



**REGULAR HOUSING AND REDEVELOPMENT AUTHORITY MEETING
VIRTUAL MEETING HELD VIA WEBEX
DECEMBER 21, 2020
7:00 PM**

Call to Order

Attendance Roll Call

Open Forum: Opportunity to address the HRA on items not on the Agenda; dial phone number 612-861-0651. As you call in, a moderator will assist you.

Approval of the minutes of the Regular Housing and Redevelopment Authority meeting of November 16, 2020.

AGENDA APPROVAL

1. Approval of the Agenda

RESOLUTIONS

2. Consideration of the adoption of a resolution related to the sale of the Henley Apartment portion of the Lyndale Gardens development, approving an Assignment and Assumption Agreement and a Collateral Assignment of the secondary developer Tax Increment Financing Note to the new buyer and their lender.

Staff Report No. 42

3. Consideration of a resolution approving the amendment and/or assignment of documents associated with the Henley II redevelopment project.

Staff Report No. 43

HRA DISCUSSION ITEMS

4. HRA Discussion Items

EXECUTIVE DIRECTOR REPORT

5. Executive Director's Report

CLAIMS

6. Claims
7. Adjournment

Auxiliary aids for individuals with disabilities are available upon request. Requests must be made at least 96 hours in advance to the City Clerk at 612-861-9738.



HOUSING AND REDEVELOPMENT AUTHORITY MEETING MINUTES

Richfield, Minnesota

Regular Meeting

November 16, 2020

CALL TO ORDER

The meeting was called to order by Chair Supple at 7:00 p.m. via Webex.

HRA Members Present: Mary Supple, Chair; Sue Sandahl; Pat Elliott; and Erin Vrieze Daniels.

HRA Members Absent: Maria Regan Gonzalez.

Staff Present: John Stark, Executive Director; Julie Urban, Housing Manager; Melissa Poehlman, Assistant Community Development Director; and LaTonia DuBois, Administrative Assistant.

Others Present: Christopher Willette, Lynk 65, LLC; Ryan Samsa, Lynk 65, LLC; Brian Bachman, Lynk 65, LLC; Adam Seraphine, Penn Investments, LLC; Neal Reardon, Penn Investments, LLC; and HRA Financial Consultant, Rebecca Kurtz; Ehlers.

OPEN FORUM

No Callers.

APPROVAL OF THE MINUTES

M/Sandahl, S/Vrieze Daniels to approve the minutes of the Regular Housing and Redevelopment Authority meeting of October 19, 2020.

Motion carried 4-0

Item #1	APPROVAL OF THE AGENDA
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M/Elliott, S/Sandahl to approve the agenda.

Motion carried 4-0

Item #2	APPROVAL OF THE CONSENT CALENDAR
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Executive Director Stark presented the consent calendar.

- A. Consideration of revisions to the Housing and Redevelopment Authority’s current Subordination Policy, last updated in 2012. (Staff Report No. 36)
- B. Consideration of the adoption of a resolution approving a Subordination Agreement related to the Cedar Point II apartments. (Staff Report No. 37)

RESOLUTION NO. 1375

RESOLUTION APPROVING SUBORDINATION AGREEMENT WITH BRIDGEWATER BANK

- C. Consideration of the adoption of a resolution relating to the closing on the Cedar Point II apartment property. (Staff Report No. 38)

RESOLUTION NO. 1376

RESOLUTION APPROVING CONVEYANCE OF PROPERTY TO CEDAR POINT INVESTMENTS, LLC FOR PLATTING PURPOSES

M/Sandahl, S/Vrieze Daniels to approve the consent calendar.

Motion carried 4-0

Item #3	CONSIDERATION OF ITEMS, IF ANY, REMOVED FROM THE CONSENT CALENDAR
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None.

Item #4	CONSIDER A RESOLUTION APPROVING A CONTRACT FOR PRIVATE DEVELOPMENT WITH LYNK 65, LLC (FORMERLY ENCLAVE DEVELOPMENT, LLC) FOR REDEVELOPMENT OF PROPERTIES AT 65TH STREET AND LYNDAL AVENUE AND AUTHORIZING ISSUANCE OF A TAX INCREMENT LIMITED REVENUE NOTE. (S.R. NO. 39)
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Assistant Community Development Director Poehlman presented staff report No. 39

Commissioner Vrieze Daniels inquired about how relocation is going for current tenants.

Brian Bachman, Lynk 65, LLC; provided updates regarding communications and relocation plans for those tenants interested in relocation and future plans for communications and transitions after HRA and Council approval of the project.

Executive Director Stark mentioned plans to bring the Displaced Business Fund proposal to the Economic Development Authority for approval in January.

Chair Supple inquired about the parking ratio and plans to offer more parking than required.

Brian Bachman explained the goal to offer a higher parking ratio than required.

Assistant Community Development Director Poehlman confirmed that additional street parking would become available in the current designs of the roundabout.

Chair Supple spoke of appreciation of affordable two bedroom units that have been included in the development.

M/Sandahl, S/Elliott to approve a resolution approving a Contract for Private Development with Lynk 65, LLC and authorizing the issuance of a Tax Increment Limited Revenue Note.

Motion carried 4-0

RESOLUTION NO.1377

RESOLUTION APPROVING CONTRACT FOR PRIVATE DEVELOPMENT WITH LYNK 65, LLC AND AUTHORIZING THE ISSUANCE OF A TAX INCREMENT LIMITED REVENUE NOTE

<p>Item #5</p>	<p>CONSIDER THE RESOLUTIONS APPROVING A MODIFICATION TO THE REDEVELOPMENT PLAN AND APPROVAL OF A TAX INCREMENT FINANCING PLAN FOR THE 2020-3 TAX INCREMENT FINANCE DISTRICT: LYNK 65, LLC AND; AUTHORIZING AN INTERNAL LOAN FOR ADVANCE OF CERTAIN COSTS IN CONNECTION WITH THE 2020-3 TAX INCREMENT FINANCE DISTRICT: LYNK 65, LLC. (S.R. NO. 40)</p>
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Assistant Community Development Director Poehlman presented staff report No. 40

M/Vrieze Daniels, S/Sandahl to approve the resolution modifying the redevelopment plan and approval of a Tax Increment Financing District plan for the 2020-3 Tax Increment Finance District: Lynk 65 and authorize an internal loan for advance of certain costs in connection with the 2020-3 Tax Increment Finance District: Lynk 65, LLC.

Motion carried 4-0

RESOLUTION NO. 1378

RESOLUTION APPROVING A MODIFICATION TO THE REDEVELOPMENT PLAN FOR THE RICHFIELD REDEVELOPMENT PROJECT; AND APPROVING A TAX INCREMENT FINANCING PLAN FOR THE 2020-3 TAX INCREMENT FINANCE DISTRICT: LYNK 65

RESOLUTUION NO. 1379

RESOLUTION AUTHORIZING INTERNAL LOAN FOR ADVANCE OF CERTAIN COSTS IN CONNECTION WITH THE 2020-3 TAX INCREMENT FINANCE DISTRICT: LYNK 65

Item #6	CONSIDERATION OF A RESOLUTION APPROVING AN AMENDED AND RESTATED PRELIMINARY REDEVELOPMENT AGREEMENT WITH PENN INVESTMENTS, LLC FOR THE DEVELOPMENT OF 6501 PENN AVENUE SOUTH AND 6500 OLIVER AVENUE SOUTH. (S.R. NO. 41)
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Housing Manager Urban presented staff report No. 41.

M/Vrieze Daniels, S/Elliott to approve a resolution approving an amended and restated preliminary redevelopment agreement with Penn Investments, LLC for the development of 6501 Penn Avenue South and 6500 Oliver Avenue South.

Motion carried 4-0

Commissioner Vrieze Daniels spoke of appreciation for extending the agreement and spoke to the limited commercial space.

Chair Supple concurred with Commissioner Daniels regarding the limited retail space.

RESOLUTION NO. 1380

RESOLUTION APPROVING THE EXECUTION AND DELIVERY OF AN AMENDED AND RESTATED PRELIMINARY REDEVELOPMENT AGREEMENT WITH PENN INVESTMENTS LLC

Item #7	HRA DISCUSSION
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Chair Supple explained the Kids @ Home program opening for applicants.

Housing Manager Urban explained the Kids @ Home program and modifications to guidelines, what the program offers and provided information on how to apply.

Chair Supple provided the phone number to VEAP, a program enlisted to assist people, as well as programs available through Hennepin County.

Item #8	EXECUTIVE DIRECTOR'S REPORT
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Executive Director shared information regarding the Interchange West and Lyndale Gateway TIF District, explained some complexity with this District, the request of an analysis to be done by Ehlers and introduced Rebecca Kurtz, Ehlers.

Rebecca Kurtz provided an update on the District and explained the findings of the analysis conducted by Ehlers stated the District is well managed and when a modification would be necessary.

Item #9	CLAIMS
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M/Sandahl, S/Vrieze Daniels that the following claims be approved:

U.S. BANK	11/16/2020
Section 8 Checks 132273-132349	\$173,255.92
HRA Checks 33914-33926	\$50,154.49
Total	\$223,410.41

Motion carried 4-0

Item #9	ADJOURNMENT
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The meeting was adjourned by unanimous consent at 7:58 p.m.

Date Approved: December 21, 2020

Mary B. Supple
HRA Chair

LaTonia DuBois
Administrative Assistant

John Stark
Executive Director



STAFF REPORT NO. 42
HOUSING AND REDEVELOPMENT AUTHORITY
MEETING
12/21/2020

REPORT PREPARED BY: Melissa Poehman, Asst. Community Development Director
OTHER DEPARTMENT REVIEW: N/A

EXECUTIVE DIRECTOR REVIEW: John Stark, Executive Director
12/15/2020

ITEM FOR COUNCIL CONSIDERATION:

Consideration of the adoption of a resolution related to the sale of the Henley Apartment portion of the Lyndale Gardens development, approving an Assignment and Assumption Agreement and a Collateral Assignment of the secondary developer Tax Increment Financing Note to the new buyer and their lender.

EXECUTIVE SUMMARY:

In 2018, the Housing and Redevelopment Authority (HRA) approved an Amended and Restated Contract for Private Development with Lyndale Gardens, LLC (Master Developer). The HRA agreed to provide tax increment assistance to the property and issue tax increment revenue notes to reimburse development costs.

In 2019, Richfield Property Holdings, LLC and 15th NB Property1, LLC (Secondary Developer) purchased property from Lyndale Gardens, LLC for the construction of the approved Henley apartment and townhome project.

The Secondary Developer is now selling the property to Casey Capital Henley, LLC ("Casey Capital"). Casey Capital will be assuming the obligations of the approved Contract and are requesting the assignment of the Tax Increment Financing (TIF) Note to their lender (Colliers Mortgage, LLC), such that they will receive future Tax Increment payments.

The attached Assumption Agreement ensures that buyer Casey Capital will be required to comply with the affordability requirements of the Contract and Restrictive Covenant originally agreed to by the Richfield Properties, LLC.

RECOMMENDED ACTION:

By motion: Adopt a resolution approving the assignment of certain documents in connection with a development (The Henley Apartments) within the Lyndale Gardens Tax Increment Financing District.

BASIS OF RECOMMENDATION:

A. HISTORICAL CONTEXT

- Lyndale Gardens, LLC secured land-use approvals for the redevelopment of the north half of the former Lyndale Garden Center site (approx. 63rd Street and Lyndale Avenue) in June 2018. The approved project includes 30 for sale condominiums, 8 rental townhomes, a 66-unit multifamily apartment building, and approximately 6,000 square feet of retail space.

- The HRA approved an Amended and Restated Contract for Private Development on July 17, 2018.
- The Secondary Developer has completed construction of the 66-unit multifamily apartment building and 8-unit townhome building (Henley) and now wishes to sell the property to Casey Capital Henley, LLC.
- Colliers Mortgage, LLC will provide a loan to Casey Capital Henley, LLC to purchase the property. As a condition, they are requiring Casey Capital to assign the TIF Note to Colliers Mortgage.

B. POLICIES (resolutions, ordinances, regulations, statutes, etc):

- Section 3.4(c) of the Development Agreement allows for the assignment of the Secondary Developer TIF Note to a lender that provides part of the financing for the construction of the Secondary Developer Improvements.

C. CRITICAL TIMING ISSUES:

- Closing is scheduled for December 22, 2020, but cannot occur without approval of the attached Agreement by the Board.

D. FINANCIAL IMPACT:

- There is no financial impact to the HRA.

E. LEGAL CONSIDERATION:

- The attached resolution and Assignment & Assumption Agreement was drafted by HRA Attorney Julie Eddington.

ALTERNATIVE RECOMMENDATION(S):

- Do not adopt the resolution.

PRINCIPAL PARTIES EXPECTED AT MEETING:

Representative(s) of parties to the Agreement.

ATTACHMENTS:

Description	Type
☐ Resolution	Resolution Letter
☐ Assignment & Assumption Agreement	Contract/Agreement
☐ Collateral Assignment	Contract/Agreement

**HOUSING AND REDEVELOPMENT AUTHORITY
IN AND FOR THE CITY OF RICHFIELD, MINNESOTA**

RESOLUTION NO. _____

**RESOLUTION APPROVING THE ASSIGNMENT OF CERTAIN DOCUMENTS IN
CONNECTION WITH A DEVELOPMENT WITHIN THE LYNDALE GARDENS TAX
INCREMENT FINANCING DISTRICT**

WHEREAS, the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota (the “Authority”) was created pursuant to Minnesota Statutes, Sections 469.001 through 469.047, as amended, and was authorized to transact business and exercise its powers by a resolution of the City Council of the City of Richfield, Minnesota (the “City”); and

WHEREAS, the Authority established the Lyndale Gardens Tax Increment Financing District (the “TIF District”) within the Richfield Redevelopment Project in the City (the “Redevelopment Project”) pursuant to Minnesota Statutes, Sections 469.174 through 469.1794, as amended, in order to facilitate redevelopment of certain property in the Redevelopment Project; and

WHEREAS, the Authority and Lyndale Gardens, LLC, a Minnesota limited liability company (the “Master Developer”), entered into an Amended and Restated Contract for Private Development, dated July 16, 2018 (the “Development Agreement”); and

WHEREAS, pursuant to an Agreement between Master Developer and Secondary Developer, dated December 27, 2018 (the “Secondary Developer Agreement”), the Master Developer required Richfield Property Holdings, LLC, a Minnesota limited liability company (“Richfield Holdings”) and 15th NB Property1, LLC, a Minnesota limited liability company (collectively with Richfield Holdings, the “Original Secondary Developer”), as tenant-in-common owners of the Secondary Developer Property (as defined below), to construct 8 rental townhome units and a 66-unit multifamily apartment building, including 7 affordable residential units (the “Project”), on property located within the TIF District at 6324 Lyndale Avenue South in the City (the “Secondary Developer Property”); and

WHEREAS, pursuant to the Development Agreement the Authority agreed to provide tax increment assistance to the Original Secondary Developer in the form of a tax increment note in the amount of \$1,491,077 (the “Secondary Developer TIF Note”) in order to make the Project more economically feasible and to improve and retain affordable housing in the City; and

WHEREAS, Richfield Holdings and the Authority are parties to a Declaration of Restrictive Covenants, dated February 5, 2020 (the “Declaration”), pursuant to which Richfield Holdings has agreed to comply with certain affordability covenants running with the Secondary Developer Property for the Project in consideration for the Secondary Developer TIF Note; and

WHEREAS, pursuant to an acknowledgement and consent letter executed and delivered by Richfield Holdings to the Authority on January 29, 2020, in accordance with Section 9.8 of the Development Agreement, Richfield Holdings made certain representations, warranties, and acknowledgements of its obligations under the Development Agreement; and

WHEREAS, the Secondary Developer TIF Note was issued by the Authority to Richfield Holdings on February 1, 2020; and

WHEREAS, the Project has been fully constructed, and operated and maintained by the Original Secondary Developer in accordance with Article IX of the Development Agreement; and

WHEREAS, the Original Secondary Developer intends to sell the Project to Casey Capital Henley, LLC, a Minnesota limited liability company (the “Assignee”); and

WHEREAS, the Original Secondary Developer intends to assign to the Assignee all of its remaining interest in and its rights and obligations under the Declaration and Section IX of the Development Agreement and the Secondary Developer Agreement (the “Secondary Developer Documents”), and the Assignee desires to assume the Original Secondary Developer’s remaining interest in and rights and obligations under the Secondary Developer Documents; and

WHEREAS, Richfield Holdings will also assign its rights and interests in the Secondary Developer TIF Note to the Assignee; and

WHEREAS, Colliers Mortgage, LLC, a Delaware limited liability company (the “Lender”), has agreed to provide a loan to the Assignee (the “Loan”) to assist in financing the Project; and

WHEREAS, as a condition to providing the Loan, the Lender requires that the Assignee assign its rights and interests under the Development Agreement and the Secondary Developer TIF Note to the Lender ; and

WHEREAS, there have been presented before the Board of Commissioners of the Authority forms of the following documents: (i) an Assignment and Assumption Agreement (the “Assignment and Assumption Agreement”) between the Original Secondary Developer, the Assignee, and the Authority, which governs the Original Secondary Developer’s assignment of its remaining interest in and its rights and obligations under the Secondary Developer Documents to the Assignee and the Assignee’s assumptions of such interest in and rights and obligations of the Original Secondary Developer under the Secondary Developer Documents; and (ii) a Collateral Assignment of Development Agreement and TIF Note (the “Collateral Assignment”) between the Assignee, as assignor, and the Lender, including a consent from the Authority, pursuant to which the Assignee will assign its rights and interest under the Development Agreement and the Secondary Developer TIF Note to the Lender to secure the Loan; and

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota that:

1. The Board hereby consents to the sale of the Project to the Assignee, the assignment by the Original Secondary Developer and the assumption by the Assignee of the Secondary Developer’s remaining interest in and rights and obligations under the Secondary Developer Documents, and the assignment by the Assignee to the Lender of the Assignee’s rights and interest under the Development Agreement and the Secondary Developer TIF Note.

2. The Assignment and Assumption Agreement and the Collateral Assignment are hereby in all respects authorized, approved, and confirmed, and the Chair and the Executive Director are hereby authorized and directed to execute the Assignment and Assumption Agreement and the consent to the Collateral Assignment for and on behalf of the Authority in substantially the forms now on file with the Executive Director but with such modifications as shall be deemed necessary, desirable, or appropriate, the execution thereof to constitute conclusive evidence of their approval of any and all modifications therein.

3. The Chair and the Executive Director are hereby authorized to execute and deliver any and all documents deemed necessary to carry out the intentions of this resolution.

Adopted by the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota
this 21st day of December, 2020.

Mary B. Supple, Chair

ATTEST:

Maria Regan Gonzalez, Secretary

RC125-360 (JAE)
692376v1

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT, made as of December ____, 2020 (the “Agreement”), is by and between RICHFIELD PROPERTY HOLDINGS, LLC, a Minnesota limited liability company (“Richfield Holdings”) and 15th NB PROPERTY1, LLC, a Minnesota limited liability company (collectively with Richfield Holdings, the “Original Secondary Developer”), CASEY CAPITAL HENLEY, LLC, a Minnesota limited liability company (the “Assignee”), and the HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF RICHFIELD, MINNESOTA, a public body corporate and politic of the State of Minnesota (the “Authority”).

RECITALS

The Authority and Lyndale Gardens, LLC, a Minnesota limited liability company (the “Master Developer”), entered into an Amended and Restated Contract for Private Development, dated July 16, 2018 (the “Development Agreement”).

Pursuant to an Agreement between Master Developer and Secondary Developer, dated December 27, 2018 (the “Secondary Developer Agreement”), the Master Developer required the Original Secondary Developer to construct eight rental townhome units and a 66-unit multifamily apartment building, including seven affordable residential units (the “Project”), on property located at 6324 Lyndale Avenue South in the City of Richfield, Minnesota (the “City”) and legally described in EXHIBIT A attached hereto (the “Secondary Developer Property”).

Pursuant to the Development Agreement the Authority agreed to provide tax increment assistance to the Original Secondary Developer in the form of a tax increment note in the amount of \$1,491,077 (the “Secondary Developer TIF Note”) in order to make the Project more economically feasible and to improve and retain affordable housing in the City.

Richfield Holdings and the Authority are parties to a Declaration of Restrictive Covenants, dated February 5, 2020, and filed in the Office of the Registrar of Titles of Hennepin County, Minnesota on February 24, 2020 as Document No. T05688376 (the “Declaration”), pursuant to which Richfield Holdings has agreed to comply with certain affordability covenants running with the Secondary Developer Property for the Project in consideration for the Secondary Developer TIF Note.

Pursuant to an acknowledgement and consent letter executed and delivered by Richfield Holdings to the Authority on January 29, 2020 (the “Consent Letter”), in accordance with Section 9.8 of the Development Agreement, Richfield Holdings made certain representations, warranties, and acknowledgements of its obligations under the Development Agreement.

The Secondary Developer TIF Note was issued by the Authority to Richfield Holdings on February 1, 2020.

As of the date hereof, the Project has been fully constructed, and operated and maintained by the Original Secondary Developer in accordance with Article IX of the Development Agreement.

The Original Secondary Developer desires to assign to the Assignee all of its remaining interest in and its rights and obligations under the Declaration and Section IX of the Development Agreement and the Secondary Developer Agreement (the “Secondary Developer Documents”) as of the date hereof, and the Assignee desires to assume the Original Secondary Developer’s remaining interest in and rights and obligations under the Secondary Developer Documents from and after the date hereof, all as more particularly set forth in this Agreement.

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

1. Definitions. All capitalized terms not defined herein shall have the meanings given such terms in the Declaration and the Development Agreement.

2. Assignment and Assumption of Declaration. Section 4 of the Declaration allows the Original Secondary Developer to assign its rights and duties under the Declaration to another entity prior to the termination of the Occupancy Restrictions if the transferee assumes in writing, in a form acceptable to the Authority, all duties and obligations of the Original Secondary Developer under the Declaration, and the Original Secondary Developer deliver such writing to the Authority prior to the transfer. The Original Secondary Developer hereby assigns to the Assignee all of its interest in and its rights and obligations under the Declaration. The Assignee hereby accepts such rights and assumes such obligations, subject to the terms of this Agreement. The Authority acknowledges and consents to such assignment and assumption.

3. Assumption of Consent Letter. The Assignee has read the Consent Letter set forth in EXHIBIT B and is familiar with all representations, warranties and acknowledgments made by the Original Secondary Developer therein, and the Assignee assumes all such representations, warranties and acknowledgments as its own. The Assignee hereby accepts all rights and assumes all obligations of the Original Secondary Developer relating to the Development Agreement under the Consent Letter, subject to the terms of this Agreement. The Authority acknowledges and consents to such assumption.

4. Assignment of Secondary Developer TIF Note. Richfield Holdings hereby assigns to the Assignee all of its rights and interests in the Secondary Developer TIF Note, including but not limited to all principal and interest payments due under the Secondary Developer TIF Note and directs all payments of principal and interest payable to Richfield Holdings under the Secondary Developer TIF Note to be paid to the Assignee. The Original Secondary Developer authorizes the Authority to make all payments to the Assignee directly until such time as the principal balance of the Secondary Developer TIF Note and all accrued interest thereunder has been paid in full. The Assignee hereby accepts such rights and interests in the Secondary Developer TIF Note and the Authority acknowledges and consents to such assignment.

5. Covenants of the Assignee. The Assignee expressly assumes all of the obligations, rights and interests of the “Secondary Developer” under the Secondary Developer Documents, and the Assignee agrees to be subject to all the conditions and restrictions to which the Original Secondary Developer is subject to under the Secondary Developer Documents.

6. Assignee as Secondary Developer. From and after the date hereof, the Assignee is the “Secondary Developer” under the Secondary Developer Documents and the Development Agreement.

7. Release of Original Secondary Developer. This Agreement shall be deemed to release and discharge the Original Secondary Developer from any obligations of the “Secondary Developer” under the Secondary Developer Documents; such obligations having been assumed by the Assignee.

8. Assignee Address. For purposes of notice under the Declaration, the “Secondary Developer’s” address is:

Casey Capital Henley, LLC

[Insert Address]

Attn: _____

9. Governing Law. It is agreed that this Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Minnesota.

10. Entirety of Agreement. This Agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding upon either party except to the extent incorporated in this Agreement.

11. Modification. Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if placed in writing and signed by each party or an authorized representative of each party.

12. Execution in Counterparts. This Agreement may be executed, acknowledged and delivered in any number of counterparts and each of such counterparts shall constitute an original but all of which together shall constitute one agreement.

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

Execution page of the Authority to the Assignment and Assumption Agreement, dated as of the date and year first written above.

AUTHORITY:

**HOUSING AND REDEVELOPMENT
AUTHORITY IN AND FOR THE CITY OF
RICHFIELD, MINNESOTA**

By _____
Its Chair

By _____
Its Executive Director

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2020, by Mary B. Supple, the Chair of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota, on behalf of the Authority.

Notary Public

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2020, by John Stark, the Executive Director of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota, on behalf of the Authority.

Notary Public

This instrument drafted by:

Kennedy & Graven, Chartered (JAE)
150 South Fifth Street, Suite 700
Minneapolis, MN 55402-1299
612-337-9300

EXHIBIT A

LEGAL DESCRIPTION OF LAND

Lot 2, Block 1, LYNDALE GARDENS 2ND ADDITION

EXHIBIT B

SECONDARY DEVELOPER CONSENT LETTER

[insert letter executed by secondary developer in February 2020]

RC125-360 (JAE)
676475v2

COLLATERAL ASSIGNMENT OF DEVELOPMENT AGREEMENT AND TIF NOTE

This Collateral Assignment of Development Agreement and TIF Note (“**Collateral Assignment**”) is dated as of _____, 2020, by and between Casey Capital Henley, LLC, a Minnesota limited liability company, (“**Assignor**”), whose address for notice purposes is 1161 Wayzata Blvd. E., #302, Wayzata, Minnesota 55391; Colliers Mortgage LLC, a Delaware limited liability company, (“**Lender**”), whose address for notice purposes is 90 South Seventh Street, Suite 4300, Minneapolis, Minnesota 55402; and the HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF RICHFIELD, MINNESOTA, a public body corporate and politic of the State of Minnesota (“**HRA**”, or “**Authority**”), whose address for notice purposes is 6700 Portland Avenue, Richfield, Minnesota 55423.

Recitals

A. Simultaneously herewith, Assignor is financing certain improved real property located in the County of Hennepin, State of Minnesota, as more particularly described on Exhibit A attached hereto (“**Property**”).

B. Assignor is a party, as successor in interest to Richfield Property Holdings, LLC, a Minnesota limited liability company (“**Secondary Developer**”), to that certain Amended and Restated Contract for Private Development dated as of July 16, 2018, (the “**Development Agreement**”) with the Authority, pursuant to which the Property was subjected to certain restrictions by the Authority in connection with the development of the Property.

C. The Authority has executed in favor of Secondary Developer that certain Tax Increment Limited Revenue Note Series 2020 dated as of February 1, 2020, in the original principal amount of \$1,491,077 (the “**TIF Note**”).

D. Pursuant to that certain Assignment and Assumption Agreement dated as of December 21, by and among, Assignor, Secondary Developer and the Authority, it was acknowledged that Secondary Developer transferred fee title to the Property to Assignor, that Assignor assumed the obligations of Secondary Developer, and that the rights of Secondary Developer to receive the TIF Note were assigned to Assignor.

E. In connection with the acquisition and financing of the Property by Assignor, Lender is making a loan to Assignor in the original principal amount of \$[13,500,000] (“**Loan**”) pursuant to a Multifamily Loan and Security Agreement between Lender and Assignor (as supplemented or amended from time to time, the “**Loan Agreement**”) and evidenced by a Multifamily Note by Assignor to Lender (as supplemented or amended from time to time, the “**Note**”). The Loan is to be secured by a Multifamily Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing that will be recorded with the Registrar of Title in Hennepin County, Minnesota (as supplemented or amended from time to time, the “**Mortgage**”) (the Loan Agreement, the Note and the Mortgage, together with all other documents executed with respect to the Loan, are hereinafter collectively referred to as the “**Loan Documents**”).

F. As a condition of the Loan, Assignor has agreed to assign its rights and interests under the Development Agreement and the TIF Note to Lender for the purpose of securing the Loan.

Now therefore, in consideration of their mutual undertakings, and intending to be legally bound hereby, Lender and Assignor agree as follows:

1. For the purpose of securing the Loan, Assignor hereby transfers and collaterally assigns to Lender, its successors and assigns, and grants to the Lender a security interest in, all of Assignor's right, title and interest in and to the Development Agreement and the TIF Note.

2. Assignor shall not take or omit to take any action, the taking or omission of which might result in an alteration or impairment of (a) the Development Agreement, (b) the TIF Note, (c) this Collateral Assignment, or (d) any of the rights created by the aforementioned documents in the foregoing subparagraphs (a) – (c).

3. Assignor represents and warrants to Lender that: (a) Assignor has not assigned or pledged, and hereby covenants that it will not assign or pledge, so long as this Collateral Assignment shall remain in effect, any of its right, title or interest in or under the Development Agreement and/or the TIF Note to anyone other than Lender, its successors or assigns, and that it will not, except upon the prior written consent of Lender and upon the terms and conditions, if any, specified in any such consent, enter into any agreement amending or supplementing the Development Agreement and/or the TIF Note, or settle or compromise any claim against the maker of the TIF Note; (b) Assignor's right, title and interest in and to the TIF Note is not now subject to any lien, encumbrance or security interest; (c) to Assignor's knowledge, the Development Agreement and/or the TIF Note are in all respects in full force and effect and enforceable in accordance with their terms; and (d) to Assignor's knowledge, no default exists under the Development Agreement and/or the TIF Note as of the date of this Collateral Assignment.

4. This Collateral Assignment shall be binding upon Assignor, its heirs, successors and assigns, and shall inure to the benefit of Lender, its successors and assigns.

5. To the extent permitted by applicable law, Assignor waives all claims, damages and demands it may acquire against Lender arising out of the exercise by it of any rights hereunder, except for the Lender's gross negligence or willful misconduct. If any notice of a proposed sale or other disposition of the TIF Note shall be required by law, such notice shall be deemed reasonable and proper if given at least ten (10) days before such sale or other disposition.

6. All rights and remedies afforded to Lender by reason of this Collateral Assignment and any other Loan Document, or by law, are separate and cumulative and not alternative to the exercise of any other of such rights or remedies. No delay or omission by Lender in exercising any such right or remedy shall operate as a waiver thereof. No waiver of any right or remedy hereunder, and no modification or amendment hereof, shall be deemed made by Lender unless in writing and duly signed by an expressly authorized officer of Lender. Any such written waiver shall apply only to the particular instance specified therein and shall not impair the further exercise of such right or remedy or of any other right or remedy of Lender, and no single or partial exercise of any right or remedy hereunder shall preclude other or further exercise thereof or of any other right or remedy.

7. Any provision of this Collateral Assignment which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Collateral Assignment or affecting the validity or enforceability of such provision in any other jurisdiction.

8. This Collateral Assignment shall be governed by, and construed in accordance with, the laws of the State of Minnesota. Assignor waives personal service of any process and consents that such process shall be made as set forth in the Loan Agreement.

9. From and after the date hereof, and for so long as this Collateral Assignment shall remain in full force and effect, Assignor, for itself, its successors and assigns, covenants and agrees to do all acts and execute and deliver all documents reasonably necessary to assist Lender in obtaining the rights, benefits and privileges granted pursuant to this Collateral Assignment.

10. Assignor shall have the right to receive all payments under the TIF Note until such time as Lender shall deliver to the Authority written notice that Assignor is in default under the Loan Documents. Following receipt of such notice, the Authority and Assignor hereby acknowledge and agree that Lender (i) shall have control of all payments that Assignor is entitled to receive with respect to the TIF Note, and (ii) shall have the right and power to instruct and direct the Authority, pursuant to a written notice from Lender to the Authority and without any further consent of Assignor, to make all payments that Assignor is entitled to receive with respect to the TIF Note directly to Lender, or as Lender may otherwise instruct and direct in writing to the Authority, all in accordance with the provisions of the TIF Note and Development Agreement.

11. The Authority hereby consents to the Assignor's collateral assignment of the Development Agreement and the TIF Note to Lender pursuant to the terms and conditions of this Collateral Assignment. The Authority also confirms that, to its actual knowledge, there are no defaults under the TIF Note and Development Agreement, that, Lender shall have the right, but not the obligation, to cure any default by Assignor under the TIF Note and Development Agreement on Assignor's behalf.

[The remainder of this page intentionally left blank; signature pages follow.]

Executed the day and year first set forth above.

ASSIGNOR:

CASEY CAPITAL HENLEY, LLC,
a Minnesota limited liability company

By: _____
Name: Kristopher N. Humphries
Its: Manager

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on the ____ day of _____, 2020, by Kristopher N. Humphries, Manager of Casey Capital Henley, LLC, a Minnesota limited liability company, on behalf of the limited liability company.

Signature of Person Taking Acknowledgement

(Seal, if any)

Title or rank

Serial Number, if any

SEEN AND AGREED:

Authority:

**HOUSING AND REDEVELOPMENT AUTHORITY
IN AND FOR THE CITY OF RICHFIELD,
MINNESOTA**

By _____
Its Chair

By _____
Its Executive Director

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this day of _____, 2020, by Mary Supple, the Chair of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the Authority.

Notary Public

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this day of _____, 2020, by John Stark, the Executive Director of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the Authority.

Notary Public

EXHIBIT A

The Property

Lot 2, Block 1, Lyndale Gardens 2nd Addition, according to the recorded plat thereof, Hennepin County,
Minnesota.

20808922v3



STAFF REPORT NO. 43
HOUSING AND REDEVELOPMENT AUTHORITY
MEETING
12/21/2020

REPORT PREPARED BY: John Stark, Executive Director
OTHER DEPARTMENT REVIEW:

EXECUTIVE DIRECTOR REVIEW: John Stark, Executive Director
12/16/2020

ITEM FOR COUNCIL CONSIDERATION:

Consideration of a resolution approving the amendment and/or assignment of documents associated with the Henley II redevelopment project.

EXECUTIVE SUMMARY:

The Henley II development (which is being branded as the Rowan Apartments) consists of the construction of 82 new apartment units and the rehabilitation of 22 existing units of mixed-income housing located at 65th Street and Lyndale Avenue.

The Richfield Housing and Redevelopment Authority (HRA) approved a Contract for Private Development with the developer on July 20, 2020 and approved a Housing Tax Increment Financing (TIF) District for the project on September 21, 2020. It is not unusual for a developer to bring in additional equity partners into a project once it has been approved. In this case, the original development team (organized as 6345 Partners, LLC) have taken on two additional project partners and have identified a lender. As a result, several documents need to be either amended or assigned to the new combined entity.

The specific documents, and the action being authorized by the attached resolution, include:

- First Amendment to Contract (to add two additional partners to the project – Richfield Property Holdings, LLC and 15th NB Property, LLC);
- Declaration of Restrictive Covenants (which places a deed restriction requiring an established amount of affordable housing be contained in the development), and;
- Collateral Assignment of Development and TIF Note for benefit of Drake Bank.

RECOMMENDED ACTION:

By motion: Adopt a resolution approving the assignment of certain documents in connection with a development located within the 2020-1 Tax Increment Financing District - Henley II.

BASIS OF RECOMMENDATION:

A. HISTORICAL CONTEXT

- The Richfield HRA approved a preliminary Development Agreement related to this project on January 21, 2020;
- The Richfield HRA approved a Contract for Private Development related to this project on July 20, 2020.
- The Richfield HRA approved the creation of a TIF District related to this project on September

21, 2020.

B. POLICIES (resolutions, ordinances, regulations, statutes, etc):

- The Contract for Private Development provides for subsequent Amendments and Assignments as well as a mechanism for enforcing affordable housing requirements (as is the case with the Declaration of Restrictive Covenants).

C. CRITICAL TIMING ISSUES:

- The development team is closing on the financing of their project within the week of the December 21, 2020 HRA meeting and requires approvals of the documents included in this resolution in order for that closing to occur.

D. FINANCIAL IMPACT:

- There is no financial impact on the Richfield HRA.

E. LEGAL CONSIDERATION:

- HRA legal counsel (Julie Eddington of Kennedy & Graven) drafted the resolution and either drafted or reviewed and approved all of its related documents.

ALTERNATIVE RECOMMENDATION(S):

- None.

PRINCIPAL PARTIES EXPECTED AT MEETING:

A representative of the development team.

ATTACHMENTS:

Description	Type
☐ Resolution	Resolution Letter
☐ First Amendment to Contract	Contract/Agreement
☐ Declaration of Covenants	Contract/Agreement
☐ Collateral Assignment of Agreement	Contract/Agreement

**HOUSING AND REDEVELOPMENT AUTHORITY
IN AND FOR THE CITY OF RICHFIELD, MINNESOTA**

RESOLUTION NO. _____

**RESOLUTION APPROVING THE ASSIGNMENT OF CERTAIN DOCUMENTS IN
CONNECTION WITH A DEVELOPMENT LOCATED WITHIN THE 2020-1 TAX
INCREMENT FINANCING DISTRICT – HENLEY II**

WHEREAS, the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota (the “Authority”) was created pursuant to Minnesota Statutes, Sections 469.001 through 469.047, as amended, and was authorized to transact business and exercise its powers by a resolution of the City Council of the City of Richfield, Minnesota (the “City”); and

WHEREAS, the Authority established the 2020-1 Tax Increment Financing District – Henley II (the “TIF District”) within the Richfield Redevelopment Project in the City (the “Redevelopment Project”) pursuant to Minnesota Statutes, Sections 469.174 through 469.1794, as amended, in order to facilitate redevelopment of certain property in the Redevelopment Project and promote the development of affordable housing within the City; and

WHEREAS, the Authority and 6345 Partners, LLC, a Minnesota limited liability company (the “Original Developer”), entered into a Contract for Private Development, dated September 22, 2020 (the “Development Agreement”), pursuant to which the Original Developer agreed to acquire certain property within the TIF District (the “Development Property”), construct on a portion of the Development Property an approximately 82-unit multifamily housing development, including an accessible two-bedroom unit at ground level (the “New Housing Development”), and purchase a 22-unit apartment building with naturally occurring affordable rents located on remaining portion of the Development Property (the “NOAH Housing Development”) and rehabilitate the existing building without displacing the NOAH Housing Development’s current tenants (other than a temporary displacement during rehabilitation of each unit, if necessary) and pursuant to which the Authority agreed to provide tax increment assistance to the Original Developer in the form of a tax increment note in the amount of \$2,025,987 (the “TIF Note”) in order to make the New Housing Development and the NOAH Housing Development (together, the “Project”) more economically feasible and to improve and retain affordable housing in the City; and

WHEREAS, pursuant to the terms of the Development Agreement, the Authority requires that the Original Developer execute a Declaration of Restrictive Covenants (the “Declaration”) to ensure compliance with certain affordability covenants running with the Development Property for the Project in consideration for the TIF Note; and

WHEREAS, Richfield Property Holdings, LLC, a Minnesota limited liability company (“Richfield Property Holdings”), and 15th NB Property1, LLC, a Minnesota limited liability company (“15th NB Property1”), intend to join the Original Developer in developing the Project; and

WHEREAS, Drake Bank, a Minnesota state banking corporation (the “Lender”), has agreed to provide a loan (the “Loan”) to the Original Developer, Richfield Property Holdings, and 15th NB Property1 (collectively, the “Developer”) to assist in financing the Project; and

WHEREAS, as a condition to providing the Loan, the Lender requires that the Developer assign its rights and interests under the Development Agreement and the TIF Note to the Lender; and

WHEREAS, there have been presented before the Board of Commissioners of the Authority forms of the following documents: (i) a First Amendment to Contract for Private Development (the “First Amendment to Development Agreement”) between the Authority and the Developer, providing for the “Developer” under the Development Agreement to include the Original Developer, Richfield Property Holdings, and 15th NB Property1; (ii) a Declaration of Restrictive Covenants (the “Declaration”) between the Authority and the Developer; and (iii) a Collateral Assignment of Development Agreement and TIF Note (the “Collateral Assignment”) between the Developer, the Lender, and the Authority, pursuant to which the Developer will assign its rights and interest under the Development Agreement, as amended by the First Amendment to Development Agreement, and the TIF Note, when issued, to the Lender to secure the Loan; and

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota that:

1. The Board hereby consents to the assignment by the Developer to the Lender of the Developer’s rights and interest under the Development Agreement, as amended by the First Amendment to Development Agreement, and the TIF Note.

2. The First Amendment to Development Agreement, the Declaration of Restrictive Covenants, and the Collateral Assignment are hereby in all respects authorized, approved, and confirmed, and the Chair and the Executive Director are hereby authorized and directed to execute the First Amendment to Development Agreement, the Declaration, and the Collateral Assignment for and on behalf of the Authority in substantially the forms now on file with the Executive Director but with such modifications as shall be deemed necessary, desirable, or appropriate, the execution thereof to constitute conclusive evidence of their approval of any and all modifications therein.

3. The Chair and the Executive Director are hereby authorized to execute and deliver any and all documents deemed necessary to carry out the intentions of this resolution.

Adopted by the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota this 21st day of December, 2020.

Mary B. Supple, Chair

ATTEST:

Maria Regan Gonzalez, Secretary

RC125-376 (JAE)
692438v1

FIRST AMENDMENT TO CONTRACT FOR PRIVATE DEVELOPMENT

THIS FIRST AMENDMENT TO CONTRACT FOR PRIVATE DEVELOPMENT, made as of the _____ day of December, 2020 (the “First Amendment to Agreement”), is between the HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF RICHFIELD, MINNESOTA, a public body corporate and politic under the laws of the State of Minnesota (the “Authority”), 6345 PARTNERS, LLC, a Minnesota limited liability company (“6345 Partners”), RICHFIELD PROPERTY HOLDINGS, LLC, a Minnesota limited liability company (“Richfield Property Holdings”), and 15TH NB PROPERTY1, LLC, a Minnesota limited liability company (“15th NB Property1”).

WITNESSETH:

WHEREAS, the Authority was created pursuant to Minnesota Statutes, Sections 469.001 through 469.047, as amended (the “HRA Act”), and was authorized to transact business and exercise its powers by a resolution of the City Council of the City of Richfield, Minnesota (the “City”); and

WHEREAS, the Authority has undertaken a program to promote redevelopment and development of land that is underused or underutilized within the City, and in this connection the Authority administers a redevelopment project known as the Richfield Redevelopment Project (the “Redevelopment Project”) pursuant to the HRA Act; and

WHEREAS, pursuant to the HRA Act, the Authority is authorized to acquire real property, or interests therein, and to undertake certain activities to facilitate the redevelopment of real property by private enterprise and promote the development of affordable housing within the City; and

WHEREAS, within the Redevelopment Project, the Authority has created the 2020-1 Tax Increment Financing District – Henley II (the “TIF District”), a housing district, in order to facilitate redevelopment of certain property in the Redevelopment Project and promote the development of affordable housing within the City; and

WHEREAS, the Authority and 6345 Partners entered into a Contract for Private Development, dated September 22, 2020 (the “Original Development Agreement”), pursuant to which 6345 Partners agreed to acquire certain property within the TIF District and legally described in EXHIBIT A attached hereto (the “Development Property”), construct on a portion of the Development Property an approximately 82-unit multifamily housing development, including an accessible two-bedroom unit at ground level (the “New Housing Development”), and purchase a 22-unit apartment building with naturally occurring affordable rents located on remaining portion of the Development Property (the “NOAH Housing Development”) and rehabilitate the existing building without displacing the NOAH Housing Development’s current tenants (other than a temporary displacement during rehabilitation of each unit, if necessary) and pursuant to which

the Authority agreed to provide tax increment assistance to 6345 Partners in the form of a tax increment note in the amount of \$2,025,987 (the “TIF Note”) in order to make the New Housing Development and the NOAH Housing Development more economically feasible and to improve and retain affordable housing in the City; and

WHEREAS, Richfield Property Holdings and 15th NB Property1 intend to join 6345 Partners in developing the Project; and

WHEREAS, in order to provide for the “Developer” under the Original Development to include 6345 Partners, Richfield Property Holdings, and 15th NB Property1 (collectively, the “Developer”), the Authority and the Developer are entering into this First Amendment to Agreement; 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

Amendments

Section 1.1. Amendment to Section 1.1 of the Original Agreement. The definition of “Developer” set forth in Section 1.1 of the Original Agreement is hereby deleted in its entirety and replaced with the following:

“Developer” means, collectively, 6345 Partners, LLC, a Minnesota limited liability company, Richfield Property Holdings, LLC, a Minnesota limited liability company, and 15th NB Property1, LLC, a Minnesota limited liability company, or any permitted successors and assigns.

Section 1.2. Declaration. The Developer, consisting of 6345 Partners, Richfield Property Holdings, and 15th NB Property1, shall execute and deliver the Declaration to the Authority concurrently with the execution and delivery of this First Amendment to Agreement. The form of Declaration attached as Exhibit E to the Original Agreement shall be amended to include all entities constituting the Developer, as set forth herein.

ARTICLE II

Miscellaneous

Section 2.1. Definitions. Any capitalized terms used herein but not otherwise defined shall have the meanings assigned to such terms in the Original Agreement. Any references to the “Agreement” or “this Agreement” in the Original Agreement shall refer to the Original Agreement, as amended and supplemented by this First Amendment to Agreement, and as may be further amended and supplemented.

Section 2.2. Notices. The notice address set forth in Section 10.6(a) of the Original Agreement shall be deleted and replaced with the following:

(a) in the case of the Developer, is addressed to or delivered personally to the Developer at 6345 Partners, LLC; Richfield Property Holdings, LLC; and 15th NB Property1, LLC; c/o North Bay Companies, LLC, 2316 4th Ave South, Minneapolis, MN 55404, Attn: President, e-mail: lbarrett@northbaycos.com, with a copy to Faegre Drinker Biddle & Reath, 90 South Seventh Street, Suite 2200, Minneapolis, MN 55402, ATTN: Peter Berrie, e-mail: Peter.Berrie@faegredrinker.com; and

Section 2.3. Effective Date. The amendments and supplements made to the Original Agreement, as set forth in this First Amendment to Agreement, shall be effective as of December ____, 2020.

Section 2.4. Confirmation of Agreement. Except as specifically amended by this First Amendment to Agreement, the Original Agreement is hereby ratified and confirmed, and remains in full force and effect.

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

IN WITNESS WHEREOF, the Authority has caused this First Amendment to Contract for Private Development to be duly executed in its name and behalf, and the Developer has caused this First Amendment to Contract for Private Development to be duly executed in its name and behalf as of the date and year first written above.

**HOUSING AND REDEVELOPMENT AUTHORITY
IN AND FOR THE CITY OF RICHFIELD,
MINNESOTA**

By _____
Its Chair

By _____
Its Executive Director

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of December, 2020, by Mary Supple, the Chair of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the Authority.

Notary Public

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of December, 2020, by John Stark, the Executive Director of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the Authority.

Notary Public

Execution pages of the Developer to the First Amendment to Contract for Private Development, dated as of the date and year first written above.

6345 PARTNERS, LLC

By _____
Daniel Oberpriller
Its Manager

STATE OF MINNESOTA)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of December, 2020, by Daniel Oberpriller, the Manager of 6345 Partners, LLC, a Minnesota limited liability company, on behalf of the company.

Notary Public

This document was drafted by:
KENNEDY & GRAVEN, Chartered (JAE)
150 South Fifth Street, Suite 700
Minneapolis, Minnesota 55402-1299
Telephone: 612-337-9300

RICHFIELD PROPERTY HOLDINGS, LLC,
a Minnesota limited liability company

By: _____
Daniel Oberpriller
Title: Manager

STATE OF MINNESOTA)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this day of _____, 2020, by Daniel Oberpriller, the Manager of Richfield Property Holdings, LLC, a Minnesota limited liability company, on behalf of the company.

Notary Public

15th NB PROPERTY1, LLC,
a Minnesota limited liability company

By: _____
Daniel Oberpriller
Title: Chief Manager

STATE OF MINNESOTA)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this day of _____, 2020, by Daniel Oberpriller, the Chief Manager of 15th NB Property1, LLC, a Minnesota limited liability company, on behalf of the company.

Notary Public

EXHIBIT A
DEVELOPMENT PROPERTY

PARCEL 1:

Real property in the City of Richfield, County of Hennepin, State of Minnesota, described as follows:

Lots 7 and 8, Block 5, Lyndale Oaks, Hennepin County, Minnesota.

(Abstract property)

Along with:

Easement for parking purposes as contained in Parking Easement recorded January 23, 1990 as Document No. 5619455.

PARCEL 2:

Real property in the City of Richfield, County of Hennepin, State of Minnesota, described as follows:

Lot 6, Block 5, Lyndale Oaks, Hennepin County, Minnesota.

(Abstract Property)

PARCEL 3:

Real property in the City of Richfield, County of Hennepin, State of Minnesota, described as follows:

Lot 5, Block 5, Lyndale Oaks, Hennepin County, Minnesota.

(Abstract property)

PARCEL 4:

Real property in the City of Richfield, County of Hennepin, State of Minnesota, described as follows:

Lot 4, Block 5, Lyndale Oaks, Hennepin County, Minnesota

(Abstract property)

PARCEL 5:

Real property in the City of Richfield, County of Hennepin, State of Minnesota, described as follows:

Lot 3, Block 5, "Lyndale Oaks", Hennepin County, Minnesota, according to the recorded plat thereof.

[Abstract Property]

RC125-376 (JAE)
692449v2

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS, made as of the ____ day of December, 2020 (the “Declaration”), is by 6345 PARTNERS, LLC, a Minnesota limited liability company RICHFIELD PROPERTY HOLDINGS, LLC, a Minnesota limited liability company, and 15TH NB PROPERTY1, LLC, a Minnesota limited liability company (collectively, the “Developer”), in favor of the HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF RICHFIELD, MINNESOTA, a public body corporate and politic under the laws of the State of Minnesota (the “Authority”).

RECITALS:

WHEREAS, the Authority has provided to the Developer certain financial assistance with respect to real property legally described in EXHIBIT A attached hereto (the “Development Property”) pursuant to a Contract for Private Development, dated September 22, 2020 (the “Contract”), between the Authority and 6345 Partners, LLC; and

WHEREAS, on December __, 2020, the Authority and the Developer entered into a First Amendment of Contract for Private Development providing for the “Developer,” for the purposes of the Contract, to include 6345 Partners, LLC, Richfield Property Holdings, LLC, and 15th NB Property1, LLC; and

WHEREAS, pursuant to the Contract, the Developer will construct a multifamily housing development consisting of the construction of an approximately 82-unit multifamily housing development, including an accessible two-bedroom unit at ground level, on the Development Property (the “New Housing Development”) and the purchase and rehabilitation of a 22-unit apartment building with naturally occurring affordable rents located on the Development Property (the “NOAH Housing Development,” and collectively with the New Housing Development, the “Project”), and to cause compliance with certain affordability covenants described in Section 4.6 of the Contract; and

WHEREAS, Section 4.6 of the Contract requires that the Developer cause to be executed an instrument in recordable form substantially reflecting the covenants set forth in Section 4.6 of the Contract; and

WHEREAS, the Developer intends, declares, and covenants that the restrictive covenants set forth herein will be and are covenants running with the Development Property for the term described herein and binding upon all subsequent owners of the Development 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 Contract 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 and Rental Restrictions. The term of the Occupancy Restrictions set forth in Section 3 hereof will commence on the date a certificate of occupancy is received from the City of Richfield,

Minnesota (the “City”) for all rental units within the Project. All rental units in the Project will be referred to herein as “Rental Housing Units.” The period from commencement to termination is the “Qualified Project Period.”

(b) Termination of Declaration. This Declaration will terminate upon the date that is twenty-six (26) years after the commencement of the Qualified Project Period; provided, however, that if the TIF Note is paid in full, the Contract is terminated, or the TIF District expires, terminates, or is decertified, this Declaration shall terminate. Notwithstanding the foregoing, pursuant to the City’s Inclusionary Housing Policy, this Declaration must be in effect for at least ten (10) years after the date the New Housing Development is placed in service.

(c) Removal from Real Estate Records. Upon termination of this Declaration, the Authority will, upon request by the Developer or its assigns, provide a 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 Rental Housing Units to Qualifying Tenants (as defined in Section 3(a)(i) 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(a)(ii) hereof); and

(2) agrees that the family income at the time the lease is executed will be deemed 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 Authority, 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.

(ii) Upon at least forty-eight (48) hours’ notice, the Developer will permit any duly authorized representative of the Authority to inspect the books and records of the Developer pertaining to the income of Qualifying Tenants residing in the Project.

3. Occupancy Restrictions.

(a) Tenant Income Provisions. The Developer represents, warrants, and covenants that:

(i) Qualifying Tenants. From the commencement of the Qualified Project Period, at least twenty percent (20%) of the Rental Housing Units (i.e., 21 Rental Housing Units) will be occupied (or treated as occupied as provided herein) or held vacant and available for occupancy by Qualifying Tenants. Qualifying Tenants means those persons and families who are determined from time to time by the Developer to have combined adjusted income that does not exceed fifty percent (50%) of the Minneapolis-St. Paul metropolitan statistical area (the “Metro Area”) median income for the applicable calendar year, except as provided in the last sentence of this paragraph. 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 151(c)(4) 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 on an ongoing basis thereafter, determined at least annually. If during their tenancy a Qualifying Tenant's income exceeds one hundred forty percent (140%) of the maximum income qualifying as low or moderate income for a family of its size, the next available 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. If the Next Available Unit Rule is violated, the Rental Housing Unit will not continue to be treated as a unit occupied by a Qualifying Tenant. A tenant that initially qualified as a Qualifying Tenant, will continue to qualify as a Qualifying Tenant even if such Qualifying Tenant's income exceeds fifty percent (50%) of the Metro Area median income so long as the Next Available Unit Rule is complied with if the Qualifying Tenant's income exceeds 140% of the maximum qualifying income.

(ii) Placement of Affordable Units. At least five (5) of the Rental Housing Units in the New Housing Development will be occupied (or treated as occupied as provided herein) or held vacant and available for occupancy by Qualifying Tenants.

(ii) Certification of Tenant Eligibility. As a condition to initial and continuing occupancy, each person who is intended to be a Qualifying Tenant will be required annually to sign and deliver to the Developer a Certification of Tenant Eligibility substantially in the form attached hereto as EXHIBIT B, or in any other form as may be approved by the Authority (the "Eligibility Certification"), in which the prospective Qualifying Tenant certifies as to qualifying as low or moderate income. In addition, so long as the Authority notifies the Developer in writing of such requirements prior to the applicable lease signing, the person will be required to provide whatever other information, documents, or certifications are deemed necessary by the Authority 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 with respect to each Qualifying Tenant who resides in a Rental Housing Unit or resided therein during the immediately preceding calendar year.

(iii) Lease. The form of lease to be utilized by the Developer in renting any Rental Housing Units 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.

(iv) Annual Report. The Developer covenants and agrees that during the term of this Declaration, it will prepare and submit to the Authority on or before April 1 of each year, a certificate substantially in the form of EXHIBIT C 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 Rental Housing Units 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 Rental Housing 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.

(v) Notice of Non-Compliance. The Developer will immediately notify the Authority if at any time during the term of this Declaration the Rental Housing Units are not occupied or available for occupancy as required by the terms of this Declaration.

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

4. Transfer Restrictions. 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 Rental Restrictions and 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 Authority, 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 Rental Restrictions and Occupancy Restrictions provided herein (the "Assumption Agreement"). The Developer will deliver the Assumption Agreement to the Authority prior to the Transfer.

5. Notice of Sale. In consideration of the financial assistance provided to the Developer pursuant to Article IV of the Contract, the Developer agrees to provide the Authority with at least ninety (90) days' notice of any sale of the Project.

6. Enforcement.

(a) The Developer will permit, during normal business hours and upon at least forty-eight (48) hours' prior written notice, any duly authorized representative of the Authority 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 Authority which the Authority deems reasonably necessary to substantial 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 4.6 of the Contract, and by reason thereof, the Developer, in consideration for assistance provided by the Authority under the Contract that makes possible the construction of the Project on the Development Property, hereby agrees and consents that the Authority 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 Authority 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 Authority may exercise any remedy available to it under Article IX of the Contract.

7. Indemnification. The Developer hereby indemnifies, and agrees to defend and hold harmless the Authority and its members, officers, and agents 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.

8. Agent of the Authority. The Authority 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.

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

10. 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 Authority 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 Authority: Housing and Redevelopment Authority
 in and for the City of Richfield, Minnesota
 6700 Portland Avenue South
 Richfield, MN 55423
 Attn: Community Development Director

To the Developer: 6345 Partners, LLC
 c/o North Bay Companies, LLC
 2316 4th Ave South
 Minneapolis, MN 55404
 Attn: President

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

12. 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 Authority in connection with the action.

13. 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 Authority and its successors and assigns for the term of this Declaration as provided in Section 1(b) hereof.

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

RICHFIELD PROPERTY HOLDINGS, LLC,
a Minnesota limited liability company

By: _____
Daniel Oberpriller
Title: Manager

STATE OF MINNESOTA)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this day of _____, 2020, by Daniel Oberpriller, the Manager of Richfield Property Holdings, LLC, a Minnesota limited liability company, on behalf of the company.

Notary Public

15th NB PROPERTY1, LLC,
a Minnesota limited liability company

By: _____
Daniel Oberpriller
Title: Chief Manager

STATE OF MINNESOTA)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this day of _____, 2020, by Daniel Oberpriller, the Chief Manager of 15th NB Property1, LLC, a Minnesota limited liability company, on behalf of the company.

Notary Public

This Declaration of Restrictive Covenants is acknowledged and consented to by:

**HOUSING AND REDEVELOPMENT AUTHORITY
IN AND FOR THE CITY OF RICHFIELD,
MINNESOTA**

By _____
Its Chair

By _____
Its Executive Director

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this day of _____, 2020, by Mary Supple, the Chair of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the Authority.

Notary Public

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this day of _____, 2020, by John Stark, the Executive Director of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the Authority.

Notary Public

EXHIBIT A TO DECLARATION OF RESTRICTIVE COVENANTS

LEGAL DESCRIPTION OF DEVELOPMENT PROPERTY

PARCEL 1:

Real property in the City of Richfield, County of Hennepin, State of Minnesota, described as follows:

Lots 7 and 8, Block 5, Lyndale Oaks, Hennepin County, Minnesota.

(Abstract property)

Along with:

Easement for parking purposes as contained in Parking Easement recorded January 23, 1990 as Document No. 5619455.

PARCEL 2:

Real property in the City of Richfield, County of Hennepin, State of Minnesota, described as follows:

Lot 6, Block 5, Lyndale Oaks, Hennepin County, Minnesota.

(Abstract Property)

PARCEL 3:

Real property in the City of Richfield, County of Hennepin, State of Minnesota, described as follows:

Lot 5, Block 5, Lyndale Oaks, Hennepin County, Minnesota.

(Abstract property)

PARCEL 4:

Real property in the City of Richfield, County of Hennepin, State of Minnesota, described as follows:

Lot 4, Block 5, Lyndale Oaks, Hennepin County, Minnesota

(Abstract property)

PARCEL 5:

Real property in the City of Richfield, County of Hennepin, State of Minnesota, described as follows:

Lot 3, Block 5, "Lyndale Oaks", Hennepin County, Minnesota, according to the recorded plat thereof.

[Abstract Property]

EXHIBIT B TO DECLARATION OF RESTRICTIVE COVENANTS

CERTIFICATION OF TENANT ELIGIBILITY

Certification of Tenant Eligibility

(INCOME COMPUTATION AND CERTIFICATION)

Project: 6345 Lyndale Avenue South, Richfield, Minnesota

Owner: _____

Unit Type: _____ [studio] _____ [1 BR] _____ [2 BR]

1. I/We, the undersigned, being first duly sworn, state that I/we have read and answered fully, frankly and personally each of the following questions for all persons (including minors) who are to occupy the unit in the above apartment development for which application is made, all of whom are listed below:

Name of Members of the Household	Relationship To Head of Household	Age	Place of Employment
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Income Computation

2. The anticipated income of all the above persons during the 12-month period beginning this date,

(a) including all wages and salaries, overtime pay, commissions, fees, tips and bonuses before payroll deductions; net income from the operation of a business or profession or from the rental of real or personal property (without deducting expenditures for business expansion or amortization of capital indebtedness); interest and dividends; the full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts; payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay; the maximum amount of public assistance available to the above persons; periodic and determinable allowances, such as alimony and child support payments and regular contributions and gifts received from persons not residing in the dwelling; and all regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is the head of the household or spouse; but

(b) excluding casual, sporadic or irregular gifts; amounts which are specifically for or in reimbursement of medical expenses; lump sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workmen's compensation), capital gains and settlement for personal or property losses; amounts of educational

scholarships paid directly to the student or the educational institution, and amounts paid by the government to a veteran for use in meeting the costs of tuition, fees, books and equipment, but in either case only to the extent used for these types of purposes; special pay to a serviceman head of a family who is away from home and exposed to hostile fire; relocation payments under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; foster child care payments; the value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1964 which is in excess of the amount actually charged for the allotments; and payments received pursuant to participation in ACTION volunteer programs, is as follows: \$_____.

3. If any of the persons described above (or whose income or contributions was included in item 2) has any savings, bonds, equity in real property or other form of capital investment, provide:

(a) the total value of all such assets owned by all such persons: \$_____;

(b) the amount of income expected to be derived from such assets in the 12 month period commencing this date: \$_____; and

(c) the amount of such income which is included in income listed in item 2: \$_____.

4. (a) Will all of the persons listed in item 1 above be or have they been full-time students during at least five calendar months of this calendar year at an educational institution (other than a correspondence school) with regular faculty and students?

Yes _____

No _____

(b) Is any such person (other than nonresident aliens) married and eligible to file a joint federal income tax return?

Yes _____

No _____

THE UNDERSIGNED HEREBY CERTIFY THAT THE INFORMATION SET FORTH ABOVE IS TRUE AND CORRECT. THE UNDERSIGNED ACKNOWLEDGE THAT THE LEASE FOR THE UNIT TO BE OCCUPIED BY THE UNDERSIGNED WILL BE CANCELLED UPON 10 DAYS WRITTEN NOTICE IF ANY OF THE INFORMATION ABOVE IS NOT TRUE AND CORRECT.

Head of Household

Spouse

FOR COMPLETION BY OWNER
(OR ITS MANAGER) ONLY

1. Calculation of Eligible Tenant Income:

(a) Enter amount entered for entire household in 2 above: \$ _____

(b) If the amount entered in 3(a) above is greater than \$5,000, enter the greater of (i) the amount entered in 3(b) less the amount entered in 3(c) or (ii) 10% of the amount entered in 3(a):
\$ _____

(c) TOTAL ELIGIBLE INCOME (Line 1(a) plus Line 1(b)): \$ _____

2. The amount entered in 1(c) is less than or equal to 50% of median income for the area in which the Project is located, as defined in the Declaration. 50% is necessary for status as a "Qualifying Tenant" under Section 3(a) of the Declaration.

3. Number of apartment unit assigned: _____.

4. This apartment unit was ____ was not ____ last occupied for a period of at least 31 consecutive days by persons whose aggregate anticipated annual income as certified in the above manner upon their initial occupancy of the apartment unit was less than or equal to 50% of Median Income in the area.

5. Check as applicable: _____ Applicant qualifies as a Qualifying Tenant (tenants of at least _____ units must meet), or _____ Applicant otherwise qualifies to rent a unit.

THE UNDERSIGNED HEREBY CERTIFIES THAT HE/SHE HAS NO KNOWLEDGE OF ANY FACTS WHICH WOULD CAUSE HIM/HER TO BELIEVE THAT ANY OF THE INFORMATION PROVIDED BY THE TENANT MAY BE UNTRUE OR INCORRECT.

6345 PARTNERS, LLC

By _____
Its _____

RICHFIELD PROPERTY HOLDINGS, LLC

By _____
Its _____

15th NB PROPERTY1, LLC

By _____
Its _____

EXHIBIT C TO DECLARATION OF RESTRICTIVE COVENANTS

CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE

Certificate of
Continuing Program Compliance

Date: _____

The following information with respect to the multifamily housing development located at 6345 Lyndale Avenue South, Richfield, Minnesota (the "Project"), is being provided by 6345 Partners, LLC, a Minnesota limited liability company, Richfield Property Holdings, LLC, a Minnesota limited liability company, and 15TH NB Property1, LLC, a Minnesota limited liability company (collectively, the "Owner"), to the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota (the "Authority"), pursuant to that certain Declaration of Restrictive Covenants, dated _____, 20__ (the "Declaration"), with respect to the Project:

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

(B) The following residential units (identified by unit number) are currently occupied by "Qualifying Tenants," as the term is defined in the Declaration (for a total of ____ units):

[Studio Units]: _____

[1 BR Units]: _____

[2 BR Units]: _____

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

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

(D) The following residential units are considered to be occupied by Qualifying Tenants based on the information set forth below:

	Unit Number	Name of Tenant	Number of Persons Residing in the Unit	Number of Bedrooms	Total Adjusted Gross Income	Date of Initial Occupancy	Rent
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
[etc.]							

(E) 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 (D) above who signed such a Certification since _____, 20____, the date on which the last “Certificate of Continuing Program Compliance” was filed with the Authority by the Owner.

(F) 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 (D) 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 twelve (12) months.

(G) 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.

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

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

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

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

6345 PARTNERS, LLC

By _____
Its _____

RICHFIELD PROPERTY HOLDINGS, LLC

By _____
Its _____

15th NB PROPERTY1, LLC

By _____
Its _____

COLLATERAL ASSIGNMENT OF DEVELOPMENT AGREEMENT AND TIF NOTE

THIS COLLATERAL ASSIGNMENT OF DEVELOPMENT AGREEMENT AND TIF NOTE (this “Agreement”) is made and entered into as of the ____ day of December, 2020, by and among the HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF RICHFIELD, MINNESOTA, a public body corporate and politic under the laws of the State of Minnesota (the “Authority”), RICHFIELD PROPERTY HOLDINGS, LLC, a Minnesota limited liability company, 15TH NB PROPERTY1 LLC, a Minnesota limited liability company, and 6345 PARTNERS, LLC, a Minnesota limited liability company (collectively, the “Developer”), and DRAKE BANK, a Minnesota state banking corporation (the “Lender”).

WITNESSETH:

WHEREAS, the Authority and 6345 Partners, LLC have entered into that certain Contract for Private Development dated as of September 22, 2020 (the “Development Agreement”), concerning the construction of an 82-unit multifamily housing development and the purchase and rehabilitation of an existing 22-unit apartment complex (as further described in the Development Agreement), on property legally described on Exhibit A attached hereto and hereby made a part hereof (the “Project”); and

WHEREAS, on December __, 2020, the Authority and the Developer entered into a First Amendment of Contract for Private Development providing for the Developer to include 6345 Partners, LLC, Richfield Property Holdings, LLC, and 15th NB Property1 LLC; and

WHEREAS, pursuant to the Development Agreement, and provided the Developer is in compliance with the requirements contained in the Development Agreement, the Authority shall execute that certain Tax Increment Limited Revenue Note Series 2020-1, in the principal amount of up to \$2,025,987.00 upon compliance with the conditions set forth in Section 3.3 of the Development Agreement, the form of which is attached as Exhibit B to the Development Agreement (the “TIF Note”); and

WHEREAS, the Lender intends to make a loan to the Developer (collectively, the “Borrower”) to be evidenced by, among other things, a Promissory Note (the “Lender Note”) in the original principal amount of \$2,050,000.00 (the “Loan”), to finance in part the development of the Project; and

WHEREAS, the Lender has required, as a condition to the making of the Loan, that (a) the Developer assign all of its rights under the Development Agreement and the TIF Note to

the Lender to secure the obligations of the Borrower to the Lender under the Lender Note (the Lender Note and all documents executed in connection therewith are collectively referred to as the "Loan Documents"), and (b) the Authority agrees to certain other matters, all as more fully contained herein.

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

1. Assignment. The Developer hereby assigns to the Lender all of its right, title and interest under the Development Agreement and the TIF Note, including, without limitation, the right to receive payments under the TIF Note, to secure the Borrower's obligations under the Loan Documents. The Developer shall execute and deliver to the Lender an endorsement to the TIF Note, all to be held by the Lender pursuant to the terms of this Agreement.

2. TIF Note. To perfect the Lender's security interest in the TIF Note, at such time as the Authority issues the TIF Note, the Authority shall issue the TIF Note in the name of the Developer, accept the endorsement of the TIF Note from the Developer to the Lender, and deliver the TIF Note directly to the Lender. Until payment in full of the Lender Note, the Developer authorizes and directs the Authority to make all payments under the TIF Note directly to the Lender, and the Lender shall apply any such payments amounts owing under the Lender Note.

3. Representations and Warranties of Developer. The Developer hereby represents and warrants that there have been no prior assignments of the Development Agreement or the TIF Note, that the Development Agreement is and the TIF Note will be valid and enforceable agreements and that neither the Authority nor the Developer is in default thereunder and that all covenants, conditions and agreements have been performed as required therein, except those not to be performed until after the date hereof. The Developer agrees not to sell, assign, pledge, mortgage or otherwise transfer or encumber its interest in the Development Agreement or the TIF Note as long as this Agreement is in effect. The Developer hereby irrevocably constitutes and appoints the Lender as its attorney-in-fact to demand, receive and enforce the Developer's rights with respect to the Development Agreement and/or the TIF Note for and on behalf of and in the name of the Developer, or, at the option of the Lender, in the name of the Lender, with the same force and effect as the Developer could do if this Agreement had not been made.

4. Present Assignment. This Agreement shall constitute a perfected, absolute and present assignment, provided that the Lender shall have no right under this Agreement to enforce the provisions of the Development Agreement or the TIF Note or exercise any of its rights or remedies under this Agreement until an Event of Default (as that term is defined in the Lender Note) shall occur and be continuing.

5. Event of Default. Upon the occurrence and during the continuance of an Event of Default (as that term is defined in the Lender Note), the Lender may, without affecting any of its rights or remedies against the Developer under any other instrument, document or agreement, exercise its rights under this Agreement as the Developer's attorney-in-fact in any manner permitted by law and, in addition, the Lender shall have the right to exercise and enforce any and

all rights and remedies available after a default to a secured party under the Uniform Commercial Code as adopted in the State of Minnesota. If notice to the Developer of any intended disposition of collateral or of any intended action is required by law in any particular instance, such notice shall be deemed commercially reasonable if given at least ten (10) days prior to the intended disposition or other action.

6. Representations and Warranties of the Authority. The Authority hereby consents and agrees to the terms and conditions of this Agreement. The Authority has not declared an event of default under the Development Agreement.

7. No Assumption. The Authority acknowledges that the Lender is not a party to the Development Agreement and by executing this Agreement does not become a party to the Development Agreement, and specifically does not assume and shall not be bound by any obligations of the Developer to the Authority under the Development Agreement.

8. Default Under Development Agreement. Notwithstanding anything to the contrary in the Development Agreement, if the Lender exercises its rights under this Agreement or under the Loan Documents, the Authority will not declare an event of default under the Development Agreement; provided, however, that the Authority's obligations under the Development Agreement, and in any event, Authority's obligation to make payments under the TIF Note is conditioned upon performance by the Developer or the Lender or their successors of all of the Developer's obligations under the Development Agreement to the extent provided in the Development Agreement.

9. Notice from the Authority. So long as the Development Agreement remains in effect, the Authority agrees to give to the Lender copies of notices of any event of default given to the Developer under the Development Agreement.

10. Amendments. The Authority and the Developer agree that no change or amendment shall be made to the terms of the Development Agreement or the TIF Note without the prior written consent of the Lender.

11. Waiver. This Agreement can be waived, modified, amended, terminated or discharged only explicitly in writing signed by the parties hereto. A waiver by the Lender shall be effective only in a specific instance and for the specific purpose given. Mere delay or failure to act shall not preclude the exercise or enforcement of any of the Lender's rights or remedies hereunder. All rights and remedies of the Lender shall be cumulative and may be exercised singularly or concurrently at the Lender's option, and any exercise or enforcement of any one such right or remedy shall neither be a condition to nor bar the exercise or enforcement of any other.

12. Headings. The descriptive headings for the several sections of this Agreement are inserted for convenience only and not to confine or limit any of the terms or provisions hereof.

13. Addresses for Notice. Any notice from, request, demand or communication hereunder shall be deemed fully given if delivered or served by depositing the same with the United States Postal Service, postage prepaid, certified or registered, addressed to the parties as set forth below:

If to the Authority: Housing and Redevelopment Authority
in and for the City of Richfield, Minnesota
6700 Portland Avenue South
Richfield, Minnesota 55423
Attention: Community Development Director

If to the Developer: 6345 Partners, LLC
2316 4th Avenue South
Minneapolis, Minnesota 55404

If to the Lender: Drake Bank
60 East Plato Boulevard, Suite 100
Saint Paul, Minnesota 55107
Attention: Daniel Batten

14. Transfer of Title to Lender. The Authority agrees that in the event the Lender, a transferee of the Lender, or a purchaser at foreclosure sale, acquires title to the Project pursuant to foreclosure, or a deed in lieu thereof, the Lender, transferee or purchaser shall not be bound by the terms and conditions of the Development Agreement, except as expressly provided herein. The Authority agrees that in the event the Lender, a transferee of the Lender or a purchaser at foreclosure sale acquires title to the Project pursuant to a foreclosure sale or a deed in lieu thereof, then the Lender, transferee or purchaser shall be entitled to all rights conferred upon the Developer under the Development Agreement, as long as no condition of default exists and remains uncured beyond any applicable cure periods in the obligations of the Developer under the Development Agreement.

15. Rights of Authority. Nothing herein limits the Authority’s ability to exercise its rights and remedies under the Development Agreement.

16. Successors. This Agreement and each and every covenant, agreement and other provision hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

17. Severability. The enforceability or invalidity of any provision hereof shall not render any other provision or provisions herein contained unenforceable or invalid.

18. Governing Law. This Agreement is made in and shall be construed in accordance with the laws of the State of Minnesota.

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

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EXHIBIT A

(Legal Description)