utilize the developer's skills and expertise to complete the necessary engagement. In some cases, a developer may already be selected.

Attachment A: Community Engagement Plan template

Title of Project
Community Engagement Plan

**Background Info:**

What is the project about? Where is it? What do we need to do engagement about?

[BP2025 goal\(s\)](#) or other city goals addressed:

Previous history/community engagement conducted:

Planning guidance for this site:

Identify stakeholders (e.g. neighbors/neighborhood groups, nonprofits, businesses, etc.):

Racial Equity Tool analysis:

What data do we already have and what are the demographics of those we've already engaged?

Who will benefit? Who may be burdened?

What can be done to address impacts to BIPOC communities?

How will you report back to the community members you engage?

IAP2 Level of Public Participation (Does not have to include all levels and can be different for each stakeholder group. The level should increase with projects of greater impact.)

Level	Promise to public	Examples of Techniques	Stakeholder groups
Inform	We will keep you informed	Website, emails, social media, video, mailings, flyering	
Consult	We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision	Online surveys, focus groups, in person surveys, door-knocking	
Involve	We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives	Charettes, community meetings	

Development Projects on EDA-owned land (early engagement)

Adopted by:

Attachment A: Community Engagement Plan template

	developed and provide feedback on how public input influenced the decision	depending on how they're facilitated	
Collaborate	We will look to you for advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible.	Committees, task forces, advisory groups	
Empower	We will implement what you decide.	Often the City Council/EDA	

Rationale for IAP2 level

Why are you choosing this level of engagement?

Primary point of contact:

Key questions for community:

1. **Communications Plan:**

How will you inform community members about the project, solicit their feedback and communicate back with them how their input was used?

Goals:

Materials needed:

Tactics:

Timeline:

*Make sure to use the city's language and accessibility block

Development Projects on EDA-owned land (early engagement)

Adopted by:



MEMORANDUM

DATE: June 15, 2023

TO: EDA Commissioners

FROM: Kim Berggren, EDA Executive Director
Breanne Rothstein, Economic Development and Housing Director

SUBJECT: Status Update

Overview:

This memo provides an update to the Brooklyn Park Economic Development Authority (EDA) and serves to keep interested community members informed. The EDA's housing-related work is summarized in a separate memo.

BUSINESS DEVELOPMENT

Brooklyn Park Development Corporation

The Brooklyn Park Development Corporation will be holding its Annual meeting June 14th with its new Board Members. Staff will be highlighting the impact on Brooklyn Park businesses over the last year while bringing to the board for approval an updated Small Business Micro Loan Program. The updated loan program will focus on providing both financial and technical resources in partnership with Hennepin County's technical resource platform, Elevate Hennepin.

Brooklyn Park Business Council

On May 15th, the EDA approved entering into a new contract with Metro North Chamber of Commerce to maintain the development of the Brooklyn Park Business Council. With a continued partnership, the Business Council will have its next meeting June 27, 2023, 7:30 a.m. at Rasmussen University, featuring public safety updates from Brooklyn Park Police Chief, Mark Bruley.

Brooklyn Park Small Business Center

The EDA is nearing completion of its investment in a Small Business Center at 7970 Brooklyn Boulevard within Northwind Plaza. The small business center is designed as a coworking and incubator space that fosters collaboration and growth in a space that provides a full suite of services at competitive pricing. City staff recently toured the facility and shared their ideas on the new space, and its vision for the community as an affordable, flexible, and accessible space designed for the growth and development of Brooklyn Park business owners. To accomplish this, Brooklyn Park has partnered with Elevate Hennepin to provide technical assistance within the center, utilizing the various Business Navigators within their network.



BW Flexible Systems Grand Opening

On Tuesday, May 30, BW Flexible Systems held a grand opening and ribbon cutting ceremony for its facility at 9360 West Broadway Avenue, Suite 100. The event included remarks by Barry-Wehmiller president Kyle Chapman, BW Flexible Systems site leader Nikki Benson, and Brooklyn Park Mayor Hollies Winston. The remarks were followed by a tour of the facility. City Council Member Nichole Klonowski and Community Development Director Kim Berggren were also in attendance.



WORKFORCE DEVELOPMENT

BrookLynk

On May 26th program staff coordinated and delivered the annual BrookLynk Supervisor Training. This training event is recommended for new and returning BrookLynk supervisors, employer partners, or anyone from BrookLynk's employer partner organizations who may work directly or indirectly with interns over the summer. During the training attendees had the opportunity to learn more about BrookLynk, heard from a panel of program alumni and seasoned supervisors, and engaged in an interactive workshop. This year's workshop topic was "Building Capacity: Adaptive Supervision, Workplace Culture, & Identity" facilitated by Kayla Richards, MSW, LGSW.

This year also marked the first year that BrookLynk's Supervisor Training was co-designed in partnership with Step Up at the City of Minneapolis and Right Track in Ramsey County. This collaborative approach to training youth internship supervisors is an emerging effort to develop and enhance our regions network of youth workforce development partners and to equip supervisors, and employees with the tools to decrease bias, challenge assumptions, and help others, specifically youth Black Indigenous Person of Color (BIPOC) workers, to feel valued in the workplace.

We invite anyone who is interested to view the 2023 BrookLynk Supervisor Training on the BrookLynk YouTube page: <https://www.youtube.com/watch?v=XVJAKhM6vyU>.

Career Pathways

The Brooklyn Park Operations & Maintenance and Brooklyn Center Public Works departments partnered with the two cities joint Workforce Development Division to launch a Construction & Trades Career Pathways Program that provides industry training and seasonal job opportunities to local talent ages 18+.

In April the Construction & Trades Career Pathways Program officially launched offering a two-week training cohort with OSHA 30 certification and small engines training. We are excited to share that in its first year 10 participants (6 from Brooklyn Park, **3 from Brooklyn Center**, and 1 from North Minneapolis) successfully completed the training program. Additionally, 3 of the participants that completed the training program (**1 from Brooklyn Center** & 2 from Brooklyn Park) were hired into seasonal public works positions at the City of Brooklyn Park.

This Construction & Trades Career Pathways Program is a partnership between MnDOT, The City of Brooklyn Park and The City of Brooklyn Center to develop a workforce pipeline for the 252/I94 Construction Project. This program is funded with ARPA funds from Brooklyn Park and Brooklyn Center and a MnDOT grant. Based on the success of this pilot program MnDOT will be extending funding through 2024 for the cities to offer a second year of programming.



Youth Entrepreneurship Program (YEP)

On June 10th the Youth Entrepreneurship Program (YEP) ended the program year with its 2nd Annual Youth Shark Tank hosted in the City of Brooklyn Park's Council Chambers. Nine youth presented their individual business plans to a panel of "Sharks" that included YEP alumni Kayvon Raza, Mayor Hollies Winston, Council Member Maria Tran, and local entrepreneur/fashion designer Mohammed Malim. Each of the youth that competed received a \$1500 start-up grant to help them launch their business.

The YEP program is designed and delivered in partnership with Zanewood Community Center and the City of Brooklyn Center to engage youth ages 16-24 with interest in business and entrepreneurship who face barriers to employment and aligns with the City's United/Public Safety framework. In addition to the Shark Tank event, youth from the community attended weekly workshops coordinated by city staff Tashawna Williams, Maddie Hurst, Naweed Ahmadzai, and Cara Luebke and weekly workshops were facilitated by local business owners Dante Williams and Ose Sesay. During the 2023 program year YEP successfully engaged 86 youth from August 1, 2022 to June 10, 2023.

Congratulations to the nine youth entrepreneurs that attended this year's Shark Tank and all the youth that participated in the program this year. Thank you to Mayor Winston, Council Member Tran, Brooklyn Center City Council, and Brooklyn Park Economic Development Authority for your support and participation this year. We look forward to another successful program year in 2024.



OTHER

Former Park & Ride Site

At its May work session, the EDA approved a community engagement plan involving two workshops regarding the site design for the site at 4201 95th Avenue North. The workshops have been scheduled for June 27 and July 10 from 6:30 p.m. to 8:00 p.m. in Brooklyn Park City Council Chambers. Results of the workshops and next steps are anticipated to be brought to the EDA for consideration in August.

Summer Blossom Awards Program

The Summer Blossom Awards Program nominations will be held from May 15 through July 14. The program is designed to highlight attractive gardens, landscaping, and storm water retrofitting in Brooklyn Park. This competitive program annually recognizes and rewards residents and businesses that strive to improve the City's landscape and attractiveness. There are four categories: single family, townhome, neighborhood, and commercial. Each category will be judged city-wide except for single family. Nominations for single family will be divided into four districts. The districts are established by grouping areas of the city with similar sized lots and housing types.

Grand winners in each category will receive **\$400** toward materials, an **engraved garden paver**, and **formal recognition** from the Brooklyn Park City Council. First Place winners in each single-

family district (1, 2, 3 and 4) will receive **\$100** toward materials, an engraved garden paver, as well as formal recognition from the Brooklyn Park City Council.

<https://www.brooklynpark.org/neighborhoods/summer-blossom/>

Minneapolis Northwest Tourism Board

The board is meeting at their quarterly meeting on June 14 and it is expected that the board will receive a full update on the 2023 work plan. Progress has stalled on the CEO search and inquiries about its status have been made to the chair of the committee as well as the chair of the board.

Other Development Projects Currently Underway:

- Former Park & Ride site at 4201 95th Avenue North – On March 20, the EDA approved a resolution directing staff to work with MVP, Design by Melo and Good Neighborhood Homes to see if the proposal can be modified to bring additional market value to the site, serve a mix of incomes, and introduce high quality and well-designed buildings. After an initial discussion with the EDA on May 22, the development team is planning community workshops on June 27 and July 10.
- Christina's Day Care – The land use application for this project was approved by the City Council on October 24 and the purchase and business subsidy agreement was approved by the EDA on November 21, 2022. Christina's is working to secure final financing and begin construction in 2023.
- Predevelopment projects funded by the Metropolitan Council Livable Communities Demonstration Account (LCDA) grants, including:
 - Zane Commons (7701 Brooklyn Boulevard) – Zane Commons is updating its proforma and held a first community engagement event at the site on Saturday, March 11. The consulting team is working on an updated site plan and proforma for consideration to the EDA.
 - 7495 Brooklyn Boulevard – Staff are continuing planning and discussions with JO Companies on the regent site as directed by the EDA in the resolution approved on March 20.
 - The Villas – Cross Inc. has successfully acquired five of the six properties located at 5672-5692 Brookdale Drive North. Visioning, architectural design with Design by Melo, and financial planning with NEOO partners is currently underway with community engagement at the front and center of the process.

Attachments: N/A



MEMORANDUM

DATE: June 15, 2023

TO: EDA Commissioners

FROM: Kim Berggren, Executive Director
Breanne Rothstein, Economic Development and Housing Director

SUBJECT: Housing Update

Overview:

This memo provides an update to the Economic Development Authority (EDA) on housing-related items that include the multifamily annual rental survey and the homeowners' financial programs expenditure in the past year. In addition to updating the EDA, this memo serves to keep interested community members informed of this work.

COVID-19 HOUSING UPDATES

Housing Omnibus Bill

The Housing Omnibus Bill was an historic investment in housing with an approved \$1 billion in one-time funding, \$50 million additional on-going, and a nearly \$400 million a year in the 7-county metro.

The \$1 billion is a direct appropriation to Minnesota Housing, making its FY24-25 budget 850% greater than its current base budget. This biennium, Minnesota Housing will have over \$600 million in direct state appropriations to produce and preserve more single-family homes, manufactured home parks/cooperatives, and multifamily rental homes. Minnesota Housing will have more than \$450 million in resources such as rental assistance, homebuyer counseling and financial assistance.

Additionally, the Housing Omnibus bill includes a seven-county metro wide sales tax. The tax will raise nearly \$200 million per year in coming years. These resources will be distributed among metro based public housing authorities and city and county governments. 25 percent of the funds will fund rental assistance, 25 percent of funds will go directly to cities, and 50 percent of the funds will go to counties. Cities and Counties can use these resources for emergency rental assistance, to support nonprofit housing developers, and build and preserve more affordable homes. Also, a \$10 million carve out from the NOAH fund was designated for Huntington Place. In total, these one-time and on-going funding sources creates a significant opportunity for local government to leverage state dollars to add and stabilize affordable housing in Brooklyn Park. Staff will be

tracking opportunities and bringing forward discussions as information is released about each program.

HomeHelpMN

Minnesota homeowners who have experienced a financial hardship due to the COVID-19 pandemic and have past-due housing expenses may be eligible for financial assistance to bring their payments current. Applications for assistance can be submitted online at HomeHelpMN.org or over the phone at 800-388-3226.

HomeHelpMN adopted program changes to expand eligibility. The changes took effect on August 12, 2022:

- The cap on assistance was increased to \$50,000 per household. The prior limit was \$35,000.
- There is no longer a time restriction on past-due expenses. Previously, expenses had to be incurred after January 21, 2020.
- Applicants who were previously denied but are still in need of assistance and meet eligibility criteria may request their case be reopened by calling 800-388-3226.

Applications accepted while funds are available. For applications being processed, the new criteria will be used, and no additional action is needed.

While there is no application deadline, homeowners with past-due expenses are encouraged to apply as soon as possible.

HomeHelpMN prioritizes applications for homeowners at imminent risk of foreclosure and housing displacement and communicates with third-party vendors to establish the vendor as payees and inform them of the homeowner's application for assistance to pay the amounts past due.

Homeowners can apply even if they are in discussions with their mortgage servicer about a loss mitigation workout, are in forbearance, or are in active foreclosure.

For questions about this program, visit the HomeHelpMN web page or call 1-800-388-3226. You can also sign up for e-newsletters from MN Housing.

Home Improvement Loan Programs Update

The EDA administers several housing reinvestment programs that provide financial resources to first time homebuyers, single-family and townhome homeowners in the community. Homeowner programs were redesigned in 2019 to increase the number of residents making improvements to their homes and to provide needed resources for future homebuyers. The redesigned and revamped programs have been a huge success, with funds for multiple programs expended rapidly. About 41 loans amounting to over \$606,000 have been closed beginning this January 2023 to date. These are programs administered in partnership with the Center for Energy and Environment (CEE). The most popular programs are the down payment assistance for the first-time homebuyers, senior deferred loan for seniors and the low interest revolving loan.

NEW HOUSING DEVELOPMENT PROJECTS

Real Estate Equities (Western Portion of 9500 Decatur Drive)

Real Estate Equities (REE) is working to prepare its application to the Minnesota Office of Management and Budget (MMB) for tax exempt bonds in June 2023. If awarded this year, REE aims to proceed with construction of one or both phases this fall. This follows the April 17 EDA approval of two updated term sheets for a 350-unit housing proposal on the western portion of 9500 Decatur Drive. The term sheets, one for each phase, include \$1.45 million in TIF and a \$1 million loan for each building/phase for a total of \$4.9 million in financial request from the EDA. On December 12, 2022, the City Council also voted to support REE's tax-exempt bond application.

REE's proposal includes two phases of workforce housing consisting of 1-bedroom, 2-bedroom, and 3-bedroom apartment homes. This project proposes to use income averaging and have an average affordability to families making 60% of the area median income. Five percent (5%) of the homes, or a total of 18 units, will be restricted to families making no greater than 30% AMI. The total unit mix is 77% 2-bedroom units and above with units of each size at both 30% and 60% AMI. Real Estate Equities received unanimous approval for its land use application at the Planning Commission on Wednesday, March 8, and land use approval from the City Council on April 10. The EDA and City Council have taken several actions in support of this project, including when it was first proposed on the Revive Church property on West Broadway Avenue.

Tessman Ridge (6900 85th Avenue North - NHCC Site)

Tessman Ridge Limited Partnership (the legal entity formed for this project) is intending to close on the property in June and begin construction this summer. The property is currently working on closing its financing and advancing to the construction phase. Previous approvals for this project include:

- Monday, March 20, where the EDA held a public hearing and approved the TIF Plan and TIF Development Agreement with various other legal documents approving financing;
- Monday, March 27, the City Council voted to approve the TIF Plan and authorize creation of a new TIF district;
- October 24, 2022, the City Council approved Duffy Development's land use application for Phase I of this project.

Phase 1 includes 71 units with 8 efficiency, 12 one-bedroom, 32 two-bedroom, 14 three-bedroom and 5 four-bedroom units. Phase I will also include the EDA purchase of the full site from Minnesota State Colleges and Universities (MnSCU), the current property owner, and selling the land for the Phase I development to Duffy.

Phase II will include applying for additional financing and a separate land sale for the remainder of the property at a later date. Duffy is financing both phases of this development with an allocation of Low-Income Housing Tax Credits (LIHTC) from Minnesota Housing, a \$1,185,000 Metropolitan Council Livable Communities Demonstration Account – Transit Oriented Development (LCDA-TOD) grant, Tax Increment Financing (TIF) from the EDA, and other sources. The EDA approved the term sheet to provide TIF and approve the purchase agreement with Minnesota State Colleges and Universities (Minnesota State) and North Hennepin Community College at its meeting on May 17, 2020. The EDA had solicited qualifications for the development of this vacant land in early 2020 and selected Duffy Development at that time.

Village Creek Apartments (7621 Brooklyn Boulevard)

At its meeting on Monday, May 15, the EDA approved a new term sheet with an updated financing structure for this project. In June, the EDA will consider an updated Tax Increment Financing (TIF) agreement. Due to rising interest rates and construction costs, the George Group North has adjusted its financing proposal to utilize tax exempt bonds from MMB and a HUD loan. The design and unit mix have not changed. The goal of the developer is still to begin construction this year using an expedited process for this financing through HUD. The term sheet approved on May 15 included a total of \$2.1 million in assistance, representing a \$1.49 million reduction in the previously approved TIF. Current EDA assistance includes:

- \$370,000 land-write down
- \$900,000 in upfront Tax Increment Financing (TIF) funds (from Housing Set Aside)
- \$830,000 in pay as you go (PAYGO) TIF funds over 15 years from newly created Housing TIF district

Village Creek Apartments is located on EDA-owned land at 7621 Brooklyn Boulevard. The project includes 83 units of mixed-income housing and a 10,000 square foot commercial component. The EDA first considered this project in 2018. The project has since received a Metropolitan Council's Livable Communities Development Account (LCDA) grant to assist with project costs and a Hennepin County Transit Oriented Development (TOD) in fall 2020.

RE-HABILITATION PROJECTS

Huntington Place Apartments

City staff continues to coordinate internally and with representatives from Aeon regarding the current livability at Huntington Place as well as the long-term sustainability of the 834-unit apartment community. Staff from Police, Community Development, Recreation and Parks departments as well as the Community Engagement division (Administration department) are collaborating on actions needed in response to the themes heard from Huntington Place residents over the past many months. Staff provides regular updates via a memo sent to City Council members and other interested parties summarizing recent actions and activities. These memos and other related information are available on the city website at <https://www.brooklynpark.org/city-projects/huntington-place/>.

Stonybrook Housing Improvement Area HIA

The EDA approved \$1.2 million through the Housing Improvement Area (HIA) loan program for Stonybrook Property Owners Association. The funds will be used for the replacement of all the existing roadways and driveways, mill and overlay, restriping, landscaping as well as the installation of new exterior lighting within the Homeowners Association (HOA) as per the current layout. Located at 30084-69484 84th Court North, Stonybrook Townhomes were built in 1970s and consist of 88 buildings with 352 individually owned townhome units. Construction work on the project is currently underway.

OTHER HOUSING NEWS AND UPDATES

There are several sources of data that tell the story of the need for affordable and accessible housing in the region, including:

- Key Facts on Housing 2022 (Minnesota Housing Partnership)
 - <https://mhponline.org/mhp-releases-key-facts-on-housing-2022/>
- Regional Housing Affordability Dashboard (Minneapolis Federal Reserve)
 - <https://minneapolisfed.shinyapps.io/Itasca-Housing-Dashboard/> - Indicators
 - <https://minneapolisfed.shinyapps.io/Itasca-Housing-Dashboard/> - Tracking three key goals for region
- Indicators for an Inclusive Regional Economy (disaggregated by cultural community) (Center for Economic Inclusion)
 - <https://indicators.centerforeconomicinclusion.org/>
- The applications dashboard provides data on the number of homeowners who have submitted financial assistance inquiries through www.homehelpmn.org
 - <https://homehelpmn.org/dashboard/>

Staff Participation in Housing Groups

Staff participates regularly in various regional groups on the topic of housing, including:

- NOAH Working Group hosted by Minnesota Housing and focused on identifying strategies to advance the preservation of affordable housing regionally.
- Anti-displacement Working Group created by the Metro Blue Line Light Rail Transit Extension (BLRT) project office and Hennepin County.
- Housing Collaborative hosted by Twin Cities Local Initiatives Support Corporation (LISC) and focused on education, info sharing, and collaboration among city staff on housing programs and policies.
- Regional Housing Policy Work Group hosted by Urban Land Institute (ULI) Minnesota.
- Government Equitable Development Community of Practice hosted by the Metropolitan Council.

Other Housing Policy Work Currently Underway:

- Research the establishment of a housing trust fund
- Apartment Action Plan 2.0 (2018-present)
- CURA Housing Stability study implementation
- Fair Housing Training

Housing Work Recently Completed:

- CURA Housing Stability Study (2021-2022) – available at <https://www.cura.umn.edu/research/brooklyn-park-housing-project>
- EDA-owned former Park and Ride site at 4201 95th Avenue North (community engagement workshops tentatively scheduled for June 27 and July 10)
- Transitional Housing Facility Rehabilitation (2018-2020)
- Fair Housing Policy (May 2019)
- Mixed-Income Housing Policy (2017)
- Tenant Notification Ordinance (October 2019)
- Autumn Ridge Apartments Rehabilitation Project (2018-2022)
- Homeowner Programs re-vamp (2019)
 - Senior Deferred Loan Program

- Down Payment Assistance Program (tripled investment in 2021)
- Code Correction Loan Program
- Revolving Loan Program
- Rental Rehabilitation Loan Program (for 1-16-unit rental properties. Details available at www.mncee.org/services/financing/brooklynpark/-1) (April 2020)
- Community Engagement and Environmental Sustainability Program (April 2020)
- Affordable Housing Preservation and Development Program (July 2019)
- Brooks Landing and Brook Gardens Rehabilitation Project (2019-2020)
- Park Villa Housing Improvement Area (HIA) Project
- Autumn Ridge Apartments Rehabilitation
- Evergreen Elevator Project (2022)
- Sunrise Court Second HIA Project (2022)

Attachments: N/A