

AGENDA
CITY OF MAPLEWOOD
HOUSING AND ECONOMIC DEVELOPMENT COMMISSION
Thursday, October 21, 2021
6:00 P.M.
Council Chambers - Maplewood City Hall
1830 County Road B East

1. Call to Order
2. Roll Call
3. Approval of Agenda
4. Approval of Minutes:
 - a. April 15, 2021 Regular Meeting
 - b. July 26, 2021 Joint Meeting
5. New Business:
 - a. Tax Increment Financing Agreement, 2501 Londin La E
 - b. Single-Family Housing Rehabilitation Program
 - c. 2021 Business Awards
6. Unfinished Business:
7. Visitor Presentations:
8. Commission Presentations:
9. Staff Presentations:
 - a. Development Update
10. Adjourn

MINUTES OF THE HOUSING AND ECONOMIC DEVELOPMENT COMMISSION
1830 COUNTY ROAD B EAST, MAPLEWOOD, MINNESOTA
THURSDAY, APRIL 15, 2021
6:00 P.M.
(THIS MEETING WAS HELD REMOTELY VIA CONFERENCE CALL)

1. CALL TO ORDER

A meeting of the Commission was held and was called to order at 6:07 p.m. by Commissioner Tkachuck.

2. ROLL CALL

Commissioners

Sarah Burdash, Commissioner	Present
Darryl Henchen, Commissioner	Present
Mark Jenkins, Chairperson	Absent
Joy Tkachuck, Commissioner	Present
Dennis Unger, Vice Chair	Present
Bao Vang, Commissioner	Present

Staff

Jeff Thomson, Community Development Director
 Bill Knutson, City Council Liaison

3. APPROVAL OF AGENDA

Commissioner Henchen moved to approve the agenda as submitted.

Seconded by Vice Chair Unger. Ayes – All

The motion passed.

4. APPROVAL OF MINUTES

Commissioner Henchen moved to approve the minutes for January 21, 2021, as submitted.

Seconded by Vice Chair Unger. Ayes – All

The motion passed.

5. NEW BUSINESS

a. Gladstone Redevelopment Update

- i. Community Development Director, Jeff Thomson, gave an update on the status of redevelopment in the Gladstone Neighborhood.

No action is required.

6. UNFINISHED BUSINESS

a. 2020 Business Engagement Program

- i. Community Development Director, Jeff Thomson, gave a brief update on the status of the 2020 Business Engagement Program. More information will be presented at the July meeting.

No action is required.

7. VISITOR PRESENTATIONS

None.

8. COMMISSION PRESENTATIONS

None.

9. STAFF PRESENTATIONS

a. Development Update

- i. Community Development Director, Jeff Thomson, reported on the status of development projects currently taking place in the city as well as upcoming projects.

No action is required.

b. Next Meeting – July 15, 2021

- i. Community Development Director, Jeff Thomson, confirmed that the next scheduled meeting will take place on July 15, 2021.

No action is required.

10. ADJOURNMENT

Vice Chair Unger made a motion to adjourn the meeting.

Seconded by Commissioner Tkachuck Ayes – All

The motion passed.

The meeting was adjourned at 7:22 p.m.

**SPECIAL MEETING MINUTES
MAPLEWOOD ECONOMIC DEVELOPMENT AUTHORITY
HOUSING AND ECONOMIC DEVELOPMENT COMMISSION
JOINT SPECIAL MEETING**

5:30 P.M. Monday, July 26, 2021
City Hall, Council Chambers

A. CALL TO ORDER

A joint special meeting of the Maplewood Economic Development Authority (EDA) and the Housing and Economic Development Commission (HEDC) was held in the City Hall Council Chambers and was called to order at 5:31 p.m. by President Knutson.

The following EDA members were present: President Knutson, Commissioner Abrams, Commissioner Cave, Commissioner Villavicencio & Commissioner Juenemann (arrived at 5:59).

The following HEDC members were present: Commissioner M. Jenkins, Commissioner J. Tkachuck, Commissioner B Vang, Commissioner D. Unger & Commissioner C Robinson.

The following staff members were present: City Manager Coleman, Assistant City Manager/HR Director Sable, Community Development Director Thomson & Finance Director Paulseth.

B. NEW BUSINESS

1. Economic Development Priorities

City Manager Coleman gave the introduction. Community Development Director Thomson and Finance Director Paulseth provided additional information.

C. ADJOURNMENT

The meeting was adjourned at 6:51 p.m.

HOUSING & ECONOMIC DEVELOPMENT COMMISSION STAFF REPORT
Meeting Date October 21, 2021

REPORT TO: Housing and Economic Development Commission
REPORT FROM: Jeff Thomson, Community Development Director
PRESENTER: Jeff Thomson, Community Development Director
AGENDA ITEM: Tax Increment Financing Agreement, 2501 Londin La E

Action Requested: Motion Discussion Public Hearing
Form of Action: Resolution Ordinance Contract/Agreement Proclamation

Policy Issue:

The Economic Development Authority (EDA) has received a Tax Increment Financing (TIF) application from the developer of the former fire station at 2501 Londin La East. The application requests TIF assistance for the construction of 60 affordable housing units that would be constructed as part of the project.

Recommended Action:

Motion to recommend that the EDA approve the Contract for Private Development with SPE Affiliate of Real Estate Equities, Inc.

Fiscal Impact:

Is There a Fiscal Impact? No Yes, the true or estimated cost is \$2.28 million.

Financing source(s): Adopted Budget Budget Modification New Revenue Source
 Use of Reserves Other: Under the terms of the agreement, the

EDA would issue a Tax Increment Revenue Note to the property in the amount of \$2.28 million. The assistance would reimburse the property owner for acquisition and site improvements for the construction of 60 affordable housing units. The note would be paid from tax increment generated by the private improvements being constructed by the developer. The maximum term of the note is 10 years.

Strategic Plan Relevance:

Financial Sustainability Integrated Communication Targeted Redevelopment
 Operational Effectiveness Community Inclusiveness Infrastructure & Asset Mgmt.

The proposal is consistent with the city's strategic plan. The city is selling the property for fair market value which ensures the city is a good steward of its capital assets. The proceeds from the sale will be dedicated to the Fire Station Fund for construction of the new north fire station. In addition, the redevelopment project proposed by the buyer – 148 units of housing – is consistent with the city's 2040 comprehensive plan policies related to land use and housing. Lastly, the construction of new affordable housing units is consistent with the city's housing goals.

Background

Solicitation of Offers

In March 2021, the city issued a Solicitation of Offers for the sale of the former Londin Lane fire station property. The solicitation included the following ranked evaluation criteria:

1. Consistency with the city's 2040 Comprehensive Plan.
2. Ability of the developer to perform as demonstrated by outcomes of similar projects, financial feasibility, quality of the proposal, and evidence of the team's abilities.
3. Purchase price
4. Closing date
5. Providing affordable housing that meets the greatest level of affordability that is financially feasible.
6. Proposed amount and length of any Tax Increment Financing.

Purchase Agreement

After review and consideration of the offers received, the city council selected the offer from Real Estate Equities and approved a purchase agreement with the following terms:

- Sale price of \$1,750,000
- 120-day due diligence period
- \$25,000 in earnest money from the developer to secure commitments in the purchase agreement. The earnest money would be refundable if the developer walks away from the deal based on their review of the property during the 120-day due diligence period.
- There is no extension to the 120-day due diligence period.
- Closing date no later than December 31, 2021.
- Allows one 90-day extension to the closing date at the discretion of the developer. Exercising the extension requires an additional \$25,000 in earnest money, which would not be refundable.

Development Application

Real Estate Equities has submitted the development application requesting approval to build a 148-unit multi-family housing building on the property. The proposed building would be three stories in height over an enclosed below-grade parking garage. The development application requests approval of a zoning map amendment, conditional use permit for building height, and design review. The development application has been reviewed by both the Planning Commission and Community Design Review Board and will be reviewed by the City Council on October 25, 2021.

TIF Application

Real Estate Equities has also submitted a TIF application to support the construction 60 affordable housing units. The proposed agreement includes the following terms:

- The EDA will issue a pay as you go note in the principal amount of \$2,282,896.
- The note is issued for reimbursement of qualifying costs, which include site acquisition, public infrastructure, site preparation and site improvements, not to exceed the amount of the note.
- The EDA would pledge the tax increment generated from the project for payment of the principal and any accrued interest.
- The city would pay the developer the increment and interest as received and no more.
- The term of the note is a maximum of 10 years.
- The developer will pay a park fee in the amount of \$292,448.

- The agreement includes a restrictive covenant that would be filed in the chain of title that at least 60 of the units must be occupied by tenants that have an income that does not exceed 60% of the area median income. The restrictive covenant would be in place for the duration of the TIF Note.

Attachments

1. Contract for Private Development

DRAFT
October 14, 2021

CONTRACT
FOR
PRIVATE DEVELOPMENT
By and Between
THE MAPLEWOOD ECONOMIC DEVELOPMENT AUTHORITY

and

SPE AFFILIATE OF REAL ESTATE EQUITIES, INC.

This document drafted by:

KENNEDY & GRAVEN, CHARTERED (RHB)
150 South Fifth Street
Suite 700
Minneapolis, MN 55402
(612) 337-9300

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EXHIBIT E FORM OF INVESTMENT LETTER
EXHIBIT F FORM OF DECLARATION OF RESTRICTIVE COVENANTS

CONTRACT FOR PRIVATE DEVELOPMENT

This Contract for Private Development (the “Agreement”) is made this ____ day of _____, 2021, by and between the Maplewood Economic Development Authority, a public body corporate and politic under the laws of Minnesota, having its principal office at 1830 County Road B East, Maplewood, Minnesota 55109 (the “Maplewood Economic Development Authority” or the “EDA”), and SPE Affiliate of Real Estate Equities, Inc., a Minnesota limited liability company, having its principal office at 579 Selby Avenue, St. Paul, Minnesota 55102 (the “Developer”).

WITNESSETH:

WHEREAS, the EDA has established Development District No. 1 and adopted a Development Program to encourage development and redevelopment in the Development District; and

WHEREAS, the EDA finds that it is in the public interest, helpful for the tax base and beneficial for the health, safety and welfare of Maplewood as a whole to promote affordable multi-family housing in the community in locations where it is compatible with surrounding land uses; and

WHEREAS, the EDA finds that, due to market conditions which exist today and are likely to persist for the foreseeable future, the private sector alone is not able to accomplish construction of affordable multi-family housing and, therefore, such will not occur without public intervention; and

WHEREAS, in order to foster the development described above, the EDA also intends to establish Tax Increment Financing District No. 1-15, a housing district, within the Development District and adopt a tax increment financing plan related thereto, all pursuant to Minnesota Statutes, sections 469.174 through 469.1799; and

WHEREAS, the Developer has proposed to develop the property located at 2501 Londin Lane E., and defined in this Agreement as the Development Property, through construction of a 148-unit mixed income workforce housing project, as more fully described herein; and

WHEREAS, the EDA believes the Developer’s proposal is in the vital and best interests of Maplewood and the health, safety and welfare of its residents, and in accord with the public purposes and provisions of the applicable state and local laws and requirements for which the Development District and Tax Increment Financing District No. 1-15 were established.

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

ARTICLE I

Definitions

Section 1.1. Definitions. In this Agreement the following terms shall have the meanings given below unless a different meaning clearly appears from the context:

“Administrative Costs” means the administrative expenses incurred by the EDA regarding the TIF District as defined in section 469.174, subd. 14 of the TIF Act.

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

“Assessor” means the Ramsey County assessor.

“Authorizing Resolution” means the resolution, in substantially the form attached hereto as Exhibit D, which authorizes the issuance of the Note by the EDA Executive Director upon satisfaction of the conditions precedent specified in Section 3.3 of this Agreement.

“Available Tax Increment” means 90 percent of the Tax Increment paid to the EDA by the County with respect to the Development Property and the Minimum Improvements.

“Certificate of Completion” means the certificate, in substantially the form attached hereto as Exhibit C, which will be provided to the Developer pursuant to Article IV of this Agreement.

“City” means the city of Maplewood, a municipal corporation under the laws of Minnesota.

“City Approvals” means, collectively, the zoning amendment and any other land use approvals required by the City prior to the Developer being authorized to construct the Minimum Improvements.

“City Development Districts Act” means Minnesota Statutes, sections 469.124 through 469.133, as amended.

“Construction Plans” means the final plans for construction of the Minimum Improvements which shall be submitted by the Developer pursuant to section 4.2 of this Agreement.

“County” means Ramsey County, Minnesota.

“Declaration” means the Declaration of Restrictive Covenants substantially in the form attached hereto as Exhibit F.

“Developer” means SPE Affiliate of Real Estate Equities, Inc., a Minnesota limited liability company.

“Development District” means the Development District No. 1.

“Development Program” means the Development Program for the Development District No. 1, which was most recently modified on October 25, 2021.

“Development Property” means the property generally located at 2501 Londin Lane E. in Maplewood. The property is legally described in Exhibit A attached hereto.

“Economic Development Authorities Act” or “EDA Act” means Minnesota Statutes, sections 469.090 through 469.108, as amended.

“Economic Development Authority” or “EDA” means the Maplewood Economic Development Authority, a public body corporate and politic under the laws of Minnesota.

“Event of Default” means an action by the Developer or the EDA listed in Article VIII of this Agreement.

“Final Payment Date” means the earliest of (i) the date on which the entire principal and accrued interest on the Note have been paid in full; or (ii) February 1, 2034; or (iii) any earlier date this Agreement or the Note is terminated or cancelled in accordance with the terms hereof or deemed paid in full; or (iv) the February 1 following the date the TIF District is terminated in accordance with the TIF Act; or (v) the date the EDA cancels the Note upon a written request for termination from the Developer and a determination in the EDA’s sole discretion that such termination will not limit or interfere with the EDA’s ability to pool Tax Increment generated by the TIF District for affordable housing in accordance with the TIF Act.

“Housing and Redevelopment Authorities Act” or “HRA Act” means Minnesota Statutes, sections 469.001 through 469.047, as amended.

“Material Change” means a substantial change in the Construction Plans which requires new or revised City Approvals or one which will likely adversely affect the generation of tax increment attributable to the Minimum Improvements.

“Maturity Date” means the date the Note has been paid in full or terminated, whichever is earlier.

“Minimum Improvements” means a 148-unit three-story apartment building and related amenities and improvements. After completion of the Minimum Improvements, the term shall mean the Development Property as improved by the Minimum Improvements.

“Note” means the taxable Tax Increment Revenue Note, in substantially the form set forth in the Authorizing Resolution, to be delivered by the EDA to the Developer to reimburse the Developer for the Qualifying Costs pursuant to Article III of this Agreement.

“Park Fee” means the fee in the amount of \$292,448 payable by the Developer to the City.

“Payment Date” means August 1, 2024 and each February 1 and August 1 thereafter to and including the Final Payment Date.

“Preliminary Plans” means the plans of the Minimum Improvements referenced in Exhibit B attached hereto.

“Public Assistance” means the financial assistance to be offered by the EDA to the Developer through issuance of the Note.

“Qualifying Costs” means the cost of site acquisition, public infrastructure, site preparation, site improvements and other qualifying expenditures made by the Developer related to completion of the Minimum Improvements which the EDA intends to partially reimburse through the Note.

“Rental Housing Unit” means one of the 148 rental housing units constructed as part of the Minimum Improvements.

“Sale” means any conveyance of fee simple title in and to the Minimum Improvements or the Development Property, as more fully defined in Article VII of this Agreement.

“State” means the state of Minnesota.

“Substantial Completion” means completion of the Minimum Improvements to a degree allowing the issuance of a temporary certificate of occupancy by the City’s building official.

“Tax Increment” means the tax increment, as that term is defined in Minnesota Statutes, section 469.174, subd. 25, which is paid to the EDA by the County with respect to the Minimum Improvements and the Development Property.

“Tax Increment Financing Act” or “TIF Act” means Minnesota Statutes, sections 469.174 through 469.1799, as amended.

“Tax Increment Financing District” or “TIF District” means Tax Increment Financing District No. 1-15, a housing district.

“Tax Increment Financing Plan” or “TIF Plan” means the tax increment plan for Tax Increment Financing District No. 1-15 which was approved by the EDA and by the City on October 25, 2021.

“Tax Official” means the Assessor, County auditor, County or state board of equalization, the commissioners of revenue of the State, or any State or federal district court, the tax court of the State, or the State Supreme Court.

“Termination Date” means the earlier of: (i) the date the TIF District is terminated in accordance with the TIF Act; or (ii) the date the Note is paid in full; or (iii) the date the EDA cancels the Note upon a written request for termination from the Developer and a determination in

the EDA's sole discretion that such termination will not limit or interfere with the EDA's ability to pool Tax Increment generated by the TIF District for affordable housing in accordance with the TIF Act;

“Unavoidable Delays” means delays which are the direct result of adverse weather conditions; strikes or other labor troubles; fire or other casualty to the Minimum Improvements; litigation commenced by third parties which, by injunction or other similar judicial action, directly results in delays; or, except those of the EDA or the City reasonably contemplated by this Agreement, any acts or omissions of any federal, State or local governmental unit which directly result in delays in construction of the Minimum Improvements; default or unanticipated delay by the EDA or the City under this Agreement; or any other cause beyond the reasonable control of a party.

Section 1.2. Exhibits. The following exhibits are attached to and by reference made a part of this Agreement:

- Exhibit A. Legal Description of Development Property
- Exhibit B. List of Preliminary Plans
- Exhibit C. Form of Certificate of Completion
- Exhibit D. Form of Authorizing Resolution with Note
- Exhibit E. Form of Investment Letter
- Exhibit F. Form of Declaration of Restrictive Covenants

Section 1.3. Rules of Interpretation. (a) This Agreement shall be interpreted in accordance with and governed by the laws of Minnesota.

(b) The words “herein” and “hereof” and words of similar import, without reference to any particular section or subdivision, refer to this Agreement as a whole rather than any particular section or subdivision hereof.

(c) References herein to any particular section or subdivision hereof are to the section or subdivision of this Agreement as originally executed.

(d) Any titles of the several parts, articles and sections of this Agreement are inserted for convenience and reference only and shall be disregarded in construing or interpreting any of its provisions.

ARTICLE II

Representations and Warranties

Section 2.1. Representations by the EDA. The EDA makes the following representations as the basis for the undertaking on its part herein contained:

(a) The EDA is an economic development authority duly organized and existing under the EDA Act and also having the powers of a housing and redevelopment authority under the HRA

Act and of a city under the City Development Districts Act. The EDA has the authority to enter into this Agreement and carry out its obligations hereunder.

(b) The EDA has approved execution of this Agreement. The individuals executing this Agreement and related agreements and documents on behalf of the EDA have the authority to do so and to bind the EDA by their actions.

(c) The Development District is a development district which was created, adopted and approved in accordance with the City Development Districts Act.

(d) TIF District No. 1-15 is a housing tax increment financing district within the meaning of the TIF Act and was created, adopted and approved in accordance with the TIF Act.

(e) There are no previous agreements currently in effect to which the EDA is a party pertaining to the Development Property which would preclude the parties from entering into this Agreement or which would impede the fulfillment of the terms and conditions of this Agreement.

(f) The activities of the EDA pursuant to this Agreement are undertaken pursuant to the Development Program and the TIF Plan and are for the purpose of development of the Development Property with a mixed income workforce housing project.

(g) The EDA will act in a timely manner to consider all approvals required under this Agreement and will cooperate with the Developer in seeking consideration of approvals which must be granted by the City or other public entities.

Section 2.2. Representations and Warranties by the Developer. The Developer makes the following representations and warranties as the basis for the undertaking on its part herein contained:

(a) The Developer is a limited liability company validly existing under the laws of the state of Minnesota. The Developer has the authority to enter into this Agreement and carry out its obligations hereunder.

(b) The persons executing this Agreement and related agreements and documents on behalf of the Developer have the authority to do so and to bind the Developer by their actions.

(c) The Developer has entered into a purchase agreement with the City to acquire the Development Property and will close by December 31, 2021, subject to extensions as set forth in the purchase agreement.

(d) The Developer will construct the Minimum Improvements in substantial accordance with the terms of this Agreement, the Development Program, the TIF Plan, the Construction Plans and all local, State and federal laws and regulations, including, but not limited to, environmental, zoning, building code and public health laws and regulations.

(e) The Developer will apply for and use all reasonable efforts to obtain, in a timely manner, all required permits, licenses and approvals from the City, and will meet, in a timely manner, the requirements of all applicable local, State and federal laws and regulations which must be obtained or met before the Minimum Improvements may be lawfully constructed or used for their intended purpose.

(f) The Developer has analyzed the economics of acquisition of the Development Property, the cost of the public infrastructure improvements, site preparation, site improvements, and construction of the Minimum Improvements and concluded that, absent the Public Assistance to be offered under this Agreement, it would not undertake this project.

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

(h) No more than 20 percent of the square footage of the Minimum Improvements will consist of commercial, retail or other non-residential uses.

ARTICLE III

Acquisition of Development Property; Public Assistance

Section 3.1. Acquisition of Development Property. The Developer agrees to acquire the Development Property in fee by December 31, 2021, subject to extensions as set forth in the purchase agreement. The EDA makes no representations to the Developer regarding the suitability of the Development Property for the use and purpose intended by the Developer.

Section 3.2. Issuance of Pay-As-You-Go Note. (a) In consideration of the Developer incurring the Qualifying Costs while constructing the Minimum Improvements, the EDA will issue to the Developer the Note in the principal amount of \$2,237,754 in substantially the form set forth in the Authorizing Resolution attached hereto as Exhibit D. The EDA and the Developer agree that the consideration from the Developer for the purchase of the Note will consist of the Developer's payment of the Qualifying Costs which are eligible for reimbursement with Tax Increment and which are incurred by the Developer in at least the principal amount of the Note. The Authorizing Resolution will authorize delivery of the Note by the EDA Executive Director upon satisfaction by the Developer of all the conditions precedent specified in section 3.3 of this Agreement.

(b) Subject to the provisions thereof, the Note shall bear simple, non-compounding interest at the rate equal to the lesser of 4.60% per annum or the actual rate per annum on the Developer's permanent first mortgage financing for the Minimum Improvements. The Developer agrees to provide the EDA either (i) copies of all executed financing documents or (ii) a summary of all material terms and written confirmation from Developer's lenders on the closing on the funding of the loans related to financing the Minimum Improvements. Interest shall be computed

on the basis of a 360-day year consisting of twelve 30-day months. Principal and interest on the Note will be payable on each Payment Date; however, the sole source of funds required to be used for payment of the EDA's obligations under this Agreement and under the Note shall be the Available Tax Increment received in the 6-month period preceding each Payment Date. On each Payment Date the Available Tax Increment shall be credited against the accrued interest then due on the Note and then applied to reduce the principal. In the event the Available Tax Increment is not sufficient to pay the accrued interest, the unpaid accrued interest shall be carried forward without interest. All Tax Increment in excess of the Available Tax Increment necessary to pay the principal and accrued interest on the Note is not subject to this Agreement, and the EDA retains full discretion as to any authorized application thereof. To the extent that the Available Tax Increment is insufficient through the Final Payment Date to pay all amounts otherwise due on the Note, said unpaid amounts shall then cease to be any debt or obligation of the EDA whatsoever. No interest will accrue during any period in which payments have been suspended pursuant to this Agreement.

(c) The Developer understands and acknowledges that the EDA makes no representations or warranties regarding the amount of Available Tax Increment, or that revenues pledged to the Note will be sufficient to pay the Note. Any estimates of Tax Increment prepared by the EDA or its financial advisors in connection with the TIF District or this Agreement are for the benefit of the EDA and are not intended as representations on which the Developer may rely.

Section 3.3. Conditions Precedent to Issuance of the Note. Notwithstanding anything in this Agreement to the contrary, the EDA Executive Director is authorized to issue the Note to the Developer only after all of the following conditions precedent have been satisfied:

- (a) The Developer has acquired the Development Property in fee;
- (b) The Developer has executed this Agreement and it has been recorded against the Development Property;
- (c) The Developer has executed the Declaration of Restrictive Covenants and it has been recorded against the Development Property;
- (d) The Developer has paid the Park Fee to the City;
- (e) The Developer has completed the Minimum Improvements and the EDA has issued the Certificate of Completion;
- (f) The Developer has submitted evidence, including paid receipts and lien waivers, it has incurred and paid for the Qualifying Costs in an amount not less than the principal amount of the Note;
- (g) The Developer has submitted the Investment Letter in the general form attached hereto as Exhibit E;
- (h) The EDA has adopted the Authorizing Resolution; and

(i) There has been no Event of Default on the part of the Developer which has not been cured.

Section 3.4. Records. The EDA and its representatives will have the right at all reasonable times after reasonable notice to inspect, examine and copy invoices paid by the Developer and/or its general contractor relating to the Minimum Improvements and the Qualifying Costs for which the Developer will be reimbursed under the Note.

Section 3.5. No Business Subsidy. The Public Assistance offered to the Developer under this Agreement and the Note is related to the construction of housing and therefore is not a “business subsidy” within the meaning of Minnesota Statutes, sections 116J.993 to 116J.995.

ARTICLE IV

Construction of Minimum Improvements

Section 4.1. Construction of Minimum Improvements. The Developer agrees that it will construct the Minimum Improvements on the Development Property in accordance with the Preliminary Plans and the Construction Plans. The Developer acknowledges that, in addition to the requirements of this Agreement, construction of the Minimum Improvements will necessitate compliance with the City Approvals and possibly approvals by other governmental agencies. To the extent such approvals have not already been obtained, the Developer agrees to submit in a timely manner all applications for and pursue to their conclusion all other approvals needed prior to constructing the Minimum Improvements.

Section 4.2. Preliminary Plans and Construction Plans. (a) The Developer has submitted and the EDA has approved the Preliminary Plans listed in Exhibit B attached hereto. Prior to beginning construction on the Minimum Improvements, the Developer shall submit dated Construction Plans to the EDA. The Construction Plans shall provide for the construction of the Minimum Improvements and shall be in substantial conformity with the Preliminary Plans and this Agreement. The EDA will approve the Construction Plans if they (1) are consistent with the Preliminary Plans; (2) conform to all applicable federal, State and local laws, ordinances, rules and regulations; (3) are adequate to provide for the construction of the Minimum Improvements; (4) conform to the State building code; and (5) if there has occurred no uncured Event of Default on the part of the Developer. Except as otherwise set forth herein, no approval by the EDA shall relieve the Developer of the obligation to comply with the terms of this Agreement and the terms of all applicable federal, State and local laws, ordinances, rules and regulations in the construction of the Minimum Improvements. Except as otherwise set forth herein, no approval by the EDA shall constitute a waiver of an Event of Default. The EDA shall use good faith efforts to review the Construction Plans and either approve or reject them in writing within 15 business days after receipt. Any rejection, in whole or in part, shall set forth in detail the reasons for rejection.

(b) No more than 20 percent of the square footage of the Minimum Improvements shall consist of commercial, retail or other non-residential uses.

(c) If the Developer desires to make any Material Change in the Construction Plans after approval, the Developer shall submit the proposed change to the EDA for its approval. If the proposed change is consistent with the Preliminary Plans or is otherwise acceptable to the EDA and meets all other requirements of section 4.2(a) above, the EDA shall approve the proposed change. Such change in the Construction Plans shall be deemed approved by the EDA unless rejected, in whole or in part, by written notice by the EDA to the Developer, setting forth in detail the reasons for rejection. Such rejection shall be made within 15 business days after receipt by the EDA of the written notice of such change from the Developer.

Section 4.3. Commencement and Completion of Construction. Subject to Unavoidable Delays, the Developer anticipates to commence construction of the Minimum Improvements by no later than April 30, 2022. The Developer agrees to pay the Park Fee to the City at the time of issuance of the building permit for the Minimum Improvements. All work with respect to the Minimum Improvements to be constructed or provided by the Developer on the Development Property shall be in conformity with the Construction Plans. The Developer shall make such reports to the EDA regarding construction of the Minimum Improvements as the EDA deems necessary or helpful in order to monitor progress on construction of the Minimum Improvements. The Developer anticipates to have achieved Substantial Completion of the Minimum Improvements by no later than April 30, 2024.

Section 4.4. Certificate of Completion; Annual Rental License. (a) After Substantial Completion of the Minimum Improvements in accordance with the Construction Plans and at the written request of the Developer, the EDA will, within 20 days thereafter, furnish the Developer with an appropriate Certificate of Completion so certifying in the form of Exhibit C attached hereto. Such Certificate of Completion by the EDA shall be a conclusive determination of satisfaction and termination of the agreements and covenants in this Agreement with respect to the obligations of the Developer to construct the Minimum Improvements and the dates for the beginning and completion thereof.

(b) The Certificate of Completion shall be in such form set forth in Exhibit C and as will enable it to be recorded in the proper County office for the recordation of deeds and other instruments pertaining to the Development Property. If the EDA shall refuse to provide a Certificate of Completion in accordance with the provisions of this section 4.4, the EDA shall promptly notify Developer within the same 20 day period following receipt of request by the Developer for the Certificate of Completion, and such notification from the EDA shall include a written statement, indicating in adequate detail in what respects the Developer has failed to complete the relevant portion of the Minimum Improvements in accordance with the Construction Plans and what measures or acts will be necessary, in the opinion of the EDA, for the Developer to take or perform in order to obtain such certification. If the EDA fails to issue such a written statement within such 20-day period, the EDA shall be deemed to have waived its right to do so and shall be deemed to have issued a Certificate of Completion to the Developer. The Developer shall have 60 days following receipt of the EDA's written response to cure or agree to terms with the EDA regarding issues to be resolved prior to the Developer obtaining a Certification of Completion from the EDA.

(c) The City requires an annual license for all multi-family rental properties. The Developer agrees to obtain the required license from the City every year the license is required under the City's rental licensing ordinance.

Section 4.5. Declaration Regarding Income Restrictions; Qualification of the TIF District. The Developer agrees that the Minimum Improvements will be subject to the following tenant income restrictions:

(a) The Developer will cause at least 40 percent (60) of the Rental Housing Units in the Minimum Improvements to be occupied by Qualifying Tenants whose household income is 60 percent or less of the area median gross income, all as further described in the Declaration attached hereto as Exhibit F. Prior to any payment under the Note, the Developer will deliver the executed Declaration to the EDA in recordable form.

(b) 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 in which the prospective Qualifying Tenant certifies as to his or her income. In addition, the person will be required to provide whatever other information, documents, or certifications are reasonably deemed necessary by the Executive Director of the EDA to substantiate his or her income, on an ongoing annual basis, and to verify that the tenant continues to be a Qualifying Tenant. 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.

(c) The form of lease to be utilized by the Developer in renting any Rental Housing Unit 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 income.

(d) On or before April 15 of each year during the term of the Declaration, commencing on the first April 15 after issuance of the Certificate of Completion, the Developer must submit evidence of tenant incomes, showing that at least 60 of the Rental Housing Units meet the income restrictions set forth in the Declaration. The EDA will review the submitted evidence related to the income restrictions required by Section 469.1761 of the TIF Act to determine that the TIF District remains qualified as a housing district under the TIF Act.

(e) While the covenants in this Section 4.5 are in effect, the EDA and its representatives will have the right at all reasonable times, and after reasonable notice, to inspect and to examine and copy all books and records of the Developer and its successors and assigns relating to the covenants described in this Section 4.5 and in the Declaration.

(f) The Developer acknowledges that the primary purpose for requiring compliance by the Developer with the rental restrictions provided in this Agreement and the Declaration is to ensure compliance of the Minimum Improvements with the income covenants set forth herein and the continued eligibility of TIF District No. 1-15 as a housing tax increment financing district under the TIF Act. If prior to the Termination Date the EDA reasonably determines, based on the

reports submitted by the Developer or, if the EDA receives notice from the State Department of Revenue, the State Auditor, any Tax Official or any court of competent jurisdiction that the TIF District does not qualify or no longer qualifies as a housing district due to action or inaction of the Developer, such event will be deemed an Event of Default by the Developer under this Agreement; provided, however, that the EDA may not terminate this Agreement so long as the determination is being contested in good faith and has not been finally adjudicated. In addition to any remedies available to the EDA under Article VIII hereof, the Developer will indemnify, defend and hold harmless the EDA for any damages or costs resulting therefrom, including any Tax Increment the EDA may be required or agrees to repay as a result of any action taken under section 469.1771 of the TIF Act for violation of said Act relating to disqualification of the TIF District.

(g) 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 Minimum Improvements prior to the Termination Date that the transferee assume in writing, in a form acceptable to the EDA, all duties and obligations of the Developer under this section 4.5 and the Declaration regarding income restrictions and verification of Qualified Tenants by means of an assumption agreement acceptable to the EDA. The Developer will deliver an executed copy of the assumption agreement to the EDA prior to the transfer.

ARTICLE V

Insurance

Section 5.1. Insurance. The Developer or its general contractor will provide and maintain at all times during the process of constructing the Minimum Improvements a Special Form Basis Insurance Policy and, from time to time during that period, at the request of the EDA no more frequently than once annually, furnish the EDA with proof of payment of premiums on policies covering the following:

- (1) Builder's risk insurance, written on the so-called "Builder's Risk – Completed Value Basis," in an amount equal to one hundred percent (100%) of the insurable value of the applicable portion of the Minimum Improvements at the date of completion, and with coverage available in reporting form on the so-called "special" form of policy;
- (2) Commercial general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations and contractual liability insurance) with limits against bodily injury and property damage of not less than \$1,000,000 for each occurrence (to accomplish the above-required limits, an umbrella excess liability policy may be used); and
- (3) Workers' compensation insurance, with statutory coverage.

Section 5.2. Evidence of Insurance. All insurance required in this Article V of this Agreement must be taken out and maintained in responsible insurance companies selected by the Developer which are authorized under the laws of Minnesota to assume the risks covered thereby.

In lieu of separate policies, the Developer may maintain a single policy, blanket or umbrella policies, or a combination thereof, having the coverage required herein. Upon written request by the EDA, the Developer agrees to deposit with the EDA a certificate or certificates or binders of the respective insurers stating that such insurance is in force and effect.

ARTICLE VI

Payment of Taxes; Use of Tax Increment

Section 6.1. Taxes. The Developer agrees that prior to the Termination Date: (i) it will not seek administrative or judicial review of the applicability of any tax statute determined by any Tax Official to be applicable to the Minimum Improvements or the Development Property or raise the inapplicability of any such tax statute as a defense in any proceedings, including delinquent tax proceedings; (ii) it will not seek administrative or judicial review of the constitutionality of any tax statute determined by any Tax Official to be applicable to the Minimum Improvements or the Development Property or raise the unconstitutionality of any such tax statute as a defense in any proceedings, including delinquent tax proceedings; and (iii) it will not cause a reduction in the assessed value of the Minimum Improvements or the Development Property through:

- (a) willful destruction of the Minimum Improvements or any part thereof;
- (b) an application to the commissioner of revenue of the State or to any local taxing jurisdiction requesting an abatement or deferral of real estate taxes on the Minimum Improvements or the Development Property;
- (c) a transfer of the Minimum Improvements or the Development Property, or any part thereof, to an entity exempt from the payment of real estate taxes under State law and that entity applies for tax exemption; or
- (d) any other proceedings, whether administrative, legal or equitable, with any administrative body within the County or the State or with any court of the State or the federal government.

Section 6.2. Right to Collect Delinquent Taxes and Special Assessments. The Developer acknowledges that at all times prior to the Termination Date the EDA shall have the right to sue the Developer or its successors and assigns to collect delinquent real estate taxes and any penalty or interest thereon and special assessments due on the Development Property or the Minimum Improvements and to pay over the same as a tax payment to the County auditor. In any such suit in which the EDA prevails, the EDA shall also be entitled to recover its reasonable out-of-pocket costs and expenses, including attorney fees.

Section 6.3. Housing District; Use of Tax Increment. TIF District No. 1-15 is a housing tax increment financing district within the meaning of section 469.174, subd. 11 of the TIF Act. Except for payments to the Developer as provided for in this Agreement and the Note, the EDA shall be free to use any Tax Increment it receives from the County with respect to TIF District

No. 1-15 for any purpose for which such increment may lawfully be used under the TIF Act and the EDA shall have no obligations to the Developer with respect to the use of such Tax Increment.

ARTICLE VII

Restrictions on Sale of Minimum Improvements; Termination of Agreement

Section 7.1. Prohibition Against Sale of Minimum Improvements.

(a) The Developer represents and agrees that its use of the Development Property and its other undertakings pursuant to the Agreement, are, and will be, used for the purpose of construction of the Minimum Improvements on the Development Property and not for speculation in land holding. The Developer represents and agrees that, prior to the issuance of a Certificate of Completion regarding the Minimum Improvements, there shall be no Sale of the Development Property or the Minimum Improvements constructed thereon nor shall the Developer suffer any such Sale to be made, without the prior written approval of the EDA; provided however, notwithstanding the foregoing, the Developer shall be entitled to lease Rental Housing Units of the Development Property to third parties without the prior written approval of the EDA. As a condition of approval of any such sale, the EDA shall require, at a minimum, that the proposed transferee shall have entered into an agreement whereby the transferee expressly assumes all of the Developer's obligations under this Agreement. Any such agreement shall include the EDA as a party and otherwise be in form and substance reasonably acceptable to the EDA. No approval of the EDA shall be needed for any Sale after the issuance of a Certificate of Completion regarding the Minimum Improvements.

(b) Notwithstanding anything in this Agreement to the contrary, Developer is authorized, without the approval of EDA, to obtain construction and permanent financing for the Minimum Improvements and to mortgage the Development Property to provide security for the construction and permanent financing, and the EDA shall subordinate this Agreement to such mortgage. In the event of foreclosure, deed-in-lieu of foreclosure or other transfer of the Minimum Improvements or the Development Property as a result of default under such mortgage, the acquiring party shall not need the approval of the EDA for the transfer and shall not be subject to the obligations of this Agreement.

(c) After a Certificate of Completion has been issued, Developer or other transferor may freely, without the approval of EDA, sell or transfer all or any portion of the Minimum Improvements or the Development Property to any person at any time. In the event that the Developer or other transferor sells or transfers the Minimum Improvements or the Development Property or any portion to any person, then, within 15 days after request, the EDA shall acknowledge and certify certain facts in connection with this Agreement and the status of obligations of Developer/transferor under this Agreement. The EDA shall provide this certification to Developer/transferor and any potential buyer or transferee of the Minimum Improvements or the Development Property or any portion. The certification shall reference the following: (1) that the Developer/transferor and transferee may rely on the representations and agreements made by the EDA in the certification; (2) the status of the completion of the construction obligations of the Minimum Improvements; (3) the amount of payments made under

the Note and the outstanding principal balance of the Note, if any, and that any amounts owed under the Note will be paid to Developer and not the transferee unless the rights under the Note are specifically assigned to the transferee; (4) that the Developer and not the transferee remains responsible for construction obligations under this Agreement, and that transferee and any subsequent owners of the Minimum Improvements or the Development Property are released from all construction obligations under this Agreement; (5) that the transferee and not the Developer/transferor shall be responsible for all non-construction obligations under this Agreement arising subsequent to the sale or transfer of the Minimum Improvements or the Development Property for the portion of the Development Property owned by the transferee so long as the transferee has assumed such obligations by written instrument, and that the Developer/transferor is released from all such non-construction obligations under this Agreement; and (6) whether or not there exists any defaults, events of default, or conditions which with the passage of time or giving of notice would constitute a default under this Agreement.

Section 7.2. Termination of Agreement. Upon the occurrence of the Termination Date, the parties agree to execute and record a document terminating this Agreement.

ARTICLE VIII

Events of Default

Section 8.1. Events of Default Defined. Each and every one of the following shall be an Event of Default under this Agreement:

(a) Failure by the Developer to seek approval from the EDA, the City and other entities necessary in order to construct the Minimum Improvements diligently and in good faith; provided that if a Certificate of Completion is issued by the EDA, such failure shall no longer be an Event of Default;

(b) Failure by the Developer to pay real estate taxes or special assessments on the Minimum Improvements or the Development Property as they become due;

(c) Failure by the Developer to commence and completion construction of the Minimum Improvements pursuant to the terms, conditions and limitations of Article IV of this Agreement, including the timing thereof, unless such failure is caused by an Unavoidable Delay or waived by the Developer and the EDA;

(d) If the Developer shall file a petition in bankruptcy, or shall make an assignment for the benefit of its creditors or shall consent to the appointment of a receiver;

(e) Failure by the Developer to obtain the annual rental license required by the City for the Minimum Improvements;

(f) If there is a violation by the Developer of the Declaration with regard to the required income limitations or if the Developer fails to deliver the annual rent and income reports required by the Declaration;

(g) Sale of the Minimum Improvements or the Development Property, or any portion thereof, by the Developer in violation of Article VII of this Agreement;

(h) Any action or inaction by the Developer which disqualifies the TIF District as a housing district under the TIF Act prior to the Termination Date; or

(i) Failure by either party to observe or perform any material covenant, condition, obligation or agreement on its part to be observed or performed under this Agreement, including but not limited to any action necessary for the establishment of the TIF District.

Section 8.2. Remedies on Default. Whenever any Event of Default referred to in section 8.1 of this Agreement occurs, the non-defaulting party may take any one or more of the following actions after providing 30 days written notice to the defaulting party of the Event of Default, but only if the Event of Default has not been cured within said 30 days from the receipt of Notice or, if the Event of Default is by its nature incurable within 30 days, the defaulting party does not provide assurances to the non-defaulting party reasonably satisfactory to the non-defaulting party that the Event of Default will be cured and will be cured as soon as reasonably possible:

(a) Suspend its performance under this Agreement until it receives assurances from the defaulting party, deemed adequate by the non-defaulting party, that the defaulting party will cure its default and continue its performance under this Agreement;

(b) Prior to issuance of the Certificate of Completion, cancel and rescind or terminate this Agreement;

(c) If the default occurs after issuance of the Certificate of Completion, the EDA may suspend payments under the Note, subject to the provisions of section 8.3 of this Agreement; and

(d) Take whatever action, including legal or administrative action, which may appear necessary or desirable to the non-defaulting party to collect any payments due under this Agreement, including reimbursement of the Redevelopment Assistance previously granted, or to enforce performance and observance of any obligation, agreement, or covenant of the defaulting party under this Agreement.

Section 8.3. Remedies after Certificate of Completion. The EDA may exercise its rights under Section 8.2(c) only for the following Events of Default:

(1) the Developer fails to pay real estate taxes or special assessments on the Minimum Improvements or the Development Property or any part thereof when due and the taxes or special assessments have not been paid, or provision satisfactory to the EDA made for their payment, within 45 days after written demand by the EDA to do so; or

(2) the Developer takes or permits an action prohibited by section 6.1 of this Agreement; or

(3) the Developer takes an action or fails to take an action which disqualifies the TIF District as a housing district under the TIF Act prior to the Termination Date; or

(4) the Developer transfers the Minimum Improvements or the Development Property, or any part thereof, to an entity exempt from the payment of real estate taxes under State law.

Section 8.4. No Remedy Exclusive. No remedy conferred herein or reserved to the parties is intended to be exclusive of any other available remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the EDA or the Developer to exercise any remedy reserved to it, it shall not be necessary to give notice, other than such notice as may be required under this Agreement.

Section 8.5. No Additional Waiver Implied by One Waiver. In the event any covenant or agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

ARTICLE IX

Additional Provisions

Section 9.1. Conflict of Interests; Representatives Not Individually Liable. No member, official, or employee of the EDA shall have any personal financial interest, direct or indirect, in the Agreement, nor shall any such member, official, or employee participate in any decision relating to the Agreement which affects his or her personal financial interests or the interests of any corporation, partnership, or association in which he or she is, directly or indirectly, interested. No member, official, or employee of the EDA shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach or for any amount which may become due or on any obligations under the terms of this Agreement.

Section 9.2. Equal Employment Opportunity. The Developer, for itself and its successors and assigns, agrees that during the construction of the Minimum Improvements provided for in this Agreement, it will comply with all applicable equal employment and nondiscrimination laws and regulations.

Section 9.3. Restrictions on Use. The Developer agrees that through the Termination Date it will use the Minimum Improvements for only such uses as permitted under the City's land use regulations and in compliance with the City Approvals.

Section 9.4. Notices and Demands. Except as otherwise expressly provided in this Agreement, any notice, demand, or other communication under the Agreement or any related

document by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified United States mail, postage prepaid, return receipt requested, or delivered personally to:

- (a) in the case of the Developer: SPE Affiliate of Real Estate Equities, Inc.
579 Selby Avenue
St. Paul, MN 55102
Attn: _____
- (b) in the case of the EDA: Maplewood Economic
Development Authority
1830 County Road B East
Maplewood, MN 55109
Attn: Executive Director

and with a copy to: Kennedy & Graven, Chartered
150 South Fifth Street, Suite 700
Minneapolis, MN 55402
Attn: Ronald H. Batty

or at such other address with respect to either such party as that party may, from time to time, designate in writing and forward to the other as provided in this section 9.4.

Section 9.5. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 9.6. Disclaimer of Relationships. The Developer acknowledges that nothing contained in this Agreement nor any act by the EDA or the Developer shall be deemed or construed by the Developer or by any third person to create any relationship of third-party beneficiary, principal and agent, limited or general partner, or joint venture between the EDA and the Developer.

Section 9.7. Amendment. This Agreement may be amended only by the written agreement of the parties.

Section 9.8. Recording; Agreement Runs with the Land. The EDA intends to record this Agreement among the County land records and the Developer agrees to pay for the cost of recording same. This Agreement runs with the Development Property and shall bind the successors and assigns of the EDA and the Developer.

Section 9.9. Release and Indemnification Covenants. a) Except for any negligent act of the following named parties, the Developer hereby releases from and covenants and agrees that the EDA, and its governing body members, officers, agents, servants, and employees (the "Indemnified Parties") shall not be liable for, and hereby agrees to indemnify and hold harmless the Indemnified Parties against any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the Minimum Improvements.

b) The aforesaid indemnification shall not apply to willful misrepresentation or any willful or wanton misconduct or negligence of the EDA.

c) Except for any negligent or willful act of the EDA, the Indemnified Parties shall not be liable for any damage or injury to the persons or property of the Developer or its partners, officers, agents, servants or employees or any other person who may be about the Minimum Improvements or the Minimum Improvements due to any act of negligence of any person.

Section 9.10. Titles of Articles and Sections. Any titles of the several parts, articles, and sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 9.11. Governing Law; Venue. This Agreement shall be construed in accordance with the laws of Minnesota. Any dispute arising from this Agreement shall be heard in the State or federal courts of Minnesota, and all parties waive any objection to the jurisdiction thereof, whether based on convenience or otherwise.

Section 9.12. Fees and Charges. The Developer agrees to pay the EDA for all fees or costs for legal, financial advisory, engineering, planning or other staff time for preparation of the TIF Plan and related documents and analysis, drafting or negotiating this Agreement and for reviewing any plans regarding the Minimum Improvements submitted in satisfaction of this Agreement.

SPE AFFILIATE OF REAL
ESTATE EQUITIES, INC.

By: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was executed before me this _____ day of _____,
2021, by _____, the _____ SPE Affiliate of Real Estate Equities, Inc., a
Minnesota limited liability company, on behalf of the company.

Notary Public

**EXHIBIT A TO
DEVELOPMENT AGREEMENT**

LEGAL DESCRIPTION OF DEVELOPMENT PROPERTY

Part of the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 12, Township 28, Range 22 lying Southwesterly of New Lower Afton Road and lying Northerly and Northwesterly of Londin Lane, Ramsey County, Minnesota.

**EXHIBIT B TO
DEVELOPMENT AGREEMENT
LIST OF PRELIMINARY PLANS**

The following constitute the Preliminary Plans of the Minimum Improvements:

[to be completed]

**EXHIBIT D TO
DEVELOPMENT AGREEMENT**

FORM OF AUTHORIZING RESOLUTION WITH NOTE

MAPLEWOOD ECONOMIC DEVELOPMENT AUTHORITY

RESOLUTION NO. _____

**RESOLUTION APPROVING THE ISSUANCE OF, AND
PROVIDING THE FORM, TERMS, COVENANTS AND
DIRECTIONS FOR THE ISSUANCE OF ITS TAXABLE TAX
INCREMENT REVENUE NOTE, SERIES 201__ IN AN
AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED
\$2,237,754**

BE IT RESOLVED BY the Maplewood Economic Development Authority (the “EDA”), as follows:

Section 1. Authorization; Award of Sale.

1.01. Authorization. The EDA has heretofore approved the establishment of Tax Increment Financing District No. 1-15 (the “TIF District”) within Development District No. 1 (the “Development District”), and has adopted a tax increment financing plan for the purpose of financing certain improvements within the Development District.

Pursuant to Minnesota Statutes, Section 469.178, the EDA is authorized to issue and sell its bonds for the purpose of financing a portion of the public development costs of the Minimum Improvements and Development Property in the Development District. The bonds are payable from all or any portion of revenues derived from the Minimum Improvements and the Development Property in the TIF District and pledged to the payment of the bonds. The EDA hereby finds and determines that it is in the best interests of the EDA that it issue and sell its taxable Tax Increment Revenue Note, Series 201__ (the “Note”), in the aggregate principal amount of \$2,237,754, for the purpose of financing certain public costs of the Development District.

1.02. Agreement Approved; Issuance, Sale and Terms of the Note. The EDA has previously approved the Contract for Private Development (the “Agreement”) between the EDA and SPE Affiliate of Real Estate Equities, Inc., a Minnesota limited liability company (the “Owner”), and authorized the Executive Director and President to execute the Agreement. Pursuant to the Agreement, the Note will be issued to the Owner. The Note will be dated as of the date of delivery and will bear interest at the rate of the lesser of 4.60% or the actual rate per annum on the Developer’s permanent first mortgage financing for the Minimum Improvements. In exchange for the EDA’s issuance of the Note to the Owner, the Owner will pay certain costs related to the Minimum Improvements (the Qualifying Costs, as defined in the Agreement) pursuant to Section 3.2 of the Agreement. The Note will be delivered in the principal amount of \$2,237,754

for reimbursement of the Owner’s costs in accordance with the terms of Sections 3.2 and 3.3 of the Agreement.

Section 2. Form of Note. The Note will be in substantially the following form, with the blanks to be properly filled in and the principal amount and payment schedule adjusted as of the date of issue:

UNITED STATE OF AMERICA
STATE OF MINNESOTA
RAMSEY COUNTY
MAPLEWOOD ECONOMIC DEVELOPMENT AUTHORITY

No. R-1 \$2,237,754

TAXABLE TAX INCREMENT REVENUE NOTE
SERIES 202__

Rate Date of Original Issue

[lesser of 4.60% or Developer’s rate of financing] _____

The Maplewood Economic Development Authority (the “EDA”), for value received, certifies that it is indebted and hereby promises to pay to SPE Affiliate of Real Estate Equities, Inc., or registered assigns (the “Owner”), the principal sum of \$2,237,745 with interest thereon at [lesser of 4.60% or Developer’s rate of financing], as and to the extent set forth herein.

1. Payments. Principal and interest payments (“Payments”) will be paid on August 1, 2024, and each February 1 and August 1 thereafter until the earlier of payment in full or February 1, 2034 (“Payment Dates”), in the amounts and from the sources set forth in Section 3 herein.

Payments are payable by mail to the address of the Owner or any other address as the Owner may designate upon 30 days written notice to the EDA. Payments on this Note are payable in any coin or currency of the United States of America which, on the Payment Date, is legal tender for the payment of public and private debts.

2. No Interest. Interest shall be simple, non-compounding interest at a rate of [the lesser of 4.60% or the Developer’s rate of financing]. Interest shall be computed on the basis of a 360-day year consisting of 12 30-day months.

3. Available Tax Increment. Payments on this Note are payable on each Payment Date in the amount of and solely payable from “Available Tax Increment,” which will mean, on each Payment Date, 90 percent of the Tax Increment attributable to the Development Property and Minimum Improvements (as defined in the Agreement) and paid to the EDA by Ramsey County in the six months preceding the Payment Date, all as the terms are defined in the Contract for Private Development between the EDA and Owner dated as of _____, 2021 (the

“Agreement”). Available Tax Increment will not include any Tax Increment if, as of any Payment Date, there is an uncured Event of Default by the Owner under the Agreement.

The EDA will have no obligation to pay principal or interest on this Note on each Payment Date from any source other than Available Tax Increment, and the failure of the EDA to pay the entire amount of principal and interest on this Note on any Payment Date will not constitute a default hereunder as long as the EDA pays principal and interest to the extent of Available Tax Increment. The EDA will have no obligation to pay any unpaid balance of principal or interest that may remain after the Final Payment Date of February 1, 2034.

4. Optional Prepayment. The principal sum and accrued interest payable under this Note is pre-payable in whole or in part at any time by the EDA without premium or penalty. No partial prepayment will affect the amount or timing of any other regular payment otherwise required to be made under this Note.

5. Suspension of Payment for Default. At the EDA’s option, the EDA’s obligation to make any payments under this Note will be suspended upon the occurrence of an Event of Default on the part of the Developer as defined in Section 8.1 of the Agreement, but only if the Event of Default has not been cured in accordance with Section 8.2 of the Agreement.

6. Nature of Obligation. This Note is a single note in the total principal amount of \$2,237,754 issued to aid in financing certain public costs of a Development District undertaken by the EDA pursuant to Minnesota Statutes, Sections 469.001 through 469.047, as amended, and is issued pursuant to an authorizing resolution (the “Resolution”) duly adopted by the EDA on _____, 201__, pursuant to and in full conformity with the Constitution and laws of the State of Minnesota, including Minnesota Statutes, Sections 469.174 to 469.179, as amended. This Note is a limited obligation of the EDA which is payable solely from Available Tax Increment pledged to the payment hereof under the Resolution. This Note will not be deemed to constitute a general obligation of the State of Minnesota or any political subdivision thereof, including, without limitation, the EDA or the city of Maplewood. Neither the State of Minnesota, nor any political subdivision thereof will be obligated to pay the principal of or interest on this Note or other costs incident hereto except out of Available Tax Increment, and neither the full faith and credit nor the taxing power of the State of Minnesota or any political subdivision thereof is pledged to the payment of the principal of and interest on this Note or other costs incident hereto.

7. Estimated Tax Increment Payments. Any estimates of Tax Increment prepared by the EDA or its financial advisors in connection with the TIF District or the Agreement are for the benefit of the EDA, and are not intended as representations on which the Owner may rely.

THE EDA MAKES NO REPRESENTATION OR WARRANTY THAT THE AVAILABLE TAX INCREMENT WILL BE SUFFICIENT TO PAY THE PRINCIPAL OF OR INTEREST ON THIS NOTE.

8. Registration and Transfer. As provided in the Resolution, and subject to certain limitations set forth herein, this Note is issuable only as a fully registered note without coupons. This Note is transferable upon the books of the EDA kept for that purpose at the principal office

of the Executive Director of the EDA as Registrar, by the Owner hereof in person or by the Owner's attorney duly authorized in writing, upon surrender of this Note together with a written instrument of transfer satisfactory to the EDA, duly executed by the Owner. Upon the transfer or exchange and the payment by the Owner of any tax, fee, or governmental charge required to be paid by the EDA with respect to the transfer or exchange, there will be issued in the name of the transferee a new Note of the same aggregate principal amount and interest rate and maturing on the same dates.

This Note may be transferred, assigned or pledged without the approval of the EDA; provided that this Note will not be transferred to any person other than an affiliate, or other related entity, of the Owner unless the EDA has been provided with an investment letter in a form substantially similar to the investment letter submitted by the Owner or a certificate of the transferor, in a form satisfactory to the EDA, that the transfer is exempt from registration and prospectus delivery requirements of federal and applicable state securities laws. Notwithstanding anything to the contrary in this Note, in no event will a lender providing funds to the Developer and taking an assignment of the Note as security for such funds be required to sign an investment letter at either the time of execution of an assignment or transfer of the Note as a result of the assignment.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions, and things required by the Constitution and laws of the State of Minnesota to be done, to exist, to happen, and to be performed in order to make this Note a valid and binding limited obligation of the EDA according to its terms, have been done, do exist, have happened, and have been performed in due form, time and manner as so required.

IN WITNESS WHEREOF, the board of commissioners of the Maplewood Economic Development Authority, has caused this Note to be executed with the manual signatures of its President and Executive Director, all as of the Date of Original Issue specified above.

**MAPLEWOOD ECONOMIC
DEVELOPMENT AUTHORITY**

President

Executive Director

REGISTRATION PROVISIONS

The ownership of the unpaid balance of the within Note is registered in the bond register of the Executive Director of the EDA, in the name of the person last listed below.

<u>Date of Registration</u>	<u>Registered Owner</u>	<u>Signature of EDA Executive Director</u>
	SPE Affiliate of Real Estate Equities, Inc. 579 Selby Avenue St. Paul, MN 55102 Attn: _____ Federal Tax ID # _____	

[End of Form of Note]

Section 3. Terms, Execution and Delivery.

3.01. Denomination, Payment. The Note will be issued as a single typewritten note numbered R-1.

The Note will be issuable only in fully registered form. Principal and interest of the Note will be payable by check or draft issued by the Registrar described herein.

3.02. Dates. Principal and interest of the Note will be payable by mail to the owner of record thereof as of the close of business on the fifteenth day of the month preceding the Payment Date, whether or not the day is a business day.

3.03. Registration. The EDA hereby appoints the Executive Director to perform the functions of registrar, transfer agent and paying agent (the "Registrar"). The effect of registration and the rights and duties of the EDA and the Registrar with respect thereto will be as follows:

(a) Register. The Registrar will keep at her office a bond register in which the Registrar will provide for the registration of ownership of the Note and the registration of transfers and exchanges of the Note.

(b) Transfer of Note. Upon surrender for transfer of the Note duly endorsed by the registered owner thereof or accompanied by a written instrument of transfer, in form reasonably satisfactory to the Registrar, duly executed by the registered owner thereof or by an attorney duly authorized by the registered owner in writing, the Registrar will authenticate and deliver, in the name of the designated transferee or transferees, a new Note of a like aggregate principal amount, interest rate and maturity, as requested by the transferor. Notwithstanding the foregoing, the Note will not be transferred to any person other than an affiliate, or other related entity, of the Owner unless the EDA has been provided with an investment letter in a form substantially similar to the investment letter submitted by the Owner or a certificate of the transferor, in a form satisfactory to the EDA, that the transfer is exempt from registration and prospectus delivery requirements of

federal and applicable state securities laws. The Registrar may close the books for registration of any transfer after the fifteenth day of the month preceding each Payment Date and until the Payment Date.

(c) Cancellation. The Note surrendered upon any transfer will be promptly cancelled by the Registrar and thereafter disposed of as directed by the EDA.

(d) Improper or Unauthorized Transfer. When the Note is presented to the Registrar for transfer, the Registrar may refuse to transfer the same until she is satisfied that the endorsement on the Note or separate instrument of transfer is legally authorized. The Registrar will incur no liability for her refusal, in good faith, to make transfers which she, in her judgment, deems improper or unauthorized.

(e) Persons Deemed Owners. The EDA and the Registrar may treat the person in whose name the Note is at any time registered in the bond register as the absolute owner of the Note, whether the Note is overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on the Note and for all other purposes, and all the payments so made to any registered owner or upon the owner's order will be valid and effectual to satisfy and discharge the liability of the EDA upon the Note to the extent of the sum or sums so paid.

(f) Taxes, Fees and Charges. For every transfer or exchange of the Note, the Registrar may impose a charge upon the owner thereof sufficient to reimburse the Registrar for any tax, fee, or other governmental charge required to be paid with respect to the transfer or exchange.

(g) Mutilated, Lost, Stolen or Destroyed Note. In case the Note becomes mutilated or is lost, stolen, or destroyed, the Registrar will deliver a new Note of like amount, interest rate, maturity dates and tenor in exchange and substitution for and upon cancellation of the mutilated Note or in lieu of and in substitution for the Note lost, stolen, or destroyed, upon the payment of the reasonable expenses and charges of the Registrar in connection therewith; and, in the case the Note lost, stolen, or destroyed, upon filing with the Registrar of evidence satisfactory to it that the Note was lost, stolen, or destroyed, and of the ownership thereof, and upon furnishing to the Registrar of an appropriate bond or indemnity in form, substance, and amount satisfactory to it, in which both the EDA and the Registrar will be named as obligees. The Note so surrendered to the Registrar will be cancelled by her and evidence of the cancellation will be given to the EDA. If the mutilated, lost, stolen, or destroyed Note has already matured or been called for redemption in accordance with its terms, it will not be necessary to issue a new Note prior to payment.

3.04. Preparation and Delivery. The Note will be prepared under the direction of the Executive Director and will be executed on behalf of the EDA by the signatures of its President and Executive Director. In case any officer whose signature appears on the Note ceases to be the officer before the delivery of the Note, the signature will nevertheless be valid and sufficient for all purposes, the same as if the officer had remained in office until delivery. When the Note has been so executed, it will be delivered by the EDA to the Owner following the delivery of the necessary items delineated in Section 3.3 of the Agreement.

Section 4. Security Provisions.

4.01. Pledge. The EDA hereby pledges to the payment of the principal and interest of the Note all Available Tax Increment as defined in the Note. Available Tax Increment will be applied to payment of accrued interest first, then the principal of the Note in accordance with the terms of the form of Note set forth in Section 2 of this resolution.

4.02. Bond Fund. Until the date the Note is no longer outstanding and no principal thereof or interest thereon (to the extent required to be paid pursuant to this resolution) remains unpaid, the EDA will maintain a separate and special "Bond Fund" to be used for no purpose other than the payment of the principal of and interest on the Note. The EDA irrevocably agrees to appropriate to the Bond Fund in each year Available Tax Increment. Any Available Tax Increment remaining in the Bond Fund will be transferred to the EDA's account for the TIF District upon the payment of all principal and interest to be paid with respect to the Note.

Section 5. Certification of Proceedings.

5.01. Certification of Proceedings. The officers of the EDA are hereby authorized and directed to prepare and furnish to the Owner of the Note certified copies of all proceedings and records of the EDA, and the other affidavits, certificates, and information as may be required to show the facts relating to the legality and marketability of the Note as the same appear from the books and records under their custody and control or as otherwise known to them, and all the certified copies, certificates, and affidavits, including any heretofore furnished, will be deemed representations of the EDA as to the facts recited therein.

Section 6. Effective Date. This resolution will be effective upon execution by the President and Executive Director following authorization by the board of commissioners of the EDA.

Adopted by the board of commissioners of the Maplewood Economic Development Authority, this ____ day of _____, 202__.

President

Executive Director

**EXHIBIT E TO
DEVELOPMENT AGREEMENT
FORM OF INVESTMENT LETTER**

To the Maplewood Economic Development Authority (the “EDA”)
Attention: Executive Director

Dated: _____, 201__

Re: \$2,237,754 Tax Increment Revenue Note (2501 Londin Lane Project)

The undersigned, as Purchaser of \$2,237,754 in principal amount of the above-captioned Tax Increment Revenue Note (2501 Londin Lane Project) (the “Note”), approved by the Board of Commissioners of the Maplewood Economic Development Authority on _____, 202__, hereby represents to you and to Kennedy & Graven, Chartered, Minneapolis, Minnesota, as legal counsel to the EDA, as follows:

1. We understand and acknowledge that the Note is delivered to the Purchaser on this date pursuant to the Contract for Private Development by and between the EDA and the Purchaser dated _____, 2021 (the “Agreement”).
2. The Note is payable solely from Available Tax Increment pledged to the Note, as defined therein.
3. We have sufficient knowledge and experience in financial and business matters, including purchase and ownership of municipal obligations, to be able to evaluate the risks and merits of the investment represented by the purchase of the above-stated principal amount of the Note.
4. We acknowledge that no offering statement, prospectus, offering circular or other comprehensive offering document or disclosure containing material information with respect to the EDA and the Note has been issued or prepared by the EDA, and that, in due diligence, we have made our own inquiry and analysis with respect to the EDA, the Note and the security therefor, and other material factors affecting the security and payment of the Note.
5. We acknowledge that we have either been supplied with or have access to information, including financial statements and other financial information, to which a reasonable investor would attach significance in making investment decisions, and we have had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the EDA, the Note and the security therefor, and that as reasonable investors we have been able to make our decision to purchase the above-stated principal amount of the Note.

**EXHIBIT F TO
DEVELOPMENT AGREEMENT**

FORM OF DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS, dated this ____ day of _____, 202_ (the “Declaration”), by SPE Affiliate of Real Estate Equities, Inc., a Minnesota limited liability company (the “Developer”), is given for the benefit of the Maplewood Economic Development Authority, a public body corporate and politic under the laws of Minnesota (the “EDA”).

RECITALS

WHEREAS, the EDA and the Developer entered into that certain Contract for Private Development, dated _____, 2021, (the “Agreement”); and

WHEREAS, pursuant to the Agreement, the Developer is obligated to cause construction of a 148-unit mixed income workforce housing project, and all related amenities and improvements (the “Project”) to be located on the property described in Exhibit A attached hereto (the “Development Property”), and to cause compliance with certain affordability covenants described in Section 4.5 of the Agreement; and

WHEREAS, Section 4.5 of the Agreement requires that the Developer cause to be executed an instrument in recordable form substantially reflecting the covenants set forth in that section of the Agreement; 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 Agreement unless otherwise defined herein.

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

1. Term of Restrictions.

(a) Occupancy and Rental Restrictions. The term of the Occupancy Restrictions set forth in Section 3 of this Declaration will commence on the date a permanent certificate of occupancy is received from the City for all Rental Housing Units on the Development Property and continue through the Declaration Termination Date defined below (the “Qualified Project Period”).

(b) Termination of Declaration. This Declaration shall terminate upon (i) the date the TIF District is terminated in accordance with the TIF Act, (ii) the date the Note is paid in full; or (iii) the date the EDA cancels the Note upon a written request for termination by the Developer and the EDA determines, in its sole discretion, that such termination will not limit or interfere with the EDA's ability to pool Tax Increment generated within the TIF District for affordable housing in accordance with the TIF Act, whichever occurs first.

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

Each of the events set forth in the first two paragraphs of this Section 1(b) are referred to individually and collectively herein as the "Declaration Termination Date." The EDA will terminate the Note if this Declaration is terminated prior to full payment of the Note.

(c) Removal from Real Estate Records. After the Declaration Termination Date of this Declaration, the EDA will, upon request by the Developer or its assigns, file any document appropriate to remove this Declaration from the real estate records of Ramsey 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) hereof) will contain clauses, among others, wherein each individual lessee:

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

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

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

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

(a) Qualifying Tenants. Throughout the Qualified Project Period, (i) all of the Rental Housing Units shall be administered in accordance with 42 USC Section 3607(b) and Minnesota Statutes, Section 363A.21, subdivision 2; and (ii) at least 40 percent (60) of the Rental Housing Units shall 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 60% of the median income for the standard metropolitan statistical area which includes Maplewood, Minnesota, as that figure is determined and announced from time to time by HUD, as adjusted for family size (the “Median Income”) for the applicable calendar year. For purposes of this definition, the occupants of a Rental Housing Unit will not be deemed to be Qualifying Tenants if all the occupants of such Rental Housing Unit at any time are “students,” as defined in Section 152(f)(2) of the Internal Revenue Code of 1986, as amended (the “Code”), not entitled to an exemption under the Code. The determination of whether an individual or family is of low or moderate income will be made at the time the tenancy commences and on an ongoing basis thereafter, determined at least annually. If during their tenancy a Qualifying Tenant’s income exceeds 140% of the Median Income, the next available Rental Housing 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 Qualifying Unit.

(b) 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 as Exhibit B hereto, or in any other form as may be approved by the EDA (the “Eligibility Certification”), in which the prospective Qualifying Tenant certifies as to having a qualifying low or moderate income. The Qualifying Tenant will be required to provide whatever other information, documents, or certifications are deemed necessary by the EDA to substantiate the Eligibility Certification, on an ongoing annual basis, and to verify that the tenant continues to be a Qualifying Tenant within the meaning of Section 3(a) hereof. Eligibility Certifications will be maintained for the duration of the Qualified Project Period on file by the Developer with respect to each Qualifying Tenant who resides in a Rental Housing Unit or resided therein during the Qualified Project Period.

(c) Lease. The form of lease to be utilized by the Developer in renting any Rental Housing Units in the Project to any person who is intended to be a Qualifying Tenant will provide for termination of the lease and consent by the person to immediate eviction for failure to qualify as a Qualifying Tenant as a result of any material misrepresentation made by the person with

respect to the Eligibility Certification. The Developer covenants and agrees that during the Qualified Project Period it will not increase the rent charged to any tenant of a Rental Housing Unit within the Project during such tenant's lease term and, at any rate, will not increase the rent charged to any tenant more than once in any 6-month period.

(d) Annual Report. The Developer covenants and agrees that during the term of this Declaration, it will prepare and submit to the EDA on or before July 1 of each year, a certificate substantially in the form of Exhibit C attached hereto, executed by the Developer, (a) identifying the tenancies and the dates of occupancy (or vacancy) for all Qualifying Tenants in the Project, including the number and percentage of the Rental Housing Units of the Project which were occupied by Qualifying Tenants (or held vacant and available for occupancy by Qualifying Tenants) at all times during the year preceding the date of the certificate; (b) describing all transfers or other changes in ownership of the Project or any interest therein; and (c) stating, that to the best knowledge of the person executing the certificate after due inquiry, all the 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.

(e) Notice of Non-Compliance. The Developer will immediately notify the EDA if at any time during the term of this Declaration fewer than 40 percent (60) of the Rental Housing Units in the Project are occupied or available for occupancy as required by the terms of this Declaration.

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 Occupancy Restrictions provided herein (the "Transfer") that the transferee of the Project pursuant to the Transfer assume in writing, in a form acceptable to the EDA, all duties and obligations of the Developer under this Declaration, including this Section 4, in the event of a subsequent Transfer by the transferee prior to expiration of the Rental Restrictions and Occupancy Restrictions provided herein (the "Assumption Agreement"). The Developer will deliver the Assumption Agreement to the EDA prior to the Transfer.

5. Enforcement.

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

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

(c) The Developer acknowledges that the primary purpose for requiring compliance by the Developer with the restrictions provided in this Declaration is to ensure compliance of the property with the housing affordability covenants set forth in Section 4.5 of the Agreement, and by reason thereof, the Developer, in consideration for assistance provided by the EDA under the

Agreement that makes possible the construction of the Project (as defined in the Agreement) on the Development Property, hereby agrees and consents that the EDA will be entitled, for any breach of the provisions of this Declaration, and in addition to all other remedies provided by law or in equity, to enforce specific performance by the Developer of its obligations under this Declaration in a state court of competent jurisdiction. The Developer hereby further specifically acknowledges that the EDA cannot be adequately compensated by monetary damages in the event of any default hereunder.

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

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

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

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

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

To the EDA: Maplewood Economic Development Authority
1830 County Road B East
Maplewood, MN 55109
Attn: Executive Director

and with a copy to: Kennedy & Graven, Chartered
150 South Fifth Street
Suite 700
Minneapolis, MN 55402
Attn: Ronald H. Batty

To the Developer: SPE Affiliate of Real Estate Equities, Inc.
579 Selby Avenue
St. Paul, MN 55102
Attn: _____

10. 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.

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

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

* * * * *

Exhibit A to Declaration of Restrictive Covenants

Description

The land subject to the foregoing Restrictive Covenants is legally described as follows:

Part of the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 12, Township 28, Range 22 lying Southwesterly of New Lower Afton Road and lying Northerly and Northwesterly of Londin Lane, Ramsey County, Minnesota.

Exhibit B to Declaration of Restrictive Covenants

Certification of Tenant Eligibility

TENANT INCOME CERTIFICATION <input type="checkbox"/> Initial Certification <input type="checkbox"/> Recertification <input type="checkbox"/> Other _____	Effective Date: _____ Move-in Date: _____ (MM/DD/YY): _____
---	---

PART I. DEVELOPMENT DATA

Property Name: _____ Apartments Address: 2501 Londin Lane E., Maplewood, Minnesota	County: Ramsey Unit Number: _____	BIN #: _____ # Bedrooms: _____
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PART II. HOUSEHOLD COMPOSITION

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

PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)

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

PART IV. INCOME FROM ASSETS				
HH Mbr#	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset
TOTALS:			\$	\$
Enter Column (H) Total if over \$5,000		Passbook Rate _____ x 2.00 %		= (J) Imputed Income
				\$
Enter the greater of the total column I, or J: imputed income				TOTAL INCOME FROM ASSETS (K)
				\$
(L) Total Annual Household Income from all sources [Add (E) + (K)]				\$

HOUSEHOLD CERTIFICATION & SIGNATURES

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

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

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

PART V. DETERMINATION OF INCOME ELIGIBILITY

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

PART VI. RENT

Not Applicable

PART VII. STUDENT STATUS

ARE ALL OCCUPANTS FULL-TIME STUDENTS?

yes no

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

Enter 1-4

Student explanation:

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

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

PART VIII. PROGRAM TYPE

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

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

See Part V above.

Income Status

- ≤ 50% AMGI
- ≤ 60% AMGI
- ≤ 80% AMGI
- ≤ OI **

Income Status

- 50% AMGI
- 60% AMGI
- 80% AMGI
- OI **

Income Status

- ≤ 50% AMGI
- ≤ 80% AMGI
- ≤ OI **

Income Status

- _____
- _____
- ≤ OI **

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

SIGNATURE OF OWNER / REPRESENTATIVE

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

SIGNATURE OF OWNER / REPRESENTATIVE

DATE

INSTRUCTIONS FOR COMPLETING TENANT INCOME CERTIFICATION

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

Part I – Development Data

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

- Move-in Date Enter the date the tenant has or will take occupancy of the unit.
- Effective Date Enter the effective date of the certification. For move-in, this should be the move-in date. For annual recertification, this effective date should be no later than one year from the effective date of the previous (re)certification.
- Property Name Enter the name of the development.
- County Enter the county (or equivalent) in which the building is located.
- BIN # Enter the Building Identification Number (BIN) assigned to the building (from IRS Form 8609).
- Address Enter the street address.
- Unit Number Enter the unit number.
- # Bedrooms Enter the number of bedrooms in the unit.

Part II – Household Composition

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

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

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

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

Part III – Annual Income

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

From the third party verification forms obtained from each income source, enter the gross amount anticipated to be received for the 12 months from the effective date of the (re)certification. Complete a separate line for each income-earning member. List the respective household member number from Part II.

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

Part IV – Income from Assets

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

From the third party verification forms obtained from each asset source, list the gross amount anticipated to be received during the 12 months from the effective date of the certification. List the respective household member number from Part II and complete a separate line for each member.

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

TOTALS Add the total of Column (H) and Column (I), respectively.

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

Row (K) Enter the Greater of the total in Column (I) or (J)

Row (L) Total Annual Household Income from All Sources Add (E) and (K) and enter the total

Exhibit C to Declaration of Restrictive Covenants

Certificate of
Continuing Program Compliance

Date: _____

The following information with respect to the Project located at 2501 Londin Lane E., Maplewood, Minnesota (the "Project"), is being provided by SPE Affiliate of Real Estate Equities, Inc. (the "Owner") to the Maplewood Economic Development Authority (the "EDA"), pursuant to that certain Declaration of Restrictive Covenants, dated the ____ day of _____, 202_ (the "Declaration"), with respect to the Project:

(A) The total number of Rental Housing Units which are available for occupancy is 148. The total number of these units occupied is _____.

(B) The following Rental Housing Units (identified by unit number) are currently occupied by "Qualifying Tenants" as the term is defined in the Declaration (for a total of 60 units):

- One bedroom
- Two bedroom
- Three bedroom

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

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

(D) The following Rental Housing Units are considered to be occupied by “Qualifying Tenants”, as the term is defined in the Declaration based on the information set forth below (for a total of at least 60 units):

	Unit Number	Last Name of Tenant	Number of Persons Residing in the Unit	Number of Bedrooms	Total Adjusted Gross Income	Date of Initial Occupancy	Age	Date Vacated and Held for Qualifying Tenants, if Applicable
1								
2								
3								
4								
5								
6								
7								
8								
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10								
11								
12								
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[expand to cover 99 units for Qualifying Tenants]

(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 EDA by the Owner.

(F) In renting the Rental Housing 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 persons meeting the minimum age restrictions); and none of the units listed in (D) above has 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 Rental Housing Units in the Project have been rented pursuant to a written lease, and the term of each lease is at least 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 40 percent (60) 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 Project is in continuing compliance with the Declaration.

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

SPE AFFILIATE OF REAL ESTATE EQUITIES, INC.

By: _____
Its: _____

HOUSING & ECONOMIC DEVELOPMENT COMMISSION STAFF REPORT
Meeting Date October 21, 2021

REPORT TO: Housing and Economic Development Commission
REPORT FROM: Jeff Thomson, Community Development Director
PRESENTER: Jeff Thomson, Community Development Director
AGENDA ITEM: Single-Family Housing Rehabilitation Program

Action Requested: Motion Discussion Public Hearing
Form of Action: Resolution Ordinance Contract/Agreement Proclamation

Policy Issue:

Staff will provide an update on the EDA and HEDC discussion about establishing a single-family rehabilitation program.

Recommended Action:

No action is requested at this time.

Fiscal Impact:

Is There a Fiscal Impact? No Yes, the true or estimated cost is \$0.00
 Financing source(s): Adopted Budget Budget Modification New Revenue Source
 Use of Reserves Other: N/A

Strategic Plan Relevance:

Financial Sustainability Integrated Communication Targeted Redevelopment
 Operational Effectiveness Community Inclusiveness Infrastructure & Asset Mgmt.

The single-family housing program would support neighborhood investment, affordable housing, and home-ownership opportunities in Maplewood.

Background

The Maplewood City Council, Economic Development Authority, and Housing and Economic Development Commission completed a strategic plan for economic development in Maplewood in 2020. One of the strategies identified as a high priority is addressing the gaps in the city's housing stock and making progress on the housing goals and policies identified in the city's 2040 Comprehensive Plan. One of the potential housing programs that has been identified is a single-family home acquisition, rehabilitation, and resale program.

The city tracks vacant homes in the community. There are 43 single-family homes that are vacant and that have nuisance conditions, regular city code violations, and are a blight on the

neighborhood. The proposed housing program would focus on the acquisition and rehabilitation of these properties and then the resale as owner-occupied housing.

The city has 1,000 new housing units in various phases of development that could be constructed in the next three years. Of the 1,000 new housing units, up to 600 of them would be new affordable units at varying affordability levels. All of the new affordable housing units under development are multi-family rental units. The proposed rehabilitation program would offer the potential for owner-occupied, single-family, affordable housing units, which would provide a greater diversity of affordable housing in Maplewood.

The city council has discussed using part of its American Rescue Plan Act (ARPA) funding to support a single-family housing program and is interested in partnering with Ramsey County, and its implementation of a new county-wide HRA levy, to build a rehabilitation program to support the city's housing goals.

The proposed program would be consistent with several goals and policies in the city's 2040 Comprehensive Plan, including:

- Pursue opportunities to upgrade, enhance, and maintain the existing housing stock as part of efforts to revitalize existing neighborhoods and to promote redevelopment in various areas of the city.
- Partner with agencies and community organizations to implement aesthetic and quality of life improvements at distressed housing sites.
- Advocate that housing in Maplewood will accommodate all racial and ethnic groups in the purchase, sale, rental, and location of housing in the city.
- Promote housing development that respects the natural environment of Maplewood while striving to meet the need for a variety of housing types and costs.
- Promote sustainable housing that is energy efficient, and utilizes green building and operation techniques.
- Improve the availability of affordable housing for both homeowners and renters.

University of Minnesota – Resilient Communities Project

City staff submitted an application and has been accepted into the Resilient Communities Project (RCP) at the University of Minnesota. The Resilient Communities Project partners with local government agencies in Minnesota on locally defined projects that advance community sustainability, equity, or resilience. Research and technical assistance is provided by graduate and professional students and faculty at the University of Minnesota from a variety of departments and disciplines.

Our partnership with RCP will study a single-family rehabilitation program. Work could start in the fall with graduate students conducting background research on similar programs, and then culminate with a class developing a program during a spring graduate course at the Humphrey School of Public Affairs. The student deliverables for the project will be used by the city to develop the policies and program criteria so that the city can successfully implement a single-family rehabilitation program.

The city has identified the following key questions for consideration and study:

- What are the models for similar programs in the Twin Cities, Minnesota, and throughout the United States?
- What are best practices and recommendations for program policies, guidelines, and requirements?

- What are the options for financing the program long-term?
- Who are potential partners?

Attachments

1. None

HOUSING & ECONOMIC DEVELOPMENT COMMISSION STAFF REPORT
Meeting Date October 21, 2021

REPORT TO: Housing and Economic Development Commission
REPORT FROM: Jeff Thomson, Community Development Director
PRESENTER: Jeff Thomson, Community Development Director
AGENDA ITEM: 2021 Business Awards

Action Requested: Motion Discussion Public Hearing
Form of Action: Resolution Ordinance Contract/Agreement Proclamation

Policy Issue:

At the annual State of the City event, the city presents business awards to recognize the outstanding contributions of Maplewood businesses. In preparation for the State of the City event, city staff recommends that the commission review the business award categories and nomination process and provide feedback.

Recommended Action:

- a. Discuss and make recommendations for the 2021 award categories.
- b. Discuss and provide direction on the nomination solicitation process.
- c. Appoint a subcommittee to review award nominations.

Fiscal Impact:

Is There a Fiscal Impact? No Yes, the true or estimated cost is
 Financing source(s): Adopted Budget Budget Modification New Revenue Source
 Use of Reserves Other:

Strategic Plan Relevance:

Financial Sustainability Integrated Communication Targeted Redevelopment
 Operational Effectiveness Community Inclusiveness Infrastructure & Asset Mgmt.

Background

In past years, the HEDC has established a subcommittee to meet once in December to review the nominations and select two nominees in each category and then rely on online voting by the whole commission to select each category winner. The 2019 awards included the following categories:

- Entrepreneurship/Innovation/Growth Award: Recognizing Maplewood businesses and entrepreneurs that establish and achieve aggressive goals that result in the creation of new business and improvements to existing businesses.
- Environmental Sustainability Award: Recognizing Maplewood businesses that improve their energy conservation and waste disposal policies, practices and operational procedures yielding cost savings and improvements to their bottom line.
- Community Contribution Award: Recognizing Maplewood businesses that increase the level of their engagement, support and contributions to the community. This award honors businesses that have improved their ability to attract, engage, and retain employees who value social responsibility.

Attachments

None

HOUSING & ECONOMIC DEVELOPMENT COMMISSION STAFF REPORT

Meeting Date October 21, 2021

REPORT TO: Housing and Economic Development Commission**REPORT FROM:** Jeff Thomson, Community Development Director**PRESENTER:** Jeff Thomson, Community Development Director**AGENDA ITEM:** Development Update**Action Requested:** Motion Discussion Public Hearing**Form of Action:** Resolution Ordinance Contract/Agreement Proclamation**Policy Issue:**

City staff will provide an update on current economic development and housing projects.

Recommended Action:

None

Fiscal Impact:Is There a Fiscal Impact? No Yes, the true or estimated cost is \$0.00Financing source(s): Adopted Budget Budget Modification New Revenue Source
 Use of Reserves Other: N/A**Strategic Plan Relevance:** Financial Sustainability Integrated Communication Targeted Redevelopment
 Operational Effectiveness Community Inclusiveness Infrastructure & Asset Mgmt.**Background**

City staff will provide an update at the meeting on the following 2021 economic development and housing items:

- North End Zoning District
- The American Cooperative at 1875 East Shore Drive
- South Maplewood Area Redevelopment (Ponds at Battle Creek)
- Scooters Coffee at 2730 Stillwater Rd and 2228 Maplewood Dr

Attachments

None