Addenda
Minnetonka City Council
Meeting of August 27, 2018

10A Resolutions pertaining to levying the 2018 Special Assessments

Attached is updated information about a special assessment and the amended resolution to reflect the changed assessment amount.

12A Ordinances related to franchise fees

Attached are emails received after the council packet was distributed.

13A Resolutions concerning a multi-family residential development by Dominium, at 11001 Bren Road East

The attached addenda (37a, 37b, & 38) were omitted from the agenda packet, but were provided on the project page on the website.

13B Temporary on-sale liquor license for Unmapped Brewing, LLC, 14625 Excelsior Blvd.

The applicant has noted a change in the start time from noon to 11 a.m.

14A Concept plan for Marsh Run Two Redevelopment at 11650 and 11706 Wayzata Boulevard

The change memo provided to the planning commission was inadvertently omitted from the council packet. It is included here along with comments received after the council packet was distributed.

15A Appointment to the economic development advisory commission

In addition to appointing Councilmember Calvert as the council liaison to the EDAC, Mayor Wiersum is recommending Councilmember Bergstedt be appointed alternate council liaison. Below is the revised recommendation.

To approve the following council liaison appointments to the economic development advisory commission:

- Deb Calvert, as council liaison, to serve the remaining portion of a two-year term, effective Aug. 27, 2018 and expiring on Jan. 31, 2020.
- Tim Bergstedt, as alternate council liaison, to serve the remaining portion of a two-year term, effective Aug. 27, 2018 and expiring on Jan. 31, 2020 or for the remainder of elected term, whichever date is earlier.
ADDENDUM

City Council Agenda Item #10A
Meeting of August 27, 2018

**Brief Description:** Resolutions pertaining to levying the 2018 Special Assessments

Since publication of the council agenda packet, additional information has developed regarding one of the proposed special assessments, as indicated below:

The owner of **5990 Covington Terrace** has made a partial payment of **$75.00**, changing the total assessment amount to **$675.39**. **This is a 1-year term diseased tree assessment, T-57.** The attached resolution for this assessment has been revised to reflect the amended assessment amount and should be substituted in place of the resolution contained within the packet.

Submitted through:
- Geralyn Barone, City Manager
- Merrill King, Finance Director
- Colin Schmidt, City Assessor
- Jo Colleran, Natural Resources Manager

Originated by:
- Denise Ostlund, Assessment Specialist
Resolution No. 2018-

Resolution declaring costs for diseased tree removal – Project No. 4902 (1-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing

Be it resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

1.01. State law allows the city to make improvements to abate nuisances and allows the city to assess those improvement costs against the benefitting properties.

1.02. City code section 845.045 provides the method by which the city may abate public nuisances. The abatement may take place through an agreement with the property owner, by order of the enforcing officer, or by order of the city council.

1.03. Listed below are the nuisance abatement improvement projects that are proposed to be specially assessed in 2018 over a one-year time period bearing an interest rate of 3.48 percent. These improvements are categorized as general nuisance abatements or as diseased tree removals.

Section 2. Council Action.

2.01. The costs for the following nuisance abatement improvement projects are proposed to be specially assessed over a one-year term bearing an interest rate of 3.48 percent:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>T-38</td>
<td>14101</td>
<td>Council Cir</td>
<td>10-117-22-22-0008</td>
<td>$66.91</td>
</tr>
<tr>
<td>T-14</td>
<td>14806</td>
<td>Walker Pl</td>
<td>21-117-22-12-0039</td>
<td>$81.10</td>
</tr>
<tr>
<td>T-6</td>
<td>14021</td>
<td>Minnehaha Pl</td>
<td>15-117-22-23-0028</td>
<td>$93.94</td>
</tr>
<tr>
<td>T-59</td>
<td>4905</td>
<td>Mayview Rd</td>
<td>27-117-22-24-0050</td>
<td>$105.00</td>
</tr>
<tr>
<td>T-47</td>
<td>4441</td>
<td>Gaywood Dr</td>
<td>22-117-22-34-0004</td>
<td>$658.94</td>
</tr>
<tr>
<td>T-57</td>
<td>5990</td>
<td>Covington Ter</td>
<td>31-117-22-42-0054</td>
<td>$675.39</td>
</tr>
<tr>
<td>T-24</td>
<td>14311</td>
<td>Glenridge Rd</td>
<td>27-117-22-32-0036</td>
<td>$772.54</td>
</tr>
<tr>
<td>T-61</td>
<td>15120</td>
<td>Stone Ridge Trace</td>
<td>09-117-22-13-0015</td>
<td>$790.32</td>
</tr>
</tbody>
</table>

Subtotal $3,244.14
2.02. The city clerk is directed to calculate the special assessment rolls to show the proper amount to be specially assessed against each designated property. The city clerk is also directed to keep a copy of the proposed special assessment rolls in the clerk’s office for public inspection.

2.03. A public hearing will be held on September 17, 2018, in the council chambers of the City of Minnetonka at 6:30 p.m. to consider the proposed special assessments. At this public hearing, all persons owning affected property will be given an opportunity to be heard with reference to the special assessments.

2.04. The city clerk is directed to publish notice of the public hearing one time in the official newspaper at least two weeks prior to the hearing and to mail notice of the public hearing to the owner of each parcel described in the assessment rolls, in accordance with state law.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 27, 2018.

Brad Wiersum, Mayor

Attest:

David E. Maeda, City Clerk

**Action on this resolution:**

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on August 27, 2018.

David E. Maeda, City Clerk
To: City Council

From: Corrine Heine, City Attorney

Date: Aug. 27, 2018

Subject: Addendum – Aug. 27, 2018

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Item 12A – Ordinances relating to franchise fees

Additional feedback received since Thursday, Aug. 23
For Monday’s addendum

Begin forwarded message:

From: Cindy Kanter
Date: August 24, 2018 at 11:12:26 AM PDT
To: mking@eminnetonka.com
Subject: More trails???

How about a sidewalk down Williston Road from Hwy 7 to Minnetonka Boulevard? There is no where to walk to connect to the trail on the existing Minnetonka Blvd. it’s dangerous if you are walking on the shoulder with that being the emergency vehicle route. What’s it going to take to get a sidewalk on the street?
Sent from my iPhone
Thank you, Mr. Jacobs. I’m happy to forward your email to the council for their deliberations this evening.

—Merrill King

Sent from my iPad

On Aug 27, 2018, at 8:09 AM, Harlan Jacobs > wrote:

Hello Merrill:

Please pass this note along and enter it into the files of public comments in respect of the proposed Minnetonka Trails Funding Program.

I'm opposed to the program being funded outside the scope of the normal operating budget for the city. I am also opposed to the program being funded outside the scope of aggregate bonding efforts.

It is not a good idea in my opinion to fund this program through an assessment that ( in my understanding) would be levied against the utility company that in turn would be able to pass the cost though to the utility customers.

Further, I would recommend that a citizens group (volunteers) be organized to approach corporate sponsors to fund the program through 'naming rights' and plaques and other forms of recognition. For example, one portion of the trails could be the 'Best Buy' portion while another portion of the trails could be the 'Cargill' portion etc.,.

And I would recommend that a fee be charged to users of the trails comparable to the fee that my wife and I paid to use the Cannon Trail in southern Minnesota. We had to purchase a 'strap' and affix it to our handlebars on our bicycles.

Sincerely,

Harlan Jacobs
3412 Oak Ridge Rd
Apt. 212
Minnetonka MN 55305
Thank you, Will!

On Thu, Aug 23, 2018, 10:58 AM Will Manchester <wmanchester@eminnetonka.com> wrote:

Hi Luke,

Merrill is out of the office so wanted to follow up with you.

The existing franchise fees, currently $2.50 on your electric bill for the electric franchise fund, go to electrical items which include primarily burial of overhead utility lines and street lighting. The existing franchise fees do not currently specifically fund roads, buildings or services. The currently programmed Capital Improvement Program (CIP) items funded by the electric franchise fee in 2019-2023 are illustrated on PDF 82 of the below link. It also references the additional pages for this funding. Previous years of the CIP can be found on the website also.

https://eminnetonka.com/images/finance/REVISED%202019-2023%20CIP.pdf

The proposed franchise fees ($4.50 electric and $4.50 gas) would dedicate $3.50 to the above items and $5.50 to trail funding.

Let me know if anything you’d like to discuss further or have additional questions. Thanks.

Will

William D. Manchester, P.E | Director of Engineering
City of Minnetonka | eminnetonka.com
Office: 952-939-8232
Begin forwarded message:

From: Luke Van Santen >
Date: August 22, 2018 at 7:14:35 PM PDT
To: mking@eminnetonka.com
Subject: Question about Existing Gas & Electric Franchise Fees

Good evening Merrill!

In relation to the proposed increase in gas and electric franchise fees that will be introduced as part of the 2019-2023 CIP to the City Council at their regular meeting 8/27, I had a question about the existing fees. Specifically, what is the breakdown on how revenues from those fees are spent? Do they go to fund roads, buildings, services, something else?

Thank you in advance for your help!

Luke Van Santen
2148 Sheridan Hills Rd
Support for trail funding attached. I will respond to Mr. Grace when I return to the office.

Sent from my iPad

Begin forwarded message:

From: Dan Grice <drgrice@gmail.com>
Date: August 27, 2018 at 10:48:44 AM PDT
To: mking@eminnetonka.com
Subject: Trail Funding - Resident Comments

Ms. King,

This is not really a finance question, but I wanted to provide some feedback on the trail funding proposal I read about in the recent Minnetonka Memo. I had planned to attend this evening's meeting to learn more, but won't be able to make it, so I thought I would reach out to you.

As a resident, I would enthusiastically support better trail and sidewalk access in Minnetonka. On the surface, this seems a reasonable way to accomplish that goal.

I know this is largely a funding proposal at the moment, but I am also interested to learn more about this as the specifics get addressed. I see that Ridgedale Drive is specifically mentioned as a potential area for sidewalk/trail expansion. As a resident in that area (I live on White Birch Rd. near the intersection of Ridgedale Dr. and Oakland Rd.), I am particularly interested in being involved in the discussion for sidewalk/trail expansion in that area. I feel it could greatly benefit residents in that area and provide a more continuous bike/pedestrian system by connecting the North/South trail that currently runs along the west side of 494 to the Ridgedale area.

I'm not certain this specific feedback is useful at this stage in the process, but I hope it is. If there's anybody else who I should be aware to discuss these details with, please let me know. Thank you, and I will aim to keep up to date on this proposal as it advances.

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Dan Grice
drgrice@gmail.com
For tonight’s agenda.

Begin forwarded message:

**From:** Dorothy Brown [removed]
**Date:** August 27, 2018 at 11:44:19 AM PDT
**To:** mking@eminnetonka.com
**Subject:** Proposed utility tax for trails

This is a terrible and inappropriate tax that will adversely affect people already having financial challenges. If the trails as proposed are favored by most residents, let’s put it on a referendum and add it as a separate tax, if approved. Or if there is sufficient resistance to the tax to begin with, don’t go ahead with the trails, or have a low cost fee such as that at Shady Oak beach.

This proposal is out of touch and regressive. It’s sad that the city would favor it. Our city officials seem to have refused to respect residents/taxpayers/voters with a number of recent plans that proceed despite valid and repeated objections. Please don’t do that with this proposal as well.

Thank you,

Dorothy Brown
5701 Lake Rose Drive
Minnetonka 55345

Sent from my iPad
I can respond in writing to him as well.

Begin forwarded message:

From: Doug Brown
Date: August 27, 2018 at 1:08:27 PM PDT
To: mking@eminnetonka.com
Cc: tbergstedt@eminnetonka.com
Subject: Utility franchise fees increase
Reply-To: Doug Brown

What connection is there between parks and trails? Why increase C to fund parks and trails? What is the purpose of the ______ in the first place? Aren't parks and trails covered by our city taxes?

Doug Brown
August 27, 2018

Subject: Franchise Fees for Trails
To: Minnetonka City Council
From: Al Ritchie

I’m a strong supporter of funding trails as a user, both on a bike and walking, but I’m opposed to using franchise fees as a source of funds. I prefer to have the funding appear on my Property Tax bill as a line item such as Infrastructure. Doing so makes the funding both transparent and reviewable each year during budgeting sessions.

In addition, I’d like to see changes in the City’s water bill. This quarterly billing includes:

- $65.94 for infrastructure fee
- $20.61 for storm drainage fee

Placing all these fees on my Property taxes would result in the following annual costs:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infrastructure</td>
<td>$263.76</td>
</tr>
<tr>
<td>Storm drainage</td>
<td>$82.44</td>
</tr>
<tr>
<td>Trail, sidewalks ($4.50x2x12)</td>
<td>$108.00</td>
</tr>
</tbody>
</table>

**ADDITIONAL PROPERTY TAXES** $454.20

In reference to the staff report on the use of franchise fees:

It was stated that schools and churches would be subject to the fees, but exempt from property tax items, however the school fees would be passed on to the tax payers under the school line items. Tax payers would still pay.
It was further stated that because of the revisions to the Federal Income Taxes we might not be able to apply these additional property tax items to our deduction calculations. This can be changed at any time by Congress, so having them on our Property Taxes would be to the tax payer’s benefit.

In summary, as Minnetonka tax payers we will fund these additional items whether as hidden fees or visible on our Property Tax statements. I strongly urge the City Council to be open and transparent and place all these costs on our Property Tax statements.

Al & Rosemary Ritchie
18420 Springcrest Drive
Minnetonka 55345
TO: City Council/EDA
FROM: Julie Wischnack, AICP, Community Development Director
DATE: Aug. 6, 2018
SUBJECT: Change Memo for Aug. 6, 2018

ITEM 13A — Resolutions concerning a multi-family residential development by Dominium, at 11001 Bren Road East

The attached addendums (37a, 37b, & 38) were omitted from the agenda packet, but were provided on the project page on the website.

ITEM 13B – Temporary on-sale liquor license for Unmapped Brewing, LLC, 14625 Excelsior Blvd.

The applicant has noted a change in the start time of the event from Noon to 11 a.m.

ITEM 14A – Marsh Run Redevelopment Concept Plan, 11650 and 11706 Wayzata Blvd.

1. The change memo from the planning commission meeting was inadvertently omitted. See the attached memo.
2. The attached feedback was received following distribution of the agenda packet.

EDA Agenda Item 5 — Resolutions concerning a multi-family residential development by Dominium at 11001 Bren Road East

The attached addendums (37a, 37b, & 38) were omitted from the agenda packet, but were provided on the project page on the website. The resolutions were out of order in the EDA agenda packet. The correct resolutions are attached.
To: Planning Commission

From: Loren Gordon, AICP, City Planner

Date: August 16, 2018

Subject: Change Memo for the April 16 Planning Commission Agenda

ITEM 9A – Renneke Property

The attached comments were received.

ITEM 9B – Marsh Run Development

The attached comments were received.
August 13, 2018

City of Minnetonka
Planning Division
14600 Minnetonka Blvd.
Minnetonka, MN 55345

Dear Planning Division:

RE: The Doran proposal for 11650 & 11706 Wayzata Blvd request for redevelopment with several variances to current ordinances.

I apologize for not being able to personally attend this meeting as I am presently home bound fighting Leukemia. I have asked my neighbor Doug Bryant to deliver this letter and if possible to have him read to all present on my behalf. Thank you. We both live in the West Ridge Town Home development constructed in 1999 and are located directly across Fairfield Road from the northern most edge of the land being discussed.

Perhaps we missed prior notices? This is a HUGE deal and sending a large postcard followed by a letter from the potential developer (and it would appear as though they are also the current owner of the land being discussed) less than 2 weeks prior to this meeting seems to be quite a rush.

As a 16-year resident of our home we are not in favor of this project for a variety of reasons. There are three condo/townhome developments that will be seriously impacted by this proposal, all three using Fairfield Road as access to and from our units. As you travel north on the short Fairfield Road is a large apartment complex, senior living complex and a church that also utilize Fairfield Road. All of these were constructed in conformance with the zoning regulations at those times and all fit nicely with the neighborhood décor. Actual owners of any residence are in the West Ridge Condominiums, The Bay Hill Condominiums, or the Gables which have units that adjoin the parcel of land in discussion. This fact seriously limits the actual number of property owners who would might take serious note of your plans—the rest are renters at the apartments or members of the church.
The Doran development complex:

1. 6 stories in height—twice the height of any unit currently located in West Ridge or the Gables and 33% taller than the 3 building Bay Hill Condominiums!
   a. For a comparison of this type of height I refer you to the newly constructed 6 story apartment complex on the west side of Plymouth road directly across from the Byerly’s shopping area. This apartment is located at 1700 Plymouth Rd.

2. 215-235 individual units being proposed!
   a. The 1700 Plymouth Rd. apartment complex has 125 individual units—this proposal in comparison dwarfs that complex by almost 50%.

3. 330 indoor parking spaces and another 30 along the exterior surfaces. The complex proposal shows the only exit/entrance to be located on the east side of Fairfield Road just north of the stop sign at the 394 north frontage road.
   a. This means potentially 370 automobiles in and out of that entrance/exit which is more traffic than currently being generated by the owners at West Ridge, Bay Hill, and the Gables—simply put that is more cars that presently garaged at those locations.

4. Height variance—if allowed this will have a serious impact on the present visibility of current property owners. Think a moment about the Gables southern most building with units who face South—all of a sudden instead of seeing nature’s beauty and wonderful landscaped grounds they will be staring at a 60-70 ft wall (9ft proposed ceilings without adding floor space in between the floors measures 54+ ft) and since the proposal request would include a variance for front, side, and rear areas—well obviously that wall is going to be quite close to their present homes.

5. The project calls for rezoning to R-5 High density—this appears to be the first step as if this is done, then along come the various height variance as even R-5 likely does not extend to heights greater that 30-40 feet. Then the setback variance for the front, rear, and sides as well without the required footage from even the R-5 property line the project would likely not fit. It may also be likely that R-5 might require a certain percentage of available on street parking spaces?

Unfortunately, none of the 5 items above would appear to be of any benefit what so ever to our present community. None of these even begin to consider the negative impact this proposal will have to our property values.

While there have been several similar structures popping up near our community (the Ridgedale one quoted above, another at the NE corner of Hwy 55 and 169, another at the SW corner of this same interchange, and what appears to be a rather large complex going up on the SE corner of Hopkins Crossroad and the south frontage road) NOT A SINGLE ONE OF THESE ARE BEING BUILT ADJACENT TO OR CONFLICTING WITH PRESENT RESIDENTIAL PROPERTIES LIKE THIS ONE WILL. FOR EACH OF THEM THERE IS ENOUGH BUFFER LAND OR THEY ARE BEING BUILT IN ALREADY TOTALLY COMMERCIAL ZONING AREAS. WE CAN EVEN GO FURTHER AND NOTE THE NEW APARTMENTS BUILT ALONG THE NORTH AND SOUTH SIDES OF 394 JUST WEST OF THE HIGHWAY 100 INTERCHANGE.
The letter from Doran Development describes all sorts of nice looking amenities to be added in the project. Since it has been sent to current residential dwelling owners wanting our approval, it is hard to overlook the fact that the proposal fails to indicate how any current homeowner would benefit from those amenities.

In closing, to the Minnetonka Planning Commission and the Dolan Development, since Marsh Run also owns the U shaped two-story office building at 1300 Wayzata Blvd, which is also located on the same side of 394 just west of Field Rd.

Respectfully submitted,

Charlie and Barbara Ross

Minnetonka, MN
Ashley Cayley, Senior Planner, City of Minnetonka

Thank you for the public meeting last night relative to the proposed Doran Development.

Based upon the information presented at the meeting as well as the responses to the many questions raised by the 30 or so individuals present, The West Ridge Condominiums Association Board of Directors has adopted a position of opposition to the project as proposed.

More specifically we do not feel the project is a good fit for the surrounding residential area, architecturally or otherwise. Six levels of rental units/parking is completely unacceptable. There are numerous unanswered questions including those pertaining to dramatically increased traffic in a predominately residential area, sound/noise increases, negative property value impact on surrounding residential development, maximum number of people allowed per rental unit and the associated vehicle storage/traffic impact on the residential area, pool and recreational amenities (including dog exercise area) hours of operation and guest regulations as well as all details of the affordable housing included in the plan.

Our Board is available to meet with the City and Developer to discuss our concerns/issues further. We also plan to meet with Boards of the adjacent residential developments in the near future to discuss our mutual concerns/issues.

Last night I submitted a letter from one of our homeowners, Mr. and Mrs. Charlie Ross of 992 Fairfield Court. I would like this letter included in the public record for the Doran Development as well copies given to each Planning Commission Member and City Council Member as part of the preliminary review process.

Finally, I would like to receive copies of all staff reports, Planning Commission and City Council agenda items relevant to the Doran Development.

Thank You,
Douglas F. Bryant, President
West Ridge Association
979 Fairfield Court

Sent from my iPhone
Hi Ashley,

Thank you for speaking with me this morning. I live at 705 Fairfield Circle, and am on the board of directors for the Gables at Westridge. Homeowners Association. As you know, I attended the information meeting last evening given by Doran Companies regarding the Marsh Run Redevelopment. I will try to attend the planning commission meeting tonight, but also request you provide these comments to the planning commission. Below are some concerns I have regarding the plan as presented. Please note these are my personal comments and I am not writing on behalf of the board or association.

1. Architecture. The building plan as presented has a completely different look than those of the other residential buildings in the neighborhood. If housing units must be added, I request the developer consider the aesthetics of the residential buildings in the neighborhood. The plan as presented looks as if it should be placed in a true urban setting.

2. Size (also related to Architecture). The developer states it needs to be this large to include the required affordable housing ratio. Perhaps this requirement could be lowered so that it doesn't need to have so many units. We already live in a dense area of the city, and I'm curious to know what other areas of Minnetonka are as densely populated as ours.

3. Parking/Street Traffic. As I mentioned to you, we already have plenty of street traffic that use our private roads for turning around their vehicles. I'm concerned this will increase exponentially with this many new residences. In addition, most of it will be during evening/weekend hours. We now have businesses on the properties that are to be developed, so this provides a balance between daytime and evening/weekend traffic. Also, when people park on Fairfield Road, it causes site issues in certain areas of the road.

4. Noise. Noise from both street and pedestrian traffic will increase. In addition to street traffic, there is already plenty of pedestrian and bicycle traffic that use the walking paths that run through our association. We also have noise from the apartments to the north of us, including garbage pickups several times a week around 6:30 am. These pickups last as long as 20 minutes, including every Saturday morning. We also have airport noise at all hours, including late and night, and very early in the mornings. On some days it's constant. I'm concerned about additional noise the new development will add to our neighborhood.

You may provide my contact information to members of the planning commission or the Doran representatives in the event they would like to discuss my concerns further.

Thanks,

Sara Maloney
Please keep private.

Ashley, Thank you for your time. A few points/objections about concept plan.

Concerned about birds. Blue herons nest here and cranes, building too high.

Rain/run off?

Too much density for no shoulder Fairfield road

Space for mowers/snow vehicles to park, not on NOrth side of buildings. Where will they put snow? Currently they try to push it into us on NOrth side, onto our property.

No parking should be on NOrth side. Too much round the clock traffic/visiting hours. Why subject Fairfield Spur to this. All parking on south side only.

Request 2 story high CEMENT WALL/ BARRIER between properties for sound/sight. CAN INSTALL PREFAB WALLS.
Permanent, not trees or cheap fencing needing repairs.

Who would be managing property? LONG TERM?

Roof top mechanicals.....they make noise.....when repairs are needed they bring in cranes for repairs? Where and how in a few years when A/C goes? (like at Westridge/ last month 5:30 am pulled in behind Blvd/Michaels). CSM knows the conditions!! Check police reports of noise complaints......

We deserve to protect our little peace and quiet.....our taxes should be re looked at if changing zoning.

Thanks....

PS not great, but a start.
Neighborhood feedback received since the planning commission meeting
Hello Ashley,
I’m writing regarding the proposed Doran apartment project on Wayzata Boulevard and Fairfield road. As a 20 year homeowner of the Gables, I’m deeply opposed to this project and the impact it will have on our community.

As others have stated, there are many reasons why this project will be detrimental to neighborhood. Including:
Creating complete lack of sunlight for some our neighbors.
Increased traffic and noise for our already congested streets.
Inevitable damage from pets from apartment building.

I hope the City Council will not acquiesce to pressure from Doran, a large construction company and West Ridge management company. Neither of whom care at all about the impact such a large development would have for our urban setting.

Sincerely,
Patrick Evans Crotty
812 Fairfield Circle
Minnetonka 55305

PAT EVANS
Multimedia anchor/reporter

Sent from my iPhone
To: Mayor Wiersum and Rebecca Schack, and Minnetonka City Council Members

From: Lynne Knox
Gables of Westridge Townhomes

Re: Concept Plan for Marsh Run Redevelopment at 11650 and 11706 Wayzata Blvd. - Feedback

I am attaching a letter with feedback concerning the Marsh Run Redevelopment Concept plan at 11650 and 11706 Wayzata Blvd. in Minnetonka. I attended the meeting on August 15, 2018 when the Concept Plan was submitted for the construction of a six story, 230 unit apartment building at this location. I also attended the Planning Commission Meeting in City Council Chambers on August 16, 2018. My attached letter will highlight my deep concerns for the construction of the proposed six story building.

I urge you to please read my letter and respectfully request you do not approve of the concept plan as presented.

Thank you.

Lynne Knox
Gables of Westridge Townhomes
921 Fairfield Way
Minnetonka, Minnesota
55305
To: City Council, City of Minnetonka

Re: Concept Plan for Marsh Run Redevelopment at 11650 and 11706 Wayzata Blvd.

The Board of Directors of the Gables of Westridge Homeowners Associated met on August 21, 2018, and adopted a resolution opposing the concept plan as presented to the City Planning Commission on August 16, 2018. The concept plans presents numerous issues that will negatively affect our association and surrounding community. At six stories high, the building is too large and tall for the small parcel of land considered. It would overpower and cast shadows on the adjacent townhomes to the north of the property during the most significant short winter months of sunlight. It lacked any noticeable green space to border the building and would fill the space right to the existing sidewalks used by current residents of the Gables of Westridge Townhomes, Westridge Townhomes, Bay Hill Condominiums, Common Bond Apartment building and two senior living buildings that were built along Fairfield Road from Wayzata Blvd. to Hopkins Crossroad.

Our existing homes townhomes, condominium, and apartment buildings are well-designed, and in an architecturally-planned community offering many living styles for an abundance of ages and current residents with varied lifestyles. The proposed six-story building is urban in design and not in keeping with the neighborhood. The proposed six-story building is one that is similar to existing apartments built on wide, four-lane highways and busy, urban boulevards, and open spaces such as The Moline in Hopkins, Park25 on Highway 25 in St. Louis Park, and The Reserve in Maple Grove that has an abundance of open spaces created from former gravel pits. The traffic and sheer number of additional residents and cars in and on the small, two-lane street, the Wayzata Frontage Boulevard and Fairfield Road, would create danger and havoc in an already over-crowded area. We are also concerned about apartment residents from the proposed building using our association land, private roads and parking spaces.

We respectfully request you do not approve of the concept plan as presented.

Thank you.

Lynne Knox
Gables of Westridge Townhomes
921 Fairfield Way
Minnetonka, Minnesota
55305
Dear Ms. Schack,

Thank you for your service as our city council member. We appreciate all the time and effort you put into serving our community. We wanted to take a moment and let you know our thoughts on the proposed Duran constitution site in Minnetonka off Fairfield Road and Wayzata Blvd.

My husband and I live on Fairfield Spur and we're unable to make it to tomorrow's meeting. We're caring for a parent that lives out of state that was recently released from the hospital after having major surgery.

We have the following concerns with the construction proposal:

**Right to Light:** As you're aware, we have a legal right to light. The report created by Duran documents that our decks/homes will be shaded for 5 months out of the year, based upon the current construction proposal. This is absolutely unacceptable! A construction plan with fewer floors, allowing adequate sunlight to our homes, should be considered.

**Traffic:** As you may be aware, it's already difficult to get onto Wayzata Blvd. from Fairfield Road. If a building was added to the street, a stop light at the intersection of Fairfield Road and Wayzata Blvd is a must. Near miss car accidents and backups already occur at this intersection and would only get worse with such a large number of people being added to the area. We request that a stop light be added to the construction plans.

**Saturation:** While I understand that the owners want to develop the lot, saturation of the area needs to be considered. Adding over 300 units to the area will make the area over inhibited and claustrophobic. The traffic, noise, and parking are all items that need to be considered.

**Noise:** Currently, our homes/decks are really quiet. The fact that our unit faces trees and a one story office building played into our decision to purchased our unit. We're really concerned that adding over 300 units will increase the noise level of the area.

**Parking:** No matter how you slice it, there will not be adequate parking for such a large number of units. I understand the plan for a ramp/underground parking and the inclusion of 30 guest spots, but realistically, the parking situation will get complicated. If we focus just on the guest parking concept, 30 spots for over 300 units will not be enough. Additionally, there is no street parking available, meaning people will likely come into our streets and park in our extra spots. Even that will not be enough.

Bottom line, the area cannot support the number of units being proposed. There are so many places where a building like the one proposed would bring economical value to the area, but this is not it. Please note our opposition to the building plans.

Thank you!
Tescia & Andrew
Fairfield Spur, Minnetonka MN
Be it resolved by the Board of Commissioners (the “Board”) of the Economic Development Authority in and for the City of Minnetonka, Minnesota (the “Authority”) as follows:

Section 1. Background.

1.01. The Authority previously approved a Contract for Private Development (the “Development Agreement”), between the Authority, the City of Minnetonka (the “City”), and Minnetonka Leased Housing Associates III, LLLP, a Minnesota limited liability limited partnership (the “Developer”), pursuant to which the Developer agreed to acquire certain property (the “Development Property”) and develop approximately 262 affordable apartment units for seniors, to be located at 11001 Bren Road East in the City, with one hundred percent (100%) of the apartment units made affordable to seniors at or below sixty percent (60%) of the area median income (the “Minimum Improvements”). In consideration for the construction of the Minimum Improvements, the Authority approved the issuance of a Tax Increment Revenue Note (the “TIF Note”) in the maximum principal amount of $4,161,000, to reimburse the Developer for certain qualified costs related to the Minimum Improvements if certain conditions set forth in the Development Agreement are met.

1.02. Pursuant to the Development Agreement, the Developer has agreed to execute a Declaration of Restrictive Covenants to be recorded against the Development Property and setting forth the income and rent restrictions required by the Development Agreement and a Minimum Assessment Agreement to be recorded against the Development Property and setting forth the minimum assessed value for the Development Property.

1.03. The Developer has requested that the City issue several series of revenue obligations in the maximum aggregate principal amount of $67,500,000 (the “Obligations”) and loan the proceeds thereof to the Developer to assist in financing the Minimum Improvements.

1.04. A portion of the Obligations in the approximate principal amount of $32,410,000 (the “Tax-Exempt Notes”) and a portion of the Obligations in the approximate principal amount of $26,910,000 (the “Taxable Notes”) are expected to be issued by the City to evidence funding loans (the “Funding Loans”) made by U.S. Bank National Association, a national
banking association, and BMO Harris Bank N.A., a national banking association (together the “Funding Lender”), pursuant to a Funding Loan Agreement (the “Funding Loan Agreement”) between the City, U.S. Bank National Association, a national banking association, as fiscal agent (the “Fiscal Agent”), and U.S. Bank National Association, a national banking association, as administrative agent for the Funding Lender. As a condition of the Funding Loans, the Authority is required to subordinate its rights and interests in the Development Agreement, the Minimum Assessment Agreement, and the Declaration of Restrictive Covenants to the rights of the Fiscal Agent under the Financing Documents defined and described in the Funding Loan Agreement.

1.05. A portion of the Obligations in the approximate principal amount of $4,090,000 (the “Subordinate Bonds”) is expected to be issued by the City under the terms of a Subordinate Indenture of Trust between the City and U.S. Bank National Association, a national banking association (the “Bond Trustee”). The City will loan the proceeds of the Subordinate Bonds to the Developer pursuant to a Subordinate Loan Agreement (the “Subordinate Loan Agreement”) between the City and the Developer. The Developer has proposed to pledge and assign its interest in the TIF Note to the Bond Trustee in order to secure its repayment obligations under the Subordinate Loan Agreement. The Subordinate Bonds are also secured by a Subordinate Combination Mortgage, Security Agreement, Fixture Financing Statement, and Assignment of Leases and Rents by the Developer in favor of the City and a Subordinate Guaranty Agreement by Dominium Holdings II, LLC in favor of the Bond Trustee.

1.06. There has been presented before this Board a form of Assignment, Pledge, and Security Agreement (the “Security Agreement”) proposed to be executed by the Developer and the Bond Trustee, pursuant to which the Developer will assign and pledge its interest in the TIF Note to the Bond Trustee and the Authority will consent to the assignment and pledge thereof.

1.07. There has also been presented before this Board a form of Subordination Agreement related to the Tax-Exempt Notes (the “Tax-Exempt Notes Subordination Agreement”) proposed to be entered into between the Authority, the City, and the Fiscal Agent, pursuant to which the Authority will subordinate its rights and interests in the Development Agreement, the Minimum Assessment Agreement, and the Declaration of Restrictive Covenants to the rights of the Fiscal Agent under the Financing Documents.

1.08. There has also been presented before this Board a form of Subordination Agreement related to the Taxable Notes (the “Taxable Notes Subordination Agreement”) proposed to be entered into between the
Authority, the City, and the Fiscal Agent, pursuant to which the Authority will subordinate its rights and interests in the Development Agreement, the Minimum Assessment Agreement, and the Declaration of Restrictive Covenants to the rights of the Fiscal Agent under the Financing Documents.

1.09. There has also been presented before this Board a form of Construction Addendum to Contract for Private Development (Dominium Senior Housing Development) (the “Construction Addendum”) proposed to be executed by the Authority, the City, and the Developer, which sets forth the rights and responsibilities of each party with respect to certain construction obligations under the Developer Agreement.

Section 2. The Agreements.

2.01. The Board approves the Security Agreement, the Tax-Exempt Notes Subordination Agreement, the Taxable Notes Subordination Agreement, and the Construction Addendum (collectively, the “Agreements”) in substantially the forms on file in City Hall. The President and Executive Director are hereby authorized and directed to execute and deliver the Agreements. All of the provisions of the Agreements, when executed and delivered as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Agreements shall be substantially in the forms on file with the Authority which are hereby approved, with such omissions and insertions as do not materially change the substance thereof, or as the President and the Executive Director, in their discretion, shall determine, and the execution thereof by the President and the Executive Director shall be conclusive evidence of such determination.

2.02. The President and the Executive Director are hereby authorized and directed to execute other agreements and certificates deemed necessary to carry out the intentions of the Agreements and this resolution.

Section 3. Approval of Financing.

3.01 Pursuant to the terms of Section 7.1 of the Development Agreement, the Authority hereby approves the issuance of the Obligations by the City for the benefit of the Developer for the purpose of financing the Minimum Improvements.

Section 4. Miscellaneous.

4.01. This resolution shall be effective from and after the date hereof.
Adopted by the Board of Commissioners of the Economic Development Authority in and for the City of Minnetonka, Minnesota on August 27, 2018.

Brad Wiersum, President

ATTEST:

David E. Maeda, Secretary

Action on this resolution:

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Board of Commissioners of the Economic Development Authority in and for the City of Minnetonka, Minnesota, at a duly authorized meeting held on August 27, 2018.

______________________________
Secretary
Resolution approving the execution and delivery of documents in connection with a workforce housing development

Be it resolved by the Board of Commissioners (the “Board”) of the Economic Development Authority in and for the City of Minnetonka, Minnesota (the “Authority”) as follows:

Section 1. Background.

1.01. The Authority previously approved a Contract for Private Development (the “Development Agreement”), between the Authority, the City of Minnetonka (the “City”), and Minnetonka Leased Housing Associates II, LLLP, a Minnesota limited liability limited partnership (the “Developer”), pursuant to which the Developer agreed to acquire certain property (the “Development Property”) and develop approximately 220 workforce housing apartment units, to be located at 10987 and 11015 Bren Road East in the City, with one hundred percent (100%) of the apartment units made affordable to individuals and their families at or below sixty percent (60%) of the area median income (the “Minimum Improvements”). In consideration for the construction of the Minimum Improvements, the Authority approved the issuance of a Tax Increment Revenue Note (the “TIF Note”) in the maximum principal amount of $3,648,000, to reimburse the Developer for certain qualified costs related to the Minimum Improvements if certain conditions set forth in the Development Agreement are met.

1.02. Pursuant to the Development Agreement, the Developer has agreed to execute a Declaration of Restrictive Covenants to be recorded against the Development Property and setting forth the income and rent restrictions required by the Development Agreement and a Minimum Assessment Agreement to be recorded against the Development Property and setting forth the minimum assessed value for the Development Property.

1.03. The Developer has requested that the City issue several series of revenue obligations in the maximum aggregate principal amount of $55,000,000 (the “Obligations”) and loan the proceeds thereof to the Developer to assist in financing the Minimum Improvements.

1.04. A portion of the Obligations in the approximate principal amount of $26,930,000,000 (the “Tax-Exempt Notes”) and a portion of the Obligations in the approximate principal amount of $19,042,000 (the “Taxable Notes”) are expected to be issued by the City to evidence
funding loans (the “Funding Loans”) made by U.S. Bank National Association, a national banking association, and BMO Harris Bank N.A., a national banking association (together the “Funding Lenders”), pursuant to a Funding Loan Agreement (the “Funding Loan Agreement”) between the City, U.S. Bank National Association, a national banking association, as fiscal agent (the “Fiscal Agent”), and U.S. Bank National Association, a national banking association, as administrative agent for the Funding Lender. As a condition of the Funding Loans, the Authority is required to subordinate its rights and interests in the Development Agreement, the Minimum Assessment Agreement, and the Declaration of Restrictive Covenants to the rights of the Fiscal Agent under the Financing Documents defined and described in the Funding Loan Agreement.

1.05. A portion of the Obligations in the approximate principal amount of $3,570,000 (the “Subordinate Bonds”) is expected to be issued by the City under the terms of a Subordinate Indenture of Trust between the City and U.S. Bank National Association, a national banking association (the “Bond Trustee”). The City will loan the proceeds of the Subordinate Bonds to the Developer pursuant to a Subordinate Loan Agreement (the “Subordinate Loan Agreement”) between the City and the Developer. The Developer has proposed to pledge and assign its interest in the TIF Note to the Bond Trustee in order to secure its repayment obligations under the Subordinate Loan Agreement. The Subordinate Bonds are also secured by a Subordinate Combination Mortgage, Security Agreement, Fixture Financing Statement, and Assignment of Leases and Rents by the Developer in favor of the City and a Subordinate Guaranty Agreement by Dominium Holdings II, LLC in favor of the Bond Trustee.

1.06. There has been presented before this Board a form of Assignment, Pledge, and Security Agreement (the “Security Agreement”) proposed to be executed by the Developer and the Bond Trustee, pursuant to which the Developer will assign and pledge its interest in the TIF Note to the Bond Trustee and the Authority will consent to the assignment and pledge thereof.

1.07. There has also been presented before this Board a form of Subordination Agreement related to the Tax-Exempt Notes (the “Tax-Exempt Notes Subordination Agreement”) proposed to be entered into between the Authority, the City, and the Fiscal Agent, pursuant to which the Authority will subordinate its rights and interests in the Development Agreement, the Minimum Assessment Agreement, and the Declaration of Restrictive Covenants to the rights of the Fiscal Agent under the Financing Documents.

1.08. There has also been presented before this Board a form of Subordination Agreement related to the Taxable Notes (the “Taxable Notes Subordination Agreement”) proposed to be entered into between the Authority, the City, and the Fiscal Agent, pursuant to which the Authority will subordinate its rights and interests in the Development Agreement, the Minimum Assessment Agreement, and the Declaration of Restrictive Covenants to the rights of the Fiscal Agent under the Financing Documents.
Subordination Agreement”) proposed to be entered into between the Authority, the City, and the Fiscal Agent, pursuant to which the Authority will subordinate its rights and interests in the Development Agreement, the Minimum Assessment Agreement, and the Declaration of Restrictive Covenants to the rights of the Fiscal Agent under the Financing Documents.

1.09. There has also been presented before this Board a form of Construction Addendum to Contract for Private Development (Dominium Workforce Housing Development) (the “Construction Addendum”) proposed to be executed by the Authority, the City, and the Developer, which sets forth the rights and responsibilities of each party with respect to certain construction obligations under the Developer Agreement.

Section 2. The Agreements.

2.01. The Board approves the Security Agreement, the Tax-Exempt Notes Subordination Agreement, the Taxable Notes Subordination Agreement, and the Construction Addendum (collectively, the “Agreements”) in substantially the forms on file in City Hall. The President and Executive Director are hereby authorized and directed to execute and deliver the Agreements. All of the provisions of the Agreements, when executed and delivered as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Agreements shall be substantially in the forms on file with the Authority which are hereby approved, with such omissions and insertions as do not materially change the substance thereof, or as the President and the Executive Director, in their discretion, shall determine, and the execution thereof by the President and the Executive Director shall be conclusive evidence of such determination.

2.02. The President and the Executive Director are hereby authorized and directed to execute other agreements and certificates deemed necessary to carry out the intentions of the Agreements and this resolution.

Section 3. Approval of Financing.

3.01 Pursuant to the terms of Section 7.1 of the Development Agreement, the Authority hereby approves the issuance of the Obligations by the City for the benefit of the Developer for the purpose of financing the Minimum Improvements.

Section 4. Miscellaneous.

4.01. This resolution shall be effective from and after the date hereof.
Adopted by the Board of Commissioners of the Economic Development Authority in and for the City of Minnetonka, Minnesota on August 27, 2018.

Brad Wiersum, President

ATTEST:

David E. Maeda, Secretary

Action on this resolution:

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Board of Commissioners of the Economic Development Authority in and for the City of Minnetonka, Minnesota, at a duly authorized meeting held on August 27, 2018.

Secretary
CONSTRUCTION ADDENDUM TO CONTRACT FOR PRIVATE DEVELOPMENT
(DOMINIUM SENIOR HOUSING DEVELOPMENT)

This Construction Addendum, made as of the _____ day of September, 2018 (the “Construction Addendum”), is between the ECONOMIC DEVELOPMENT AUTHORITY IN AND FOR THE CITY OF MINNETONKA, MINNESOTA, a public body corporate and politic under the laws of the State of Minnesota (the “Authority”), the CITY OF MINNETONKA, MINNESOTA, a home rule city, municipal corporation, and political subdivision duly organized and existing under its Charter and the Constitution and laws of the State of Minnesota (the “City”), and MINNETONKA LEASED HOUSING ASSOCIATES III, LLLP, a Minnesota limited liability limited partnership (the “Developer”) and supplements Sections 4.8, 4.9, and 4.10 of the Contract for Private Development, dated September ___, 2018 (the “Development Contract”), between the City, the Authority, and the Developer.

Section 1. Improvements; Engineering Services

1.1. The Developer must provide the necessary engineering services for the completion of the Senior Housing Project, including: construction supervision, construction staking and surveying, and on-site inspection of grading, streets, and utilities, as applicable. The Developer’s engineer will be the official representative of the Developer for all engineering and construction matters.

1.2. The City Engineer or a designated representative will make periodic inspection of work and may require certain tests be made, which in the judgment of the City Engineer or the designated representative are necessary to ensure compliance with City standards and the approved plans and specifications. However, the City will not exercise any direct supervision or inspection of work during construction operations. If any material or labor supplied is rejected by the City Engineer or designated representative as defective or unsuitable, the Developer must remove such rejected material and replace it with approved material to the satisfaction and approval of the City Engineer or designated representative, at the sole cost and expense of the Developer.

Section 2. Performance, including timelines.

2.1. Erosion Control. Prior to commencement of any site work, including demolition or tree removal, the erosion control plan, herein attached as Attachment 3, must be implemented, inspected, and approved by the City. All aspects of the erosion control plan must be maintained throughout the course of development and construction on the Development Property. In addition, the Developer is responsible for keeping streets adjoining the Development Property swept clean of dirt and debris resulting from construction on the Development Property. No construction will be allowed, and no building permits will be issued, unless the Development Property is in full compliance with erosion control plan and street sweeping requirements.

The parties to this Construction Addendum recognize that time is critical in controlling erosion. If Developer does not comply with the erosion control plan and schedule, or supplementary instructions received from the City, the City may take such action as it deems appropriate to control erosion. The City will attempt to notify the Developer in advance of any proposed action, but failure of the City to do so will not affect the Developer’s or City’s rights or obligations hereunder. If the Developer does not reimburse the City for any costs the City incurred for such work within thirty (30) days, the City may draw upon the financial securities as required under Section 7 of this Construction Addendum.

2.2. Grading. A grading permit is required. All grading must be completed by the Developer at its cost and as approved under the grading permit. Grading activity must be coordinated with installation of utilities. If installation of utilities is occurring simultaneously with the grading, the utility contractor will
have preference over grading activities. No substantial grading activities can be completed over installed utilities unless otherwise protected.

2.3. **Utilities.**

a) All utilities must be installed by the Developer at its cost, constructed in accordance with city standards and specifications, and as approved under the grading permit.

b) Private utilities must be entirely accommodated underground.

c) The Developer may connect the buildings to the utilities upon acceptance by the City of the sewer and water utilities.

2.4. **Streets.**

a) **On-Site.** The Developer must submit a geotechnical report prepared by a licensed geotechnical engineer. The report must include a recommendation for a pavement section and drain tile, if applicable, for the proposed public street(s). In no case will a pavement section less than a minimum 5-inch bituminous and 6-inch Class 5 aggregate be approved by the City Engineer. The pavement section must show drain tile to be installed per the City Engineer’s direction, if required.

After the street subgrade has been properly prepared, the Developer must conduct a roll test of the subgrade under the observation by the Developer’s engineer, the geotechnical engineer, and the City Engineer or designated representative. The roll test must be performed per current Minnesota Department of Transportation specifications. The Developer must correct any deficiencies in subgrade to the reasonable satisfaction of the City Engineer or designated representative prior to the installation of the base course of bituminous.

b) **Off-Site.** The City Engineer or designated representative will evaluate the conditions of the publically maintained portion of Bren Road East prior to commencement of any site work to determine pre-development conditions. Following construction of the streets and utilities within the Senior Housing Project, the City Engineer or designated representative will re-evaluate the condition of the publically maintained portion of Bren Road East. The Developer is responsible for any repairs necessary to bring the roadway back to, at a minimum, pre-development conditions.

2.5. **Landscaping.** All landscaping must be installed by the Developer at its cost, and in accordance with the requirements of City Code §300.27 Subdivision 15.

**Section 3. Underpass/Bridge and Dynamic Prediction Crossing Site Improvements.**

3.1 **Design and Construction.** The Developer agrees to cause contracts to be entered into related to the design and construction work relating to a pedestrian underpass beneath Bren Road East and related fencing (the “Underpass/Bridge Site Improvements”) and a dynamic predication crossing safety improvements on the east side of the Development Property and adjacent to Bren Road East and related fencing (the “Dynamic Predication Crossing Site Improvements”). The additional obligations of the Developer with respect to the Underpass/Bridge Site Improvements and the Dynamic Predication Crossing Site Improvements are set forth in more detail on Exhibit D attached hereto.
Section 4   City Acceptance.

4.1.   Acceptance. After completion of required street and utility work, the City Engineer or designated representative, a City Public Works Department representative, a representative of the contractor, and a representative of the Developer’s engineer, will make a final inspection of the Senior Housing Project. The Developer’s engineer must submit a written statement attesting that all required work has been satisfactorily completed in accordance with the approved plans and specifications. When both the City Engineer, or designated representative, and Public Works Department representative are satisfied with the written statement, they will acknowledge acceptance of the work in writing in the form attached as Exhibit C. Acceptance of the work must be provided in writing.

4.2.   Ownership. Upon completion, City acceptance of the work and construction required by this Construction Addendum, and release of financial securities, the Improvements lying within public rights-of-way and easements will become City property without further notice or action, except the following improvements which are specifically identified herein as private infrastructure:

- North south watermain;
- Underground stormwater facilities, including storm sewer; and
- Fire hydrants.

4.3.   Warranty. The Developer warrants all work required to be performed against poor material and faulty workmanship for a period of two years after its completion and acceptance by the City or such longer period as is specified in the plans and specifications.

Section 5   Timelines

5.1.   The Developer must obtain written approval and authorization to proceed from the City Engineer or designated representative prior to each of the following construction operations:

- Rough grading;
- Geotechnical testing for design and during construction;
- Construction of sanitary sewer mains, sewer services, water mains, water services, stormwater facilities, and all necessary appurtenances thereto;
- Construction of streets, curb and gutter, and driveway aprons; and
- Turf establishment and landscaping.

5.2.   All underground utilities, stormwater facilities, and streets, including concrete curb and gutter and bituminous base course, must be completed by December 31, 2021. The bituminous wear course must not be placed prior to completion of the heavy civil construction of the light rail transit line to the east of the Development Property and must be in place by December 31, 2021, or as otherwise approved by the City Engineer.

5.3.   The Developer must install all required improvements enumerated in Section 2 of this Construction Addendum by December 31, 2021, subject to delay due to inclement weather, labor strikes, material shortages or other circumstance not within the Developer’s reasonable control. The developer may, however, request an extension of time from the City. If an extension is granted, it will be conditions upon updating security posted by the Developer to reflect cost increases and the extended completion date.
Section 6. Securities, Costs, Fees, Charges, and Assessments.

6.1. **Security to be Provided.** To guarantee compliance with the terms of this Construction Addendum and obligations hereunder, the Developer must furnish the City with a cash deposit or irrevocable letter of credit ("Security") in the amount of $[TOTAL OF AMOUNTS BELOW]. This amount was calculated as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Erosion Control</td>
<td>[125% of bid]</td>
</tr>
<tr>
<td>Removal of Erosion Control</td>
<td>[125% of bid]</td>
</tr>
<tr>
<td>Grading</td>
<td>$294,375</td>
</tr>
<tr>
<td>Wetland and/or Buffer Restoration</td>
<td>[125% of bid]</td>
</tr>
<tr>
<td>Wetland Monitoring</td>
<td>$7,500</td>
</tr>
<tr>
<td>Landscaping</td>
<td>$128,750</td>
</tr>
<tr>
<td>Surface Improvements (Streets, Sidewalks, Trails)</td>
<td>$93,750</td>
</tr>
<tr>
<td>Water Main Improvements</td>
<td>$117,500</td>
</tr>
<tr>
<td>Sanitary Sewer Improvements</td>
<td>$88,750</td>
</tr>
<tr>
<td>Storm Sewer Improvements</td>
<td>[125% of bid]</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
</tr>
</tbody>
</table>

Refer to Exhibit B for an explanation of each item.

A letter of credit must be a standby, not commercial, letter of credit issued by a financial institution that is insured by the FDIC and must provide for disbursement of funds from an office in the Twin Cities seven-county metropolitan area. The letter of credit must be automatically renewable until the City release the Developer from responsibility. In the event of default under this Construction Addendum by the Developer, the City will furnish the Developer with written notice by certified mail of Developer’s default(s) under the terms of this Construction Addendum. If the Developer does not correct said default(s) within one (1) month of receiving notice, the City may draw upon the cash escrow or may draw on the letter of credit and take such steps as its deems reasonably necessary to remedy the default.

6.2. **Release of Security.** Requests for reduction or release of a cash deposit or letter of credit must be made in writing. Requests for reduction and release will only be accepted during the construction season, generally March to November, and only as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Reduction</th>
<th>Release*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Erosion Control</td>
<td>n/a</td>
<td>Project Completion</td>
</tr>
<tr>
<td>Removal of Erosion Control</td>
<td>n/a</td>
<td>Upon removal</td>
</tr>
<tr>
<td>Grading</td>
<td>75% upon completion of retaining walls and</td>
<td>Project Completion</td>
</tr>
<tr>
<td>Wetland and/or Buffer Restoration</td>
<td>approved reduction of surface improvements</td>
<td>n/a</td>
</tr>
<tr>
<td>----------------------------------</td>
<td>-----------------------------------------------</td>
<td>-----</td>
</tr>
<tr>
<td>Wetland Monitoring</td>
<td>$\frac{1}{5}$th reduction of total upon submission of annual monitoring reports</td>
<td>After 5 years</td>
</tr>
<tr>
<td>Landscaping</td>
<td>50% reduction at full installation</td>
<td>One full growing season following installation</td>
</tr>
<tr>
<td>Surface Improvements (Streets, Sidewalks, Trails)</td>
<td>First lift of bituminous laid and all curbing installed and backfilled.</td>
<td>Upon acceptance</td>
</tr>
<tr>
<td>Water Main Improvements</td>
<td>n/a</td>
<td>Upon testing, inspection, and acceptance</td>
</tr>
<tr>
<td>Sanitary Improvements</td>
<td>n/a</td>
<td>Upon testing, inspection, and acceptance</td>
</tr>
<tr>
<td>Storm Sewer Improvements</td>
<td>n/a</td>
<td>Upon inspection and acceptance</td>
</tr>
<tr>
<td>Stormwater Management Facilities</td>
<td>n/a</td>
<td>Upon full functionality</td>
</tr>
</tbody>
</table>

* In the case of grading, surface improvement, watermain, sanitary and storm sewers, and stormwater management, submission of as-built surveys or record drawings is also required prior to release.

6.3. **Responsibility for Costs.**

a) Except as otherwise specified herein, the Developer must pay all costs incurred by it or the City in conjunction with development of the Development Property and all costs incurred by the City in monitoring and inspecting development of the Development Property.

b) The Developer agrees to hold the City and its officers and employees harmless from claims made by itself and third parties for damages sustained or costs incurred resulting from development of the Development Property, except for any costs or expenses arising from the negligence or other wrongful acts or omission of the City, its agents, employees or contractors. The Developer agrees to indemnify the City and its officers and employees for all costs, damages, or expenses the City may incur in consequence of such claims, including attorney’s fees.

c) The Developer will pay in full all bills submitted to the City of obligations incurred under this Construction Addendum within thirty (30) days after receipt. If the bills are not paid on time, the City may halt work and construction including, but not limited to, the issuance of building permits for lots that the Developer may or may not have sold, until the bills are paid in full. Bills not paid within thirty (30) days will accrue interest at a rate of ten percent (10%) per year.

6.4. **Fees and Charges.**

a) The Developer agrees to pay fees, charges, and assessments set forth in this section as follows upon recording the final plat:

<table>
<thead>
<tr>
<th>Fee/Charge</th>
<th>Amount*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Park Dedication Fee</td>
<td>$1,310,000</td>
</tr>
</tbody>
</table>
Outstanding Assessments $0.00
Outstanding Utility Bills

* Depending on the date of release of the plat, amounts may differ. Refer to Exhibit B.

b) The Developer agrees to pay fees and charges set forth in this section as follows prior to release of the grading permit:

<table>
<thead>
<tr>
<th>Fee/Charge</th>
<th>Amount*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Engineering Inspection Fee</td>
<td>$8,366</td>
</tr>
<tr>
<td>Street Sign Fee</td>
<td>$0.00</td>
</tr>
</tbody>
</table>

* Depending on the date of release of the permit, amounts may differ. Refer to Exhibit B.

c) The Developer understands that builders will be required to pay for Development Property fees and charges in effect at the time of issuance of building permits. The rates for these items will be set according to the current rate structure at the time the building permit application is received. The fees and charges in effect as of the date of this Construction Addendum are:

<table>
<thead>
<tr>
<th>Fee/Charge</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sanitary Sewer Availability Charge (SAC)</td>
<td>$2,485 per SAC unit</td>
</tr>
<tr>
<td>Residential Equivalency Charge (REC)</td>
<td>$2,769.06 per SAC unit</td>
</tr>
</tbody>
</table>

Section 7. Default.

7.1. In the event of default by the Developer as to any of the work to be performed by it hereunder, the City may, at its option perform the work and the Developer must promptly reimburse the City for any expense incurred by the City, provided the Developer is first given notice of the default, not less than 48 hours in advance. This Construction Addendum is a license for the City to act, and it is not necessary for the City to seek a court order for permission to enter onto the Development Property. When the City does any such work, the City may, in addition to its other remedies, draw on the cash deposit or letter of credit, or levy the cost in whole or in part as a special assessment against the Development Property. Developer waives its right to notice of hearings and hearing on such assessment and its right to appeal such assessments pursuant to Minnesota State Statutes, Section 429.081, up to an assessment amount of the remaining securities describe in Section 6.1.

Section 8. Miscellaneous.

8.1 Third parties have no recourse against the City under this Construction Addendum.

8.2 Breach of terms of this Construction Addendum are grounds for denial of building permits, including permits on lots sold to third parties.

8.3 If any portion, section, subsection, sentence, clause, paragraph or phrase of this Construction Addendum is for any reason held invalid, such decision does not affect the validity of the remaining portions of this Construction Addendum.
8.4 If building permits are issued prior to completion and acceptance of Improvements, the Developer assumes all liability and costs resulting from delays in completion of Improvements and damage to Improvements caused by the City, unless such damages arise from the negligence or other wrongful acts or omission of the City, its agents, employees or contractors.

8.5 The action or inaction of the City does not constitute a waiver or amendment to the provisions of this Construction Addendum. To be binding, amendments or waivers must be in writing and signed by the parties. The City’s failure to take legal action to enforce this Construction Addendum is not waiver or release.

8.6 This Construction Addendum will run with the Development Property and may be recorded against its title. The Developer must take such steps, including execution of amendments to this Construction Addendum, as necessary to effect the recording thereof. After the Developer has completed the work required of it under this Construction Addendum, at the Developer’s request, the City will execute and deliver to the Developer a release.

8.7 Each right, power, or remedy herein conferred upon the City is cumulative and in addition to every other right, power, or remedy, express or implied, now or hereafter arising, available to the City, at law or in equity, or under any other agreement, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the City and shall not be a waiver of the right to exercise at any time thereafter any other right, power or remedy.


9.1 Required notices to the Developer must be in writing, and be either hand delivered to the Developer, its employees or agents, or mailed to the Developer by registered or certified mail at the following address:

Minnetonka Leased Housing Associates III, LLLP
2905 Northwest Blvd.
Suite 150
Plymouth, MN 55441-2644
Attn: Mark S. Moorhouse and Ryan J. Lunderby

with a copy to:

John Stern
Winthrop & Weinstine, P.A.
Capella Tower, Suite 3500
225 South Sixth Street
Minneapolis, MN 55402-4629

CITIBANK, N.A.
390 Greenwich Street, Second Floor
New York, NY 10013
Attn: Mark Sherman, Director
Email: mark.sherman@citi.com

CITIBANK, N.A.
388 Greenwich Street, Eighth Floor
9.2 Notices to the City must be in writing and be either hand delivered to the City Planner, or mailed to the City by registered or certified mail in care of the City Planner at the following address:

City Planner
City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, Minnesota 55369

Section 10. Adjacent Development.

An affiliate of the Developer (Minnetonka Leased Housing Associates II, LLLP) is developing a workforce housing development adjacent to the Senior Housing Project and it will enter into a construction addendum similar to this Construction Addendum requiring the construction of the same public infrastructure that is required by this Construction Addendum. If Minnetonka Leased Housing Associates II, LLLP causes the construction of any or all of the public infrastructure required by this Construction Addendum, the Developer’s obligations hereunder with respect to the design and construction of such public infrastructure shall be satisfied.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first written above.

[signature pages follow]
Authority Signature Page

ECONOMIC DEVELOPMENT AUTHORITY IN AND FOR THE CITY OF MINNETONKA, MINNESOTA

By ________________________________
   Brad Wiersum
   Its President

By ________________________________
   Geralyn Barone
   Its Executive Director

STATE OF MINNESOTA    )
COUNTY OF HENNEPIN    ) SS.

The foregoing instrument was acknowledged before me this _____________, 2018, by Brad Wiersum, the President of the Economic Development Authority in and for the City of Minnetonka, Minnesota, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the Authority.

__________________________________________
Notary Public

STATE OF MINNESOTA    )
COUNTY OF HENNEPIN    ) SS.

The foregoing instrument was acknowledged before me this _____________, 2018, by Geralyn Barone, the Executive Director of the Economic Development Authority in and for the City of Minnetonka, Minnesota, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the Authority.

__________________________________________
Notary Public
City Signature Page

CITY OF MINNETONKA, MINNESOTA

By ________________________________
By Brad Wiersum
Its Mayor

By ________________________________
By Geralyn Barone
Its City Manager

STATE OF MINNESOTA     )
    ) SS.
COUNTY OF HENNEPIN     )

The foregoing instrument was acknowledged before me this ___ day of __________, 2018, by Brad Wiersum, the Mayor of the City of Minnetonka, Minnesota, a home rule city, municipal corporation, and political subdivision duly organized and existing under its Charter and the Constitution and laws of the State of Minnesota, on behalf of the City.

____________________________________
Notary Public

STATE OF MINNESOTA     )
    ) SS.
COUNTY OF HENNEPIN     )

The foregoing instrument was acknowledged before me this ___ day of __________, 2018, by Geralyn Barone, the City Manager of the City of Minnetonka, Minnesota, a home rule city, municipal corporation, and political subdivision duly organized and existing under its Charter and the Constitution and laws of the State of Minnesota, on behalf of the City.

____________________________________
Notary Public
MINNETONKA LEASED HOUSING ASSOCIATES III, LLLP, a Minnesota limited liability limited partnership

By: Minnetonka Leased Housing Associates SPE III, LLC, a Delaware limited liability company
Its: General Partner

By: __________________________________________
Name: Ryan J. Lunderby
Its: Vice President

STATE OF MINNESOTA )
) SS.
COUNTY OF _________ )

The foregoing instrument was acknowledged before me this __________, 2018, by Ryan J. Lunderby, the Vice President of Minnetonka Leased Housing Associates SPE III, LLC, a Delaware limited liability company, the general partner of Minnetonka Leased Housing Associates III, LLLP, a Minnesota limited liability limited partnership, on behalf of the Developer.

__________________________
Notary Public

THIS INSTRUMENT DRAFTED BY:
City of Minnetonka
Community Development
14600 Minnetonka Blvd.
Minnetonka, MN 55345
952-939-8200
EXHIBIT A

Legal Description

Lot 1, Block 1, DOMINIUM 2ND ADDITION, Hennepin County, Minnesota
EXHIBIT B

The following clarifies the items guaranteed by required cash deposit or letter of credit for Developer Improvements as outlined in this Construction Addendum.

**Erosion Control:** An amount equal to 125% of a bid, or 150% of an estimate, of the cost of materials and labor to install a rock driveway and silt fence or equivalent sediment control measures as per the approved grading permit.

**Erosion Control Removal:** An amount equal to 125% of a bid, or 150% of an estimate, estimated cost to remove erosion control measures.

**Grading:** An amount equal to 125% of a bid, or 150% of an estimate, of the cost to restore and stabilize the Development Property.

**Wetland and/or Buffer Restoration:** An amount equal to 125% of a bid, or 150% of an estimate, of the cost of materials and labor to restore the wetland and/or buffer as per the approved restoration plan.

**Wetland Monitoring:** $1,500 per year for each of the required five years of monitoring, for a total of $7,500.

**Landscaping:** An amount equal to 125% of the cost to complete minimum required landscaping.

**Surface Improvements:** An amount equal to 125% of a bid, or 150% of an estimate, of the cost of materials and labor to install streets, parking lots, sidewalks, and trails.

**Water Main Improvements:** An amount equal to 125% of the cost of materials and labor to install water main.

**Sanitary Sewer Improvements:** An amount equal to 125% of the cost of materials and labor to install sanitary sewer.

**Storm Sewer Improvements:** An amount equal to 125% of the cost of materials and labor to install storm sewer.

**Stormwater Management:** An amount equal to 125% of the cost of materials and labor in install all non-storm sewer stormwater management facilities and best management practices including, but not limited to infiltration basins, French drains, and soil decompaction.
EXHIBIT B – continued

### Developer Improvements

<table>
<thead>
<tr>
<th>No.</th>
<th>Item</th>
<th>Cost</th>
<th>% required</th>
<th>Guarantee Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Erosion Control</td>
<td></td>
<td>125-150</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Removal of Erosion Control</td>
<td></td>
<td>125-150</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Grading</td>
<td></td>
<td>125-150</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Wetland and/or Buffer Restoration</td>
<td></td>
<td>125-150</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Wetland Monitoring</td>
<td>$150 per year for 5 years</td>
<td>$7500</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Landscaping</td>
<td></td>
<td>125-150</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Surface Improvements</td>
<td></td>
<td>125-150</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Street Improvements</td>
<td></td>
<td>125-150</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Water Main Improvements</td>
<td></td>
<td>125-150</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Sanitary Sewer Improvements</td>
<td></td>
<td>125-150</td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>Storm Sewer Improvements</td>
<td></td>
<td>125-150</td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>Stormwater Improvements</td>
<td></td>
<td>125-150</td>
<td></td>
</tr>
<tr>
<td></td>
<td>TOTAL</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### City Fees (due with signed Construction Addendum)

<table>
<thead>
<tr>
<th>No.</th>
<th>Item</th>
<th>Infrastructure Value</th>
<th>Fee Calculation</th>
<th>Total Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Engineering Inspection Fee</td>
<td>$1–$150,000</td>
<td>$4,000</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>$150,001–$300,000</td>
<td>$4,000 for first $150,000 plus 1.5% of each additional $1</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Over $300,000</td>
<td>$6,250 for first $300,000 plus 0.5% of each additional dollar</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Street Signs</td>
<td>street name signs</td>
<td>$130</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>all other signs</td>
<td>$120</td>
<td></td>
</tr>
<tr>
<td></td>
<td>TOTAL</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Development Fees (due upon recording the plat)

<table>
<thead>
<tr>
<th>No.</th>
<th>Item</th>
<th>Cost</th>
<th>Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Park Dedication Fee</td>
<td></td>
<td>upon recording of plat</td>
</tr>
<tr>
<td>2</td>
<td>Outstanding Assessments</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Outstanding Utility Bills</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>TOTAL</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### General Construction Fees (due at release of building permit)

<table>
<thead>
<tr>
<th>No.</th>
<th>Item</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Sanitary Sewer Availability Charge</td>
<td>$2,485 per SAC unit as determined by Met Council</td>
</tr>
<tr>
<td>2</td>
<td>Residential Equivalency Charge</td>
<td>$2,769 per SAC unit as determined by Met Council</td>
</tr>
</tbody>
</table>
DATE:

SUBJECT:

This memorandum serves as acknowledgment that:

1. Street and utility work required under the __________ Construction Addendum dated _____, between the City of Minnetonka and _______, has been satisfactorily completed in accordance with approved plans and specifications; and

2. Said streets and utilities are accepted by the City of Minnetonka.

____________________________________________   ____________________ 
City of Minnetonka Engineering Department      Date

____________________________________________   ____________________ 
City of Minnetonka Public Works Department      Date
Exhibit D

Developer Obligations With Respect To The Underpass/Bridge Site Improvements and The Dynamic Predication Crossing Site Improvements.

1. Design and Construction. The Developer, or an affiliate thereof ("Developer Affiliate"), will enter into contracts related to the design and construction of the Underpass/Bridge Site Improvements and the design and installation of the Dynamic Predication Crossing Site Improvements. The Developer shall cause design contracts to be entered into with WSB & Associates, Inc.

2. City to Determine to Proceed with Underpass/Bridge. Notwithstanding Section 1 above, the City and the Developer will work together to obtain preliminary engineering design and construction cost estimates from WSB for the Underpass/Bridge Site Improvements. Based on the estimated costs, the City will determine if the Underpass/Bridge Site Improvements should be constructed. The City will notify the Developer as to whether it should cause contracts to be entered related to the design and construction of the Underpass/Bridge Site Improvements on or before October 15, 2018. It is intended by the parties to the Construction Addendum, unless otherwise agreed, the design and construction of the Underpass/Bridge Site Improvements is contingent on the estimated costs for such project not exceeding $2,410,000. Except as otherwise provided for herein, the Dynamic Predication Crossing Site Improvements (including associated fencing adjacent to Bren Road East) is required, regardless of whether the Underpass/Bridge Site Improvements are constructed.

3. Easements. The City will work with all adjacent property owners and interest holders, including, but not limited to Eagle Ridge Academy and the Metropolitan Council, to obtain the necessary easements to build the Underpass/Bridge Site Improvements and Dynamic Predication Crossing Site Improvements.

4. Reimbursement Process. All costs and expenses relating to the design and construction of the Underpass/Bridge Site Improvements and the Dynamic Predication Crossing Site Improvements shall be reimbursed by the City. The Developer must provide the City with the final invoices for the work as the work is completed. The City will reimburse the Developer within 30 days of receipt of a final invoice unless the City objects to the items set forth in the final invoice, and if the City has objections, it will notify the Developer of such objections within 30 days of receipt of a final invoice. The City shall not reimburse the Developer for any costs associated with building redesign, north trail redesign, or other costs that are unrelated to the Underpass/Bridge Site Improvements and the Dynamic Predication Crossing Site Improvements.

5. Completion. The Underpass/Bridge Site Improvements must be completed prior to the issuance of a final certificate of occupancy for the last building to be completed pursuant to the Development Contract executed by the Developer and that certain Contract for Private Development, dated __________, 2018, between the City, the Authority, and Minnetonka Leased Housing Associates III, LLLP. The foregoing condition shall not apply if any of the following circumstances occur: (a) the City is in default of any of its material obligations under this Construction Addendum; or (b) the City has caused material delays in the design or construction of the Underpass/Bridge Site Improvements. No certificates of occupancy shall be contingent upon the completion of the Dynamic Predication Crossing Site Improvements, which is intended to be completed on or after the completion of the heavy civil construction of the light rail transit line to the east of the Development Property.

6. Park Dedication Fees Credit. The parties hereto agree that the proceeds of the park dedication fees paid by the Developer with respect to the Senior Housing Project and the park dedication fees paid by Minnetonka Leased Housing Associates II, LLLP with respect to the adjacent workforce housing
project and will be used to offset the costs of the design, construction, and other costs (e.g. engineering costs, surveying costs, and soil remediation) related to the Underpass/Bridge Site Improvements and Dynamic Predication Crossing Site Improvements. In the event the costs of the Underpass/Bridge Site Improvements and Dynamic Predication Crossing Site Improvements exceed the amount of the park dedication fees paid by the Developer, the City shall pay the remaining costs of the Underpass/Bridge and Dynamic Predication Crossing Site Improvements with other available funds.

7. Maintenance. Following the completion of the Underpass/Bridge Site Improvements and Dynamic Predication Crossing Site Improvements, the City agrees to own and maintain the Underpass/Bridge Site Improvements and Dynamic Predication Crossing Site Improvements, the trail along the north side of the Development Property, and fencing related to the dynamic predication crossing.

8. Third-Party Beneficiary. Any and all rights of the Developer under this Exhibit D, including, but not limited to requesting reimbursement of costs, may be exercised by an affiliate of the Developer as if such affiliate of Developer was the "Developer" hereunder.

9. Standards for Design and Construction. The requirements of the Construction Addendum (except for Section 5) apply to the design and construction of the Underpass/Bridge Site Improvements and Dynamic Predication Crossing Site Improvements.
CONSTRUCTION ADDENDUM TO CONTRACT FOR PRIVATE DEVELOPMENT
(DOMINIUM WORKFORCE HOUSING DEVELOPMENT)

This Construction Addendum, made as of the _____ day of September, 2018 (the “Construction Addendum”), is between the ECONOMIC DEVELOPMENT AUTHORITY IN AND FOR THE CITY OF MINNETONKA, MINNESOTA, a public body corporate and politic under the laws of the State of Minnesota (the “Authority”), the CITY OF MINNETONKA, MINNESOTA, a home rule city, municipal corporation, and political subdivision duly organized and existing under its Charter and the Constitution and laws of the State of Minnesota (the “City”), and MINNETONKA LEASED HOUSING ASSOCIATES II, LLLP, a Minnesota limited liability limited partnership (the “Developer”) and supplements Sections 4.8, 4.9, and 4.10 of the Contract for Private Development, dated September ______, 2018 (the “Development Contract”), between the City, the Authority, and the Developer.

Section 1. Improvements; Engineering Services

1.1. The Developer must provide the necessary engineering services for the completion of the Workforce Housing Project, including: construction supervision, construction staking and surveying, and on-site inspection of grading, streets, and utilities, as applicable. The Developer’s engineer will be the official representative of the Developer for all engineering and construction matters.

1.2. The City Engineer or a designated representative will make periodic inspection of work and may require certain tests be made, which in the judgment of the City Engineer or the designated representative are necessary to ensure compliance with City standards and the approved plans and specifications. However, the City will not exercise any direct supervision or inspection of work during construction operations. If any material or labor supplied is rejected by the City Engineer or designated representative as defective or unsuitable, the Developer must remove such rejected material and replace it with approved material to the satisfaction and approval of the City Engineer or designated representative, at the sole cost and expense of the Developer.

Section 2. Performance, including timelines.

2.1. Erosion Control. Prior to commencement of any site work, including demolition or tree removal, the erosion control plan, herein attached as Attachment 3, must be implemented, inspected, and approved by the City. All aspects of the erosion control plan must be maintained throughout the course of development and construction on the Development Property. In addition, the Developer is responsible for keeping streets adjoining the Development Property swept clean of dirt and debris resulting from construction on the Development Property. No construction will be allowed, and no building permits will be issued, unless the Development Property is in full compliance with erosion control plan and street sweeping requirements.

The parties to this Construction Addendum recognize that time is critical in controlling erosion. If Developer does not comply with the erosion control plan and schedule, or supplementary instructions received from the City, the City may take such action as it deems appropriate to control erosion. The City will attempt to notify the Developer in advance of any proposed action, but failure of the City to do so will not affect the Developer’s or City’s rights or obligations hereunder. If the Developer does not reimburse the City for any costs the City incurred for such work within thirty (30) days, the City may draw upon the financial securities as required under Section 7 of this Construction Addendum.

2.2. Grading. A grading permit is required. All grading must be completed by the Developer at its cost and as approved under the grading permit. Grading activity must be coordinated with installation of utilities. If installation of utilities is occurring simultaneously with the grading, the utility contractor will
have preference over grading activities. No substantial grading activities can be completed over installed utilities unless otherwise protected.

2.3. **Utilities.**

   a) All utilities must be installed by the Developer at its cost, constructed in accordance with city standards and specifications, and as approved under the grading permit.

   b) Private utilities must be entirely accommodated underground.

   c) The Developer may connect the building to the utilities upon acceptance by the City of the sewer and water utilities.

2.4. **Streets.**

   a) **On-Site.** The Developer must submit a geotechnical report prepared by a licensed geotechnical engineer. The report must include a recommendation for a pavement section and drain tile, if applicable, for the proposed public street(s). In no case will a pavement section less than a minimum 5-inch bituminous and 6-inch Class 5 aggregate be approved by the City Engineer. The pavement section must show drain tile to be installed per the City Engineer’s direction, if required.

   After the street subgrade has been properly prepared, the Developer must conduct a roll test of the subgrade under the observation by the Developer’s engineer, the geotechnical engineer, and the City Engineer or designated representative. The roll test must be performed per current Minnesota Department of Transportation specifications. The Developer must correct any deficiencies in subgrade to the reasonable satisfaction of the City Engineer or designated representative prior to the installation of the base course of bituminous.

   b) **Off-Site.** The City Engineer or designated representative will evaluate the conditions of the publically maintained portion of Bren Road East prior to commencement of any site work to determine pre-development conditions. Following construction of the streets and utilities within the Workforce Housing Project, the City Engineer or designated representative will re-evaluate the condition of the publically maintained portion of Bren Road East. The Developer is responsible for any repairs necessary to bring the roadway back to, at a minimum, pre-development conditions.

2.5. **Landscaping.** All landscaping must be installed by the Developer at its cost, and in accordance with the requirements of City Code §300.27 Subdivision 15.

Section 3. **Underpass/Bridge and Dynamic Prediction Crossing Site Improvements.**

3.1 **Design and Construction.** The Developer agrees to cause contracts to be entered into related to the design and construction work relating to a pedestrian underpass beneath Bren Road East and related fencing (the “Underpass/Bridge Site Improvements”) and a dynamic predication crossing safety improvements on the east side of the Development Property and adjacent to Bren Road East and related fencing (the “Dynamic Predication Crossing Site Improvements”). The additional obligations of the Developer with respect to the Underpass/Bridge Site Improvements and the Dynamic Predication Crossing Site Improvements are set forth in more detail on Exhibit D attached hereto.

Section 4 **City Acceptance.**
4.1. **Acceptance.** After completion of required street and utility work, the City Engineer or designated representative, a City Public Works Department representative, a representative of the contractor, and a representative of the Developer’s engineer, will make a final inspection of the Workforce Housing Project. The Developer’s engineer must submit a written statement attesting that all required work has been satisfactorily completed in accordance with the approved plans and specifications. When both the City Engineer, or designated representative, and Public Works Department representative are satisfied with the written statement, they will acknowledge acceptance of the work in writing in the form attached as Exhibit C. Acceptance of the work must be provided in writing.

4.2. **Ownership.** Upon completion, City acceptance of the work and construction required by this Construction Addendum, and release of financial securities, the Improvements lying within public rights-of-way and easements will become City property without further notice or action, except the following improvements which are specifically identified herein as private infrastructure:

- North south watermain;
- Underground stormwater facilities, including storm sewer; and
- Fire hydrants.

4.3. **Warranty.** The Developer warrants all work required to be performed against poor material and faulty workmanship for a period of two years after its completion and acceptance by the City or such longer period as is specified in the plans and specifications.

**Section 5 Timelines**

5.1. The Developer must obtain written approval and authorization to proceed from the City Engineer or designated representative prior to each of the following construction operations:

- Rough grading;
- Geotechnical testing for design and during construction;
- Construction of sanitary sewer mains, sewer services, water mains, water services, stormwater facilities, and all necessary appurtenances thereto;
- Construction of streets, curb and gutter, and driveway aprons; and
- Turf establishment and landscaping.

5.2. All underground utilities, stormwater facilities, and streets, including concrete curb and gutter and bituminous base course, must be completed by December 31, 2021. The bituminous wear course must not be placed prior to completion of the heavy civil construction of the light rail transit line to the east of the Development Property and must be in place by December 31, 2021, or as otherwise approved by the City Engineer.

5.3. The Developer must install all required improvements enumerated in Section 2 of this Construction Addendum by December 31, 2021, subject to delay due to inclement weather, labor strikes, material shortages or other circumstance not within the Developer’s reasonable control. The developer may, however, request an extension of time from the City. If an extension is granted, it will be conditions upon updating security posted by the Developer to reflect cost increases and the extended completion date.
Section 6. Securities, Costs, Fees, Charges, and Assessments.

6.1. Security to be Provided. To guarantee compliance with the terms of this Construction Addendum and obligations hereunder, the Developer must furnish the City with a cash deposit or irrevocable letter of credit (“Security”) in the amount of $[TOTAL OF AMOUNTS BELOW]. This amount was calculated as follows:

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Erosion Control (125% of bid)</td>
<td>[ ]</td>
</tr>
<tr>
<td>Removal of Erosion Control (125% of bid)</td>
<td>[ ]</td>
</tr>
<tr>
<td>Grading</td>
<td>$294,375</td>
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<td>Wetland and/or Buffer Restoration (125% of bid)</td>
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<td>Wetland Monitoring</td>
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<td>Landscaping</td>
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<td>Surface Improvements (Streets, Sidewalks, Trails)</td>
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</tr>
<tr>
<td>TOTAL (125% of bid)</td>
<td>[ ]</td>
</tr>
</tbody>
</table>

Refer to Exhibit B for an explanation of each item.

A letter of credit must be a standby, not commercial, letter of credit issued by a financial institution that is insured by the FDIC and must provide for disbursement of funds form an office in the Twin Cities seven-county metropolitan area. The letter of credit must be automatically renewable until the City release the Developer from responsibility. In the event of default under this Construction Addendum by the Developer, the City will furnish the Developer with written notice by certified mail of Developer’s default(s) under the terms of this Construction Addendum. If the Developer does not correct said default(s) within one (1) month of receiving notice, the City may draw upon the cash escrow or may draw on the letter of credit and take such steps as its deems reasonably necessary to remedy the default.

6.2. Release of Security. Requests for reduction or release of a cash deposit or letter of credit must be made in writing. Requests for reduction and release will only be accepted during the construction season, generally March to November, and only as follows:

<table>
<thead>
<tr>
<th>Item</th>
<th>Reduction</th>
<th>Release*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Erosion Control</td>
<td>n/a</td>
<td>Project Completion</td>
</tr>
<tr>
<td>Removal of Erosion Control</td>
<td>n/a</td>
<td>Upon removal</td>
</tr>
<tr>
<td>Grading</td>
<td>75% upon completion of retaining walls and approved reduction of surface improvements</td>
<td>Project Completion</td>
</tr>
<tr>
<td>----------------------------------</td>
<td>-----------------------------------------------------------------------------------</td>
<td>--------------------</td>
</tr>
<tr>
<td>Wetland and/or Buffer Restoration</td>
<td>n/a</td>
<td>Restoration Completion</td>
</tr>
<tr>
<td>Wetland Monitoring</td>
<td>1/5th reduction of total upon submission of annual monitoring reports</td>
<td>After 5 years</td>
</tr>
<tr>
<td>Landscaping</td>
<td>50% reduction at full installation</td>
<td>One full growing season following installation</td>
</tr>
<tr>
<td>Surface Improvements</td>
<td>First lift of bituminous laid and all curbing installed and backfilled.</td>
<td>Upon acceptance</td>
</tr>
<tr>
<td>(Streets, Sidewalks, Trails)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Water Main Improvements</td>
<td>n/a</td>
<td>Upon testing, inspection, and acceptance</td>
</tr>
<tr>
<td>Sanitary Improvements</td>
<td>n/a</td>
<td>Upon testing, inspection, and acceptance</td>
</tr>
<tr>
<td>Storm Sewer Improvements</td>
<td>n/a</td>
<td>Upon inspection and acceptance</td>
</tr>
<tr>
<td>Stormwater Management Facilities</td>
<td>n/a</td>
<td>Upon full functionality</td>
</tr>
</tbody>
</table>

* In the case of grading, surface improvement, watermain, sanitary and storm sewers, and stormwater management, submission of as-built surveys or record drawings is also required prior to release.

6.3. Responsibility for Costs.

a) Except as otherwise specified herein, the Developer must pay all costs incurred by it or the City in conjunction with development of the Development Property and all costs incurred by the City in monitoring and inspecting development of the Development Property.

b) The Developer agrees to hold the City and its officers and employees harmless from claims made by itself and third parties for damages sustained or costs incurred resulting from development of the Development Property, except for any costs or expenses arising from the negligence or other wrongful acts or omission of the City, its agents, employees or contractors. The Developer agrees to indemnify the City and its officers and employees for all costs, damages, or expenses the City may incur in consequence of such claims, including attorney’s fees.

c) The Developer will pay in full all bills submitted to the City of obligations incurred under this Construction Addendum within thirty (30) days after receipt. If the bills are not paid on time, the City may halt work and construction including, but not limited to, the issuance of building permits for lots that the Developer may or may not have sold, until the bills are paid in full. Bills not paid within thirty (30) days will accrue interest at a rate of ten percent (10%) per year.

6.4. Fees and Charges.

a) The Developer agrees to pay fees, charges, and assessments set forth in this section as follows upon recording the final plat:
<table>
<thead>
<tr>
<th>Fee/Charge</th>
<th>Amount*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Park Dedication Fee</td>
<td>$1,100,000</td>
</tr>
<tr>
<td>Outstanding Assessments</td>
<td>$0.00</td>
</tr>
<tr>
<td>Outstanding Utility Bills</td>
<td></td>
</tr>
</tbody>
</table>

* Depending on the date of release of the plat, amounts may differ. Refer to Exhibit B.

b) The Developer agrees to pay fees and charges set forth in this section as follows prior to release of the grading permit:

<table>
<thead>
<tr>
<th>Fee/Charge</th>
<th>Amount*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Engineering Inspection Fee</td>
<td>$8,366</td>
</tr>
<tr>
<td>Street Sign Fee</td>
<td>$0.00</td>
</tr>
</tbody>
</table>

* Depending on the date of release of the permit, amounts may differ. Refer to Exhibit B.

c) The Developer understands that builders will be required to pay for Development Property fees and charges in effect at the time of issuance of building permits. The rates for these items will be set according to the current rate structure at the time the building permit application is received. The fees and charges in effect as of the date of this Construction Addendum are:

<table>
<thead>
<tr>
<th>Fee/Charge</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sanitary Sewer Availability Charge (SAC)</td>
<td>$2,485 per SAC unit</td>
</tr>
<tr>
<td>Residential Equivalency Charge (REC)</td>
<td>$2,769.06 per SAC unit</td>
</tr>
</tbody>
</table>

Section 7. Default.

7.1 In the event of default by the Developer as to any of the work to be performed by it hereunder, the City may, at its option perform the work and the Developer must promptly reimburse the City for any expense incurred by the City, provided the Developer is first given notice of the default, not less than 48 hours in advance. This Construction Addendum is a license for the City to act, and it is not necessary for the City to seek a court order for permission to enter onto the Development Property. When the City does any such work, the City may, in addition to its other remedies, draw on the cash deposit or letter of credit, or levy the cost in whole or in part as a special assessment against the Development Property. Developer waives its right to notice of hearings and hearing on such assessment and its right to appeal such assessments pursuant to Minnesota State Statutes, Section 429.081, up to an assessment amount of the remaining securities describe in Section 6.1.

Section 8. Miscellaneous.

8.1 Third parties have no recourse against the City under this Construction Addendum.

8.2 Breach of terms of this Construction Addendum are grounds for denial of building permits, including permits on lots sold to third parties.
8.3 If any portion, section, subsection, sentence, clause, paragraph or phrase of this Construction Addendum is for any reason held invalid, such decision does not affect the validity of the remaining portions of this Construction Addendum.

8.4 If building permits are issued prior to completion and acceptance of Improvements, the Developer assumes all liability and costs resulting from delays in completion of Improvements and damage to Improvements caused by the City, unless such damages arise from the negligence or other wrongful acts or omission of the City, its agents, employees or contractors.

8.5 The action or inaction of the City does not constitute a waiver or amendment to the provisions of this Construction Addendum. To be binding, amendments or waivers must be in writing and signed by the parties. The City’s failure to take legal action to enforce this Construction Addendum is not waiver or release.

8.6 This Construction Addendum will run with the Development Property and may be recorded against its title. The Developer must take such steps, including execution of amendments to this Construction Addendum, as necessary to effect the recording thereof. After the Developer has completed the work required of it under this Construction Addendum, at the Developer’s request, the City will execute and deliver to the Developer a release.

8.7 Each right, power, or remedy herein conferred upon the City is cumulative and in addition to every other right, power, or remedy, express or implied, now or hereafter arising, available to the City, at law or in equity, or under any other agreement, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the City and shall not be a waiver of the right to exercise at any time thereafter any other right, power or remedy.


9.1 Required notices to the Developer must be in writing, and be either hand delivered to the Developer, its employees or agents, or mailed to the Developer by registered or certified mail at the following address:

Minnetonka Leased Housing Associates II, LLLP
2905 Northwest Blvd.
Suite 150
Plymouth, MN 55441-2644
Attn: Mark S. Moorhouse and Ryan J. Lunderby

with a copy to:

John Stern
Winthrop & Weinstine, P.A.
Capella Tower, Suite 3500
225 South Sixth Street
Minneapolis, MN 55402-4629

CITIBANK, N.A.
390 Greenwich Street, Second Floor
New York, NY 10013
Attn: Mark Sherman, Director
9.2 Notices to the City must be in writing and be either hand delivered to the City Planner, or mailed to the City by registered or certified mail in care of the City Planner at the following address:

City Planner
City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, Minnesota 55369

Section 10. Adjacent Development.

An affiliate of the Developer (Minnetonka Leased Housing Associates III, LLLP) is developing a workforce housing development adjacent to the Workforce Housing Project and it will enter into a construction addendum similar to this Construction Addendum requiring the construction of the same public infrastructure that is required by this Construction Addendum. If Minnetonka Leased Housing Associates III, LLLP causes the construction of any or all of the public infrastructure required by this Construction Addendum, the Developer’s obligations hereunder with respect to the design and construction of such public infrastructure shall be satisfied.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first written above.

[signature pages follow]
Authority Signature Page

ECONOMIC DEVELOPMENT AUTHORITY IN
AND FOR THE CITY OF MINNETONKA,
MINNESOTA

By ______________________________________
    Brad Wiersum
Its President

By ______________________________________
    Geralyn Barone
Its Executive Director

STATE OF MINNESOTA  )
    ) SS.
COUNTY OF HENNEPIN  )

The foregoing instrument was acknowledged before me this _____________, 2018, by Brad Wiersum, the President of the Economic Development Authority in and for the City of Minnetonka, Minnesota, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the Authority.

________________________________________
Notary Public

STATE OF MINNESOTA  )
    ) SS.
COUNTY OF HENNEPIN  )

The foregoing instrument was acknowledged before me this _____________, 2018, by Geralyn Barone, the Executive Director of the Economic Development Authority in and for the City of Minnetonka, Minnesota, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the Authority.

________________________________________
Notary Public
City Signature Page

CITY OF MINNETONKA, MINNESOTA

By ________________________________
By Brad Wiersum
Its Mayor

By ________________________________
By Geralyn Barone
Its City Manager

STATE OF MINNESOTA )
 ) SS.
COUNTY OF HENNEPIN )

The foregoing instrument was acknowledged before me this ____ day of __________, 2018, by Brad Wiersum, the Mayor of the City of Minnetonka, Minnesota, a home rule city, municipal corporation, and political subdivision duly organized and existing under its Charter and the Constitution and laws of the State of Minnesota, on behalf of the City.

____________________________________
Notary Public

STATE OF MINNESOTA )
 ) SS.
COUNTY OF HENNEPIN )

The foregoing instrument was acknowledged before me this ____ day of __________, 2018, by Geralyn Barone, the City Manager of the City of Minnetonka, Minnesota, a home rule city, municipal corporation, and political subdivision duly organized and existing under its Charter and the Constitution and laws of the State of Minnesota, on behalf of the City.

____________________________________
Notary Public
MINNETONKA LEASED HOUSING ASSOCIATES II, LLLP, a Minnesota limited liability limited partnership

By: Minnetonka Leased Housing Associates SPE II, LLC, a Delaware limited liability company
Its: General Partner

By: __________________________
Name: Ryan J. Lunderby
Its: Vice President

STATE OF MINNESOTA )
 ) SS.
COUNTY OF __________ )

The foregoing instrument was acknowledged before me this ______________, 2018, by Ryan J. Lunderby, the Vice President of Minnetonka Leased Housing Associates SPE II, LLC, a Delaware limited liability company, the general partner of Minnetonka Leased Housing Associates II, LLLP, a Minnesota limited liability limited partnership, on behalf of the Developer.

__________________________
Notary Public

THIS INSTRUMENT DRAFTED BY:
City of Minnetonka
Community Development
14600 Minnetonka Blvd.
Minnetonka, MN 55345
952-939-8200
EXHIBIT A

Legal Description

Lot 2, Block 1, DOMINIUM 2ND ADDITION, Hennepin County, Minnesota
The following clarifies the items guaranteed by required cash deposit or letter of credit for Developer Improvements as outlined in this Construction Addendum.

**Erosion Control:** An amount equal to 125% of a bid, or 150% of an estimate, of the cost of materials and labor to install a rock driveway and silt fence or equivalent sediment control measures as per the approved grading permit.

**Erosion Control Removal:** An amount equal to 125% of a bid, or 150% of an estimate, estimated cost to remove erosion control measures.

**Grading:** An amount equal to 125% of a bid, or 150% of an estimate, of the cost to restore and stabilize the Development Property.

**Wetland and/or Buffer Restoration:** An amount equal to 125% of a bid, or 150% of an estimate, of the cost of materials and labor to restore the wetland and/or buffer as per the approved restoration plan.

**Wetland Monitoring:** $1,500 per year for each of the required five years of monitoring, for a total of $7,500.

**Landscaping:** An amount equal to 125% of the cost to complete minimum required landscaping.

**Surface Improvements:** An amount equal to 125% of a bid, or 150% of an estimate, of the cost of materials and labor to install streets, parking lots, sidewalks, and trails.

**Water Main Improvements:** An amount equal to 125% of the cost of materials and labor to install water main.

**Sanitary Sewer Improvements:** An amount equal to 125% of the cost of materials and labor to install sanitary sewer.

**Storm Sewer Improvements:** An amount equal to 125% of the cost of materials and labor to install storm sewer.

**Stormwater Management:** An amount equal to 125% of the cost of materials and labor in install all non-storm sewer stormwater management facilities and best management practices including, but not limited to infiltration basins, French drains, and soil decompaction.
EXHIBIT B – continued

**Developer Improvements**

<table>
<thead>
<tr>
<th>No.</th>
<th>Item</th>
<th>Cost</th>
<th>% required</th>
<th>Guarantee Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Erosion Control</td>
<td>125-150</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Removal of Erosion Control</td>
<td>125-150</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Grading</td>
<td>125-150</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Wetland and/or Buffer Restoration</td>
<td>125-150</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Wetland Monitoring</td>
<td>$150 per year for 5 years</td>
<td>$7500</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Landscaping</td>
<td>125-150</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Surface Improvements</td>
<td>125-150</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Street Improvements</td>
<td>125-150</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Water Main Improvements</td>
<td>125-150</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Sanitary Sewer Improvements</td>
<td>125-150</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>Storm Sewer Improvements</td>
<td>125-150</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>Stormwater Improvements</td>
<td>125-150</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>TOTAL</td>
<td>$</td>
<td>-</td>
<td></td>
</tr>
</tbody>
</table>

**City Fees (due with signed Construction Addendum)**

<table>
<thead>
<tr>
<th>No.</th>
<th>Item</th>
<th>Infrastructure Value</th>
<th>Fee Calculation</th>
<th>Total Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Engineering Inspection Fee</td>
<td>$1–$150,000</td>
<td>$4,000</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>$150,001–$300,000</td>
<td>$4,000 for first $150,000 plus 1.5% of each additional $1</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Over $300,000</td>
<td>$6,250 for first $300,000 plus 0.5% of each additional dollar</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Street Signs</td>
<td></td>
<td>street name signs $130</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>all other signs $120</td>
<td></td>
</tr>
<tr>
<td></td>
<td>TOTAL</td>
<td></td>
<td>$150</td>
<td></td>
</tr>
</tbody>
</table>

**Development Fees (due upon recording the plat)**

<table>
<thead>
<tr>
<th>No.</th>
<th>Item</th>
<th>Cost</th>
<th>Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Park Dedication Fee</td>
<td></td>
<td>upon recording of plat</td>
</tr>
<tr>
<td>2</td>
<td>Outstanding Assessments</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Outstanding Utility Bills</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**TOTAL**

**General Construction Fees (due at release of building permit)**

<table>
<thead>
<tr>
<th>No.</th>
<th>Item</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Sanitary Sewer Availability Charge</td>
<td>$2,485 per SAC unit as determined by Met Council</td>
</tr>
<tr>
<td>2</td>
<td>Residential Equivalency Charge</td>
<td>$2,769 per SAC unit as determined by Met Council</td>
</tr>
</tbody>
</table>
DATE:

SUBJECT:

This memorandum serves as acknowledgment that:

1. Street and utility work required under the __________ Construction Addendum dated _____, between the City of Minnetonka and ________, has been satisfactorily completed in accordance with approved plans and specifications; and

2. Said streets and utilities are accepted by the City of Minnetonka.

____________________________________________   ________________
City of Minnetonka Engineering Department      Date

____________________________________________   ________________
City of Minnetonka Public Works Department      Date
Exhibit D

Developer Obligations With Respect To The Underpass/Bridge Site Improvements and The Dynamic Predication Crossing Site Improvements.

1. **Design and Construction.** The Developer, or an affiliate thereof (“Developer Affiliate”), will enter into contracts related to the design and construction of the Underpass/Bridge Site Improvements and the design and installation of the Dynamic Predication Crossing Site Improvements. The Developer shall cause design contracts to be entered into with WSB & Associates, Inc.

2. **City to Determine to Proceed with Underpass/Bridge.** Notwithstanding Section 1 above, the City and the Developer will work together to obtain preliminary engineering design and construction cost estimates from WSB for the Underpass/Bridge Site Improvements. Based on the estimated costs, the City will determine if the Underpass/Bridge Site Improvements should be constructed. The City will notify the Developer as to whether it should cause contracts to be entered related to the design and construction of the Underpass/Bridge Site Improvements on or before October 15, 2018. It is intended by the parties to the Construction Addendum, unless otherwise agreed, the design and construction of the Underpass/Bridge Site Improvements is contingent on the estimated costs for such project not exceeding $2,410,000. Except as otherwise provided for herein, the Dynamic Predication Crossing Site Improvements (including associated fencing adjacent to Bren Road East) is required, regardless of whether the Underpass/Bridge Site Improvements are constructed.

3. **Easements.** The City will work with all adjacent property owners and interest holders, including, but not limited to Eagle Ridge Academy and the Metropolitan Council, to obtain the necessary easements to build the Underpass/Bridge Site Improvements and Dynamic Predication Crossing Site Improvements.

4. **Reimbursement Process.** All costs and expenses relating to the design and construction of the Underpass/Bridge Site Improvements and the Dynamic Predication Crossing Site Improvements shall be reimbursed by the City. The Developer must provide the City with the final invoices for the work as the work is completed. The City will reimburse the Developer within 30 days of receipt of a final invoice unless the City objects to the items set forth in the final invoice, and if the City has objections, it will notify the Developer of such objections within 30 days of receipt of a final invoice. The City shall not reimburse the Developer for any costs associated with building redesign, north trail redesign, or other costs that are unrelated to the Underpass/Bridge Site Improvements and the Dynamic Predication Crossing Site Improvements.

5. **Completion.** The Underpass/Bridge Site Improvements must be completed prior to the issuance of a final certificate of occupancy for the last building to be completed pursuant to the Development Contract executed by the Developer and that certain Contract for Private Development, dated __________, 2018, between the City, the Authority, and Minnetonka Leased Housing Associates III, LLP. The foregoing condition shall not apply if any of the following circumstances occur: (a) the City is in default of any of its material obligations under this Construction Addendum; or (b) the City has caused material delays in the design or construction of the Underpass/Bridge Site Improvements. No certificates of occupancy shall be contingent upon the completion of the Dynamic Predication Crossing Site Improvements, which is intended to be completed on or after the completion of the heavy civil construction of the light rail transit line to the east of the Development Property.

6. **Park Dedication Fees Credit.** The parties hereto agree that the proceeds of the park dedication fees paid by the Developer with respect to the Senior Housing Project and the park dedication fees paid by Minnetonka Leased Housing Associates II, LLP with respect to the adjacent workforce housing
project and will be used to offset the costs of the design, construction, and other costs (e.g. engineering costs, surveying costs, and soil remediation) related to the Underpass/Bridge Site Improvements and Dynamic Predication Crossing Site Improvements. In the event the costs of the Underpass/Bridge Site Improvements and Dynamic Predication Crossing Site Improvements exceed the amount of the park dedication fees paid by the Developer, the City shall pay the remaining costs of the Underpass/Bridge and Dynamic Predication Crossing Site Improvements with other available funds.

7. **Maintenance.** Following the completion of the Underpass/Bridge Site Improvements and Dynamic Predication Crossing Site Improvements, the City agrees to own and maintain the Underpass/Bridge Site Improvements and Dynamic Predication Crossing Site Improvements, the trail along the north side of the Development Property, and fencing related to the dynamic predication crossing.

8. **Third-Party Beneficiary.** Any and all rights of the Developer under this Exhibit D, including, but not limited to requesting reimbursement of costs, may be exercised by an affiliate of the Developer as if such affiliate of Developer was the "Developer" hereunder.

9. **Standards for Design and Construction.** The requirements of the Construction Addendum (except for Section 5) apply to the design and construction of the Underpass/Bridge Site Improvements and Dynamic Predication Crossing Site Improvements.
PREPARED BY AND WHEN
RECORDED RETURN TO:

Kutak Rock LLP
1600 Farnam Street
Omaha, Nebraska 68102
Attention: Ann J. McGill

Freddie Mac Loan Number: ______________________
Property Name: ______________________

SUBORDINATION AGREEMENT
GOVERNMENTAL ENTITY
([TAX-EXEMPT][TAXABLE] LOAN)
(NO SUBORDINATE DEBT)
(Modified)

THIS SUBORDINATION AGREEMENT ("Agreement") is entered into this ____ day of September, 2018, by and between (i) U.S. BANK NATIONAL ASSOCIATION, a national banking association ("Senior [Tax-Exempt][Taxable] Mortgagee"), as Fiscal Agent and assignee of the CITY OF MINNETONKA, MINNESOTA ("Governmental Lender"), a municipal corporation organized and existing under the laws of the State of Minnesota (the "State"), (ii) the ECONOMIC DEVELOPMENT AUTHORITY IN AND FOR THE CITY OF MINNETONKA, MINNESOTA (the "EDA") and ([II][III]) the CITY OF MINNETONKA, MINNESOTA (the "City" and together with the EDA, collectively, "Governmental Entity"), a public body corporate and politic organized and existing under the laws of the State.

RECITALS

A. Minnetonka Leased Housing Associates [II][III], LLLP, a limited liability limited partnership organized under the laws of the State ("Borrower") is the owner of certain

Subordination Agreement – Governmental Entity
(Freddie Mac Direct Purchase of [Tax-Exempt][Taxable] Loans Program)

4844-8453-8224.2
land located in Hennepin County, Minnesota, described in Exhibit A ("Land"). The Land is or will be improved with a multifamily rental housing project (the “Improvements”).

B. Pursuant to Minnesota Statutes Chapter 462C (the “Act”) and the Project Loan Agreement dated as of the date hereof (the “Senior Loan Agreement”) by and among Governmental Lender, Senior [Tax-Exempt][Taxable] Mortgagee and Borrower, Governmental Lender is agreeing to make a [Tax-Exempt][Taxable] mortgage loan to Borrower in the maximum aggregate principal amount of $[_____] (the “Senior [Tax-Exempt][Taxable] Loan”) to provide for the financing of a multifamily rental housing development known as “Legends of Minnetonka” to be located on the Land (the “Project”).

C. Governmental Lender is making the Senior [Tax-Exempt][Taxable] Loan to Borrower with the proceeds received from the separate loan made to Governmental Lender pursuant to the Funding Loan Agreement dated as of the date hereof (the “Funding Loan Agreement”) by and among U.S. Bank National Association, a national banking association, in its capacity as administrative agent (“Administrative Agent”) for the Initial Funding Lender (as defined in the Funding Loan Agreement), Governmental Lender and Senior [Tax-Exempt][Taxable] Mortgagee in the maximum aggregate principal amount of $[_____] (the “[Tax-Exempt][Taxable] Funding Loan”). The [Tax-Exempt][Taxable] Funding Loan is evidenced by (i) Governmental Lender’s Multifamily Housing Revenue Note (Legends of Minnetonka Project), Series 2018A-1 in the maximum principal amount of $[_____] (the “Series A-1 Governmental Note”) and (ii) Governmental Lender’s Multifamily Housing Revenue Note (Legends of Minnetonka Project), Series 2018A-2 in the maximum principal amount of $[_____] (the “Series A-2 Governmental Note” and together with the Series A-1 Governmental Note, together with any amendments, supplements or modifications, collectively, the “[Tax-Exempt][Taxable] Governmental Notes”), each dated September [__], 2018 and delivered by Governmental Lender to Administrative Agent, which will then deliver them to the Initial Funding Lender. The Initial Funding Lender and any subsequent holder of the [Tax-Exempt][Taxable] Governmental Notes are referred to herein as the “Funding Lender”.

D. The Senior [Tax-Exempt][Taxable] Loan is or will be secured by, among other things, a Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated as of the date hereof (together with any amendment thereto or restatement thereof, the “Senior [Tax-Exempt][Taxable] Mortgage”), encumbering the Land, the Improvements and the related personal and other property described and defined in the Senior [Tax-Exempt][Taxable] Mortgage as the “Mortgaged Property”. The Senior [Tax-Exempt][Taxable] Mortgage is or will be assigned by Governmental Lender to Senior [Tax-Exempt][Taxable] Mortgagee pursuant to an Assignment of Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of even date herewith (the “Senior [Tax-Exempt][Taxable] Mortgage Assignment”) as security for the [Tax-Exempt][Taxable] Funding Loan.
E. Pursuant to a Contract for Private Development, dated August [__], 2018, by and between Governmental Entity and Borrower, a Minimum Assessment Agreement, dated as of the date hereof, by and between the EDA and Borrower and a Declaration of Restrictive Covenants made by Borrower for the Governmental Entity (as the same may be amended or modified, collectively, the “Subordinate Agreements”), Governmental Entity has agreed, among other things, to establish a tax increment financing district for the Land and establish a minimum market value for the Improvements to be constructed upon the Land. Pursuant to the Subordinate Agreements, Borrower has agreed to perform certain obligations, including, but not limited to, acquiring the Land, constructing the Improvements and operating the Improvements pursuant to certain occupancy and rental restrictions.

F. Subject to the terms and conditions of that certain Construction Phase Financing Agreement (the “Construction Phase Financing Agreement”) dated as of the date hereof between Borrower, Administrative Agent, Federal Home Loan Mortgage Corporation and KeyBank National Association, a national banking association (“Permanent Funding Lender”), Administrative Agent and Initial Funding Lender shall subsequently assign and deliver the documents comprising the [Tax-Exempt][Taxable] Funding Loan to the Permanent Funding Lender and, in connection therewith, the Senior [Tax-Exempt][Taxable] Note (as defined herein) and the Senior [Tax-Exempt][Taxable] Mortgage will be amended and restated, and thereafter assigned to the Fiscal Agent (“Conversion”). As used herein, “Senior [Tax-Exempt][Taxable] Note” means, prior to Conversion, the “Series A Project Note” as defined in the Construction Continuing Covenant Agreement. From and after Conversion, “Senior [Tax-Exempt][Taxable] Note” means the Project Note as defined in the Continuing Covenant Agreement.

G. Pursuant to the Senior [Tax-Exempt][Taxable] Mortgage and Section 6.03 of the Funding Loan Agreement, Administrative Agent (prior to Conversion) and the Funding Lender (after Conversion) has the right to direct all actions of the Senior [Tax-Exempt][Taxable] Mortgagee with respect to the Senior [Tax-Exempt][Taxable] Mortgage, the Mortgaged Property and the Project Loan Agreement and, upon Conversion, shall have the right to amend and restate the Senior [Tax-Exempt][Taxable] Note and the Senior [Tax-Exempt][Taxable] Mortgage, as well as the right to amend, waive, postpone, extend, renew, replace, reduce or otherwise modify any provision of any of the “Financing Documents” as defined in the Funding Loan Agreement (all such documents, collectively, as the same may be amended, “Senior Loan Documents”), without notice to or the consent or joinder of the Governmental Entity.

H. The execution and delivery of this Agreement is a condition of the [Tax-Exempt][Taxable] Funding Loan.

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

1. **Subordination.** The Governmental Entity hereby covenants and agrees that the Subordinate Agreements are and will at all times continue to be, subordinate, subject and
inferior to the rights of Senior [Tax-Exempt][Taxable] Mortgagee under the Senior Loan Documents and that the liens, rights (including approval and consent rights), remedies, payment interests, priority interests, and security interests granted to Governmental Entity pursuant to or in connection with the Subordinate Agreements are hereby expressly acknowledged to be in all respects and at all times, subject, subordinate and inferior in all respects to the liens, rights (including approval and consent rights), remedies, payment, priority and security interests granted to Senior [Tax-Exempt][Taxable] Mortgagee pursuant to the Senior Loan Documents and the terms, covenants, conditions, operations and effects thereof. Notwithstanding the above, Governmental Entity may exercise the remedies of specific performance or injunctive relief to enforce covenants and agreements of Borrower relating to income, rent, or affordability restrictions contained in the Subordinate Agreements. Except as specifically agreed to herein, this Subordination Agreement shall not limit the ability of the EDA or the City to exercise its rights or remedies under the Contract for Private Development.

2. **Financing, Encumbrance and Transfer Approval.** Governmental Entity hereby approves the financing evidenced by the Senior [Tax-Exempt][Taxable] Mortgage. Governmental Entity further agrees that any transfer of the Property in connection with foreclosure or deed in lieu thereof will not require Governmental Entity’s consent.

3. **Lender Notice of Default.** In consideration of Governmental Entity’s agreements contained in this Agreement, Senior [Tax-Exempt][Taxable] Mortgagee agrees that in the event of any default by Borrower under the Senior Loan Documents, Governmental Entity will be entitled to receive a copy of any notice of default given by Senior [Tax-Exempt][Taxable] Mortgagee to Borrower under the Senior Loan Documents. Neither the giving nor the failure to give a notice to Governmental Entity pursuant to this Section 3 will affect the validity of any notice given by Senior [Tax-Exempt][Taxable] Mortgagee to the Borrower.

4. **Governmental Entity Notice of Default.** Governmental Entity must give Senior [Tax-Exempt][Taxable] Mortgagee a concurrent copy of each material notice (including without limitation each notice of default) given by Governmental Entity under or with respect to the Subordinate Agreements, and agrees that Senior [Tax-Exempt][Taxable] Mortgagee, at Senior [Tax-Exempt][Taxable] Mortgagee’s sole election, will have the right (but not the obligation) to cure any default by Borrower under the Subordinate Agreements on its and/or Borrower’s behalf. Governmental Entity hereby represents and warrants that, to the best of its knowledge, there is no current default under the Subordinate Agreements.

5. **Governmental Entity’s Rights.** Except as set forth in Sections 1 and 6 of this Agreement, nothing in this Agreement is intended to abridge or adversely affect any right or obligation of Borrower and/or Governmental Entity, respectively, under the Subordinate Agreements; provided that, (A) the Subordinate Agreements may not be modified, amended, changed or altered without the prior written consent of Senior [Tax-Exempt][Taxable] Mortgagee so long as the Senior [Tax-Exempt][Taxable] Loan is
secured by the Mortgaged Property and (B) for so long as the Senior [Tax-Exempt][Taxable] Loan is secured by the Mortgaged Property, notwithstanding the terms of the Subordinate Agreements to the contrary, neither Borrower nor Governmental Entity will, without Senior [Tax-Exempt][Taxable] Mortgagee’s prior written consent, exercise or seek any right or remedy under the Subordinate Agreements or available at law or in equity which will or could result in (i) a transfer of possession of the Mortgaged Property or the control, operations or management thereof, (ii) collection or possession of rents or revenues from or with respect to the Mortgaged Property by any party other than Borrower or Senior [Tax-Exempt][Taxable] Mortgagee; (III) appointment of a receiver for the Mortgaged Property; (iv) application of insurance or condemnation proceeds other than as approved by Senior [Tax-Exempt][Taxable] Mortgagee pursuant to the Senior Loan Documents; (v) removal or replacement of the existing property manager of the Mortgaged Property; or (vi) a material adverse effect on Senior’s Mortgagee’s security for the Senior [Tax-Exempt][Taxable] Loan.

6. **Foreclosure by Senior [Tax-Exempt][Taxable] Mortgagee.** In the event of foreclosure, deed in lieu of foreclosure, or similar disposition of the Mortgaged Property by Senior [Tax-Exempt][Taxable] Mortgagee, no consent will be required from Governmental Entity and Senior [Tax-Exempt][Taxable] Mortgagee will have no indemnification obligations to Governmental Entity for any period during which Senior [Tax-Exempt][Taxable] Mortgagee does not own or is not in possession of the Mortgaged Property.

7. **Refinancing.** Governmental Entity agrees that its agreement to subordinate hereunder will extend to any new mortgage debt which is for the purpose of refinancing all or any part of the indebtedness evidenced by the Senior Loan Documents (including reasonable and necessary costs associated with the closing and/or the refinancing, and any reasonable increase in proceeds for rehabilitation in the context of a preservation transaction). All terms and covenants of this Agreement will inure to the benefit of any holder of any such refinanced debt, and all references to the Senior Loan Documents and Senior [Tax-Exempt][Taxable] Mortgagee will mean, respectively, the refinance loan documents and the holder of such refinanced debt.

8. **Miscellaneous Provisions.**

   (a) This Agreement represents the entire understanding and agreement between the parties with regard to the matters addressed herein, and will supersede and cancel any prior agreements with regard to such matters.

   (b) If there is any conflict or inconsistency between the terms of the Subordinate Agreements and the terms of this Agreement, then the terms of this Agreement will control.

   (c) This Agreement will be binding upon and will inure to the benefit of the respective legal successors and permitted assigns of the parties to this Agreement.
No other party will be entitled to any benefits under this Agreement, whether as a third-party beneficiary or otherwise.

(d) If any one or more of the provisions contained in this Agreement, or any application of any such provisions, is invalid, illegal, or unenforceable in any respect, the validity, legality, enforceability, and application of the remaining provisions contained in this Agreement will not in any way be affected or impaired.

(e) Each notice, request, demand, consent, approval or other communication (collectively, “Notices,” and singly, a “Notice”) which is required or permitted to be given pursuant to this Agreement will be in writing and will be deemed to have been duly and sufficiently given if (i) personally delivered with proof of delivery (any Notice so delivered will be deemed to have been received at the time so delivered), or (ii) sent by a national overnight courier service (such as FedEx) designating earliest available delivery (any Notice so delivered will be deemed to have been received on the next Business Day following receipt by the courier), or ([III][III]) sent by United States registered or certified mail, return receipt requested, postage prepaid, at a post office regularly maintained by the United States Postal Service (any Notice so sent will be deemed to have been received on the date of delivery as confirmed by the return receipt), addressed to the respective parties as follows:

If to EDA: Economic Development Authority in and for the City of Minnetonka, Minnesota
14600 Minnetonka Blvd.
Minnetonka, Minnesota 55345-1502
Attention: Executive Director

If to City: City of Minnetonka, Minnesota
14600 Minnetonka Blvd.
Minnetonka, Minnesota 55345-1502
Attention: City Manager

If to Senior [Tax-Exempt][Taxable] Mortgagee:

U.S. Bank National Association
Corporate Trust Services
60 Livingston Avenue, Third Floor
EP-MN-WS3C
Saint Paul, MN 55107-2292
Attn: Dan Sheff, Vice President
Email: dan.sheff@usbank.com
Telephone: 651-466-6302
If to Borrower: Minnetonka Leased Housing Associates [II][III],
LLLP
c/o Dominium Development & Acquisition, LLC
2905 Northwest Boulevard, Suite 150
Plymouth, Minnesota 55441-7400
Attn: Ryan Lunderby, VP and Project Partner
Email: rlunderby@dominiuminc.com
Telephone: 763-354-5634

With copies to: Winthrop & Weinstine, P.A.
225 South Sixth Street, Suite 3500
Minneapolis, MN 55402-4629
Attn: John M. Stern
Email: jstern@winthrop.com
Telephone: 612-604-6588

Any party, by Notice given pursuant to this Section, may change the person or
persons and/or address or addresses, or designate an additional person or persons
or an additional address or addresses, for its Notices, but Notice of a change of
address will only be effective upon receipt. Neither party will refuse or reject
delivery of any Notice given in accordance with this Section.

(f) Each of the parties will, whenever and as often as they are requested to do so by
the other, execute, acknowledge and deliver, or cause to be executed,
acknowledged or delivered, any and all such further instruments and documents
as may be reasonably necessary to carry out the intent and purpose of this
Agreement, and to do any and all further acts reasonably necessary to carry out
the intent and purpose of this Agreement.

(g) This Agreement will be governed by the laws of the State in which the Property is
located.

(h) Each person executing this Agreement on behalf of a party hereto represents and
warrants that such person is duly and validly authorized to do so on behalf of such
party with full right and authority to execute this Agreement and to bind such
party with respect to all of its obligations under this Agreement.

(i) No failure or delay on the part of any party to this Agreement in exercising any
right, power, or remedy under this Agreement will operate as a waiver of such
right, power, or remedy, nor will any single or partial exercise of any such right,
power or remedy preclude any other or further exercise of such right, power, or
remedy or the exercise of any other right, power or remedy under this Agreement.

(j) Each party to this Agreement acknowledges that if any party fails to comply with
its obligations under this Agreement, the other parties will have all rights
available at law and in equity, including the right to obtain specific performance of the obligations of such defaulting party and injunctive relief.

(k) This Agreement shall inure to the benefit of any subsequent holder of the “Obligations” or “Indebtedness” (as applicable) as defined in the Senior [Tax-Exempt][Taxable] Mortgage.

(l) This Agreement may be amended, changed, modified, altered or terminated only by a written instrument signed by the parties to this Agreement or their successors or assigns.

(m) This Agreement may be executed in two or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

(n) Nothing in this Agreement is intended, nor will it be construed, to in any way limit the exercise by Governmental Entity of its governmental powers (including police, regulatory and taxing powers) with respect to Borrower or the Property to the same extent as if it were not a party to this Agreement or the transactions contemplated by this Agreement.

(o) All capitalized terms used but not defined herein shall have the meanings assigned to them in the Funding Loan Agreement.

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN THE SUBORDINATE AGREEMENTS BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF THE SENIOR [TAX-EXEMPT][TAXABLE] MORTGAGE.

[Signature and acknowledgment pages follow]
IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the day
and year first above written.

SENIOR [TAX-EXEMPT][TAXABLE]
MORTGAGEE:

U.S. BANK NATIONAL ASSOCIATION, as Fiscal
Agent

By: ______________________________
Name: ______________________________
Title: ______________________________

STATE OF MINNESOTA  )
) ss.
COUNTY OF __________ )

The foregoing instrument was acknowledged before me this ___ day of __________,
2018, by ______________________________, the ______________________________ of
U.S. Bank National Association, a national banking association, on behalf of the association.

__________________________________________
Notary Public
GOVERNMENTAL ENTITY:

ECONOMIC DEVELOPMENT AUTHORITY IN
AND FOR THE CITY OF MINNETONKA,
MINNESOTA

By: ______________________________________
Its President

By: ______________________________________
Its Executive Director

STATE OF MINNESOTA  )
   ) ss.
COUNTY OF HENNEPIN  )

The foregoing instrument was acknowledged before me this ___ day of ____________, 2018, by ________________________________ the President of the Economic Development Authority in and for the City of Minnetonka, Minnesota, a public body politic and corporate, on behalf of the Economic Development Authority.

__________________________________________
Notary Public

STATE OF MINNESOTA  )
   ) ss.
COUNTY OF HENNEPIN  )

The foregoing instrument was acknowledged before me this ___ day of ____________, 2018, by ________________________________ the Executive Director of the Economic Development Authority in and for the City of Minnetonka, Minnesota, a public body politic and corporate, on behalf of the Economic Development Authority.

__________________________________________
Notary Public
GOVERNMENTAL ENTITY:

CITY OF MINNETONKA, MINNESOTA

By: ______________________________________
Name: 
Title: 

By: ______________________________________
Name: 
Title: 

STATE OF MINNESOTA  )
    ) ss.
COUNTY OF HENNEPIN   )

The foregoing instrument was acknowledged before me this ___ day of ____________, 2018, by ________________________________ the ___________________ of the City of Minnetonka, Minnesota, a public body politic and corporate, on behalf of the City.

Notary Public

STATE OF MINNESOTA  )
    ) ss.
COUNTY OF HENNEPIN   )

The foregoing instrument was acknowledged before me this ___ day of ____________, 2018, by ________________________________ the ___________________ of the City of Minnetonka, Minnesota, a public body politic and corporate, on behalf of the City.

Notary Public
CONSENT OF BORROWER

Borrower acknowledges receipt of a copy of this Subordination Agreement, dated ____________, 2018, by and between U.S. Bank National Association, the City of Minnetonka, Minnesota and the Economic Development Authority in and for the City of Minnetonka, Minnesota and consents to the agreement of the parties set forth in this Subordination Agreement.

MINNETONKA LEASED HOUSING
ASSOCIATES [II][III], LLLP, a Minnesota limited liability limited partnership

By: MINNETONKA LEASED HOUSING
ASSOCIATES [II][III], LLC, a Minnesota limited liability company, its General Partner

By: ______________________________________
Name: Ryan Lunderby
Title: Authorized Representative

STATE OF MINNESOTA )
 ) ss.
COUNTY OF __________ )

The foregoing instrument was acknowledged before me this ___ day of ____________, 2018, by Ryan Lunderby, the authorized representative of Minnetonka Leased Housing Associates [II][III], LLC, a Minnesota limited liability company and the General Partner of Minnetonka Leased Housing Associates [II][III], LLLP, a Minnesota limited liability limited partnership, on behalf of the limited liability company and the partnership.

__________________________________________
Notary Public
EXHIBIT A

LEGAL DESCRIPTION

Lot 1, Block 2, Dominium 2nd Addition, Hennepin County, Minnesota.