

**MEETING OF THE
DULUTH ECONOMIC DEVELOPMENT AUTHORITY
WEDNESDAY, MAY 27, 2020 - 5:15 P.M.
VIA ELECTRONIC MEANS PURSUANT TO MINNESOTA STATUTES
SECTION 13D.021
AGENDA**

CALL TO ORDER

PUBLIC TO ADDRESS THE COMMISSION

PUBLIC HEARINGS

1. **RESOLUTION 20D-43: RESOLUTION RESCINDING RESOLUTION NOS. 20D-29 AND 20D-30 AND AUTHORIZING A LAND SALE AGREEMENT WITH FORD HOME COMPANY RELATED TO THE REBUILD DULUTH PROGRAM**

APPROVAL OF MINUTES: MEETING MINUTES FROM APRIL 3, 2020 SPECIAL DEDA MEETING

APPROVAL OF CASH TRANSACTIONS – APRIL 1, 2020 TO APRIL 30, 2020

NEW BUSINESS

RESOLUTIONS FOR APPROVAL

2. **RESOLUTION 20D-43: RESOLUTION RESCINDING RESOLUTION NOS. 20D-29 AND 20D-30 AND AUTHORIZING A LAND SALE AGREEMENT WITH FORD HOME COMPANY RELATED TO THE REBUILD DULUTH PROGRAM**
3. **RESOLUTION 20D-44: RESOLUTION AUTHORIZING A GRANT AGREEMENT WITH THE ENTREPRENEUR FUND, INC. TO FUND THE ENVEST LOAN PROGRAM IN THE AMOUNT OF \$250,000**
4. **RESOLUTION 20D-45: RESOLUTION AUTHORIZING A FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT WITH LSC FLATS, LLC RELATED TO CONSTRUCTION OF STUDENT HOUSING NEAR LAKE SUPERIOR COLLEGE**
5. **RESOLUTION 20D-46: RESOLUTION AUTHORIZING A FOURTH AMENDMENT TO THE DEVELOPMENT AGREEMENT WITH NORTHSTAR DEVELOPMENT INTERESTS, LLC, A FIRST AMENDMENT TO MINIMUM MARKET VALUE ASSESSMENT AGREEMENT, AND A CONSENT TO ASSIGNMENT OF THE MINIMUM MARKET VALUE ASSESSMENT AGREEMENT ALL RELATED TO THE VOYAGEUR LAKEWALK INN**

6. **RESOLUTION 20D-47: RESOLUTION AUTHORIZING A REDEVELOPMENT GRANT APPLICATION IN AN AMOUNT NOT TO EXCEED \$1,000,000 TO THE MINNESOTA DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT RELATING TO THE PROPERTY LOCATED AT 701-730 EAST 4TH STREET, COMMITTING A DEVELOPER MATCH OF NOT LESS THAN FIFTY PERCENT OF THE AWARDED AMOUNT AND AUTHORIZING EXECUTION OF THE GRANT AGREEMENT IF AWARDED**

7. **RESOLUTION 20D-48: RESOLUTION AUTHORIZING A CONTAMINATION INVESTIGATION AND REMEDIAL ACTION PLAN (“RAP”) DEVELOPMENT GRANT APPLICATION IN AN AMOUNT NOT EXCEED \$50,000 TO THE MINNESOTA DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT RELATING TO PROPERTY LOCATED AT 425 SOUTH LAKE AVENUE.**

DISCUSSION

1. DIRECTOR’S REPORT

Please take notice that the Duluth Economic Development Authority will hold a public hearing by telephone or other electronic means pursuant to Minnesota Statutes Section 13D.021 on Wednesday, May 27, 2020, at 5:15 p.m. All persons interested may monitor and participate in the hearing by visiting: <http://dulutheda.org/live-meeting> promptly at 5:15 p.m. on Wednesday, May 27, 2020, and written comments may be submitted to DEDA in advance of the meeting via the DEDA’s web site at <http://dulutheda.org/contact-us/> or via email at cfleege@duluthmn.gov, and DEDA will decide if the conveyance is advisable.

The regular meeting place of DEDA is the Duluth City Council Chambers at City Hall, 411 West First Street, in Duluth, Minnesota. At this time board members of DEDA do not intend to attend the meeting in person; due to continually evolving restrictions and guidance from state and federal officials and agencies, the board members of DEDA will attend the meeting remotely via telephone or other electronic means pursuant to Minnesota Statutes Section 13D.021.

Duluth Economic Development Authority

April, 2020 Cash Activity - all DEDA Funds

ACCUMULATED TRANSACTION LISTING, G/L Date Range 04/01/20 - 04/30/20 (as of 5/19/2020)

G/L Date	Journal Number	Sub Ledg	Name	Net Amount	Description
<u>FUND 860 - OPERATING FUND</u>				Beginning Balance	\$ 2,663,755.45 TB
04/01/20	2020-00000359	GL	Cost Allocation - DEDA	(33,333.33)	Cost Allocation - DEDA
04/02/20	2020-00002574	GL	Clear Due To/From Prior to Posting Pay 7	104,821.96	Clear Due To/From Prior to Posting Pay 7
04/02/20	2020-00002583	RA	PayGrpOReilly LLC	437.09	Deda Lease Payments
04/10/20	2020-00002787	RA	One Roof Community Housing	46.00	2020-00000071
04/13/20	2020-00002752	AP	IPS Cranes, Inc.	(5,647.50)	Contamination/Investigation Grant
04/13/20	2020-00002752	AP	Wenck Associates, Inc	(1,206.45)	19-860-936 Consultant Services Pastoret & Robeson Ballroom Demo
04/13/20	2020-00002752	AP	Duluth Public Utilities - Comfort Systems	(822.15)	335 W Superior St 2/29-3/30/20
04/23/20	2020-00003159	RA	Housing & Redevelopment Authority of Duluth - HRA	4,336.85	2020-00000068
04/27/20	2020-00003134	AP	Ehlers and Associates Inc	(530.00)	Portland Square Apts -Tax Abatement Run Prep
04/27/20	2020-00003134	AP	Ehlers and Associates Inc	(927.50)	W Superior St Apts - Review Developer Numbers
04/27/20	2020-00003134	AP	Northern Business Products	(59.67)	Office Supplies - Acct 162
04/30/20	2020-00003302	GL	Investment Earnings for April	3,164.00	Investment Earnings for April
<u>FUND 860 - OPERATING FUND</u>				Ending Balance - 4-30-2020	2,734,034.75 TB
<u>FUND 861 - DEBT SERVICE</u>				Beginning Balance	769,096.50 TB
04/02/20	2020-00002574	GL	Clear Due To/From Prior to Posting Pay 7	(765,472.50)	Clear Due To/From Prior to Posting Pay 7
04/30/20	2020-00003302	GL	Investment Earnings for April	212.00	Investment Earnings for April
<u>FUND 861 - DEBT SERVICE</u>				Ending Balance - 4-30-2020	3,836.00 TB
<u>FUND 865 - CAPITAL PROJECTS</u>				Beginning Balance	2,573,808.72 TB
04/02/20	2020-00002574	GL	Clear Due To/From Prior to Posting Pay 7	660,650.54	Clear Due To/From Prior to Posting Pay 7
04/30/20	2020-00003302	GL	Investment Earnings for April	3,589.00	Investment Earnings for April
<u>FUND 865 - CAPITAL PROJECTS</u>				Ending Balance - 4-30-2020	3,238,048.26 TB
<u>FUND 866 - MRO FACILITY</u>				Beginning Balance	837,204.89 TB
04/30/20	2020-00003302	GL	Investment Earnings for April	976.00	Investment Earnings for April
<u>FUND 866 - MRO FACILITY</u>				Ending Balance - 4-30-2020	838,180.89 TB
<u>FUND 867 - STOREFRONT LOANS</u>				Beginning Balance	232,045.80 TB
04/14/20	2020-00002848	RA	North Shore Bank	1,319.17	DEDA Payments Women in Construction February & March Payments
04/17/20	2020-00002974	RA	Alerus Financial	1,037.10	DEDA Loan Payment-Old City Hall
04/30/20	2020-00003302	GL	Investment Earnings for April	272.00	Investment Earnings for April
<u>FUND 867 - STOREFRONT LOANS</u>				Ending Balance - 4-30-2020	234,674.07 TB

RESOLUTION 20D-43

RESOLUTION RESCINDING RESOLUTION NOS. 20D-29 AND 20D-30 AND AUTHORIZING A LAND SALE AGREEMENT WITH FORD HOME COMPANY RELATED TO THE REBUILD DULUTH PROGRAM

RESOLVED, by the Duluth Economic Development Authority (“DEDA”), that DEDA does hereby rescind Resolution Nos. 20D-29 and 20D-30 authorizing Land Sale Agreements with Ford Home Company for the conveyance of two lots related to the Rebuild Duluth Program.

FURTHER RESOLVED, that DEDA does hereby make the following determinations and findings:

- A. That the sale of property to Ford Home Company is in the best interests of the City of Duluth and its people and that the transaction furthers the general plan for economic development in the area.
 - B. That, after not less than ten (10) or more than twenty (20) days' published notice, the public hearing was held in City Council Chambers, Third Floor City Hall, Duluth, Minnesota at or shortly after 5:15 p.m. on May 27, 2020, regarding the proposed sale.
 - C. That the sale of the property described below to Ford Home Company conforms in all respects to the requirements of Minnesota Statutes 469.105.
2. That the proper DEDA officials are hereby authorized to execute the Rebuild Duluth Land Sale Agreement, substantially in the form of the copy attached hereto, with Ford Home Company for the sale of that property in St. Louis County, Minnesota, legally described below at no cost to Ford Home Company:
- Lots One (1) , Two (2), Three (3) and Four (4), Block Twenty-three (23), NEW DULUTH FIRST DIVISION, St. Louis County, Minnesota (the “Property”).
3. That the proper DEDA officials are hereby further authorized to execute all documents necessary to effectuate the sale of the Property to Ford Home Company.

Approved by the Duluth Economic Development Authority this 27th day of May, 2020.

ATTEST:

Executive Director

STATEMENT OF PURPOSE:

The Rebuild Duluth Program is designed to incentivize the construction of innovatively designed, affordable housing units by providing vacant lots at no cost to qualified purchasers who have been selected through a formal application and selection process. Ford Home Company was selected to receive two properties in the Gary-New Duluth neighborhood depicted on the attachments to this resolution as part of the Rebuild Duluth Program.

This resolution rescinds Resolutions 20D-29 and 20D-30 and authorizes a new Land Sale Agreement for the combined sites, replacing two separate Land Sale Agreements for the two contiguous properties. As Ford Home Company has conducted due diligence and worked with City staff, they have decided that the most efficient way to maximize density on the site and adhere to zoning requirements is to consolidate the four parcels (Lots 1 through 4) and create a common interest community. The previous Land Sale Agreements treated the projects as two distinct sites, which would not allow a consolidation. The attached Land Sale Agreement allows the consolidation and adheres to the spirit and form of the Rebuild Duluth Program.

RESOLUTION 20D-44

**RESOLUTION AUTHORIZING A GRANT AGREEMENT
WITH THE ENTREPRENEUR FUND, INC.
TO FUND THE ENVEST
LOAN PROGRAM IN THE AMOUNT OF \$250,000**

RESOLVED by the Duluth Economic Development Authority (DEDA) that the proper DEDA officials are hereby authorized to enter into an agreement (DEDA Contract No. 20-0860-_____) with the Northeast Entrepreneur Fund, Inc. substantially in conformance with the attached Exhibit A to fund the Invest Loan Program in the amount of \$250,000, payable from fund 860.

Approved by the Duluth Economic Development Authority this 27th day of May, 2020.

ATTEST:

Executive Director

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize an agreement with the Northeast Entrepreneur Fund to grant matching funding to them to promote small businesses and start-up businesses in the City of Duluth.

The Fund's normal mission is to assist such businesses in establishing themselves and in growing by providing a source of lending where conventional lending would prove to be difficult or impossible. The DEDA funds will leverage funding from other sources which is anticipated to generate as much as \$2.5 million in loans to Duluth businesses during the grant period.

This grant had already received conceptual approval in December of last year, subject to the terms of the agreement being worked out between the parties and it had been anticipated that \$125,000 of the DEDA funds would be made available in early 2020 with the rest being made available in the beginning of 2021. But due to the impact of the Pandemic, it was decided to move those dates out to 2021 and 2022 respectively to a time frame when job creation and business growth can exist in a more favorable atmosphere.

**GRANT AGREEMENT
BY AND BETWEEN
NORTHEAST ENTREPRENEUR FUND, INC.
AND
DULUTH ECONOMIC DEVELOPMENT AUTHORITY**

THIS AGREEMENT, effective as of _____, 2020 (the “Effective Date”), by and between the DULUTH ECONOMIC DEVELOPMENT AUTHORITY, an economic development authority under Minnesota Statutes Chapter 469 (1989), hereinafter referred to as “DEDA”, and the NORTHEAST ENTREPRENEUR FUND, INC., a private, non-profit corporation under the laws of the State of Minnesota, hereinafter referred to as Grantee.

WHEREAS, DEDA’s primary mission is to encourage economic development in the city of Duluth, through the stimulation of development and of the creation of new jobs in the city; and

WHEREAS, Grantee’s mission and function is the encouragement of economic development through the stimulation of creation and development of small business within its area of operations which includes the city through the lending of money to such businesses to fund such growth and development; and

WHEREAS, Grantee is seeking sources of funds through its Envest Program to invest in the development and growth of such small businesses in the city; and

WHEREAS, DEDA is willing grant up to \$250,000 to Grantee on a one-to-one matching bases under the terms and conditions hereinafter set forth to allow Grantee to make such loans to qualifying businesses in the city;

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, the parties hereto agree as follows:

I. Grant

1. Generally

DEDA hereby agrees to grant to Grantee the amount of up to Two Hundred Fifty Thousand Dollars (\$250,000) subject to the terms and conditions hereinafter set forth. Grant proceeds shall be used by Grantee only in conformance with said terms and conditions.

2. Use of Grant Proceeds

All grant proceeds shall be used to extend loans, hereinafter referred to as the “Loans, to small businesses, as defined in the Program Guidelines, attached hereto and made a part hereof as Exhibit A, hereinafter referred to as “Borrowers, having their main base of operations and their employment within the corporate limits of the City of Duluth. All such Loans shall be made in conformance with said Guidelines; provided, however, that in the event that the terms or conditions of the Guidelines shall conflict with the terms or conditions set forth in this Agreement, the terms and conditions of this agreement shall be deemed to be controlling.

3. Loan Documentation

At least Ten (10) days prior to extending any Loan to any Borrower, Grantee shall give written notice to DEDA’s Executive Director, hereinafter referred to as the “Executive Director”, of its intent to make said Loan to said Borrower. Said notice shall include the name and address of the Borrower, the names and addresses of the principals having an interest in the Borrower, the nature and character of the business of the Borrower.

4. Matching Grant Requirement

A primary purpose of this grant is to leverage 10x loan capital of the grant for the purpose of small business lending in the City of Duluth. Grantee must demonstrate it receives matching \$250,000 in grant funds for the purpose of small business lending and provides at least \$2,500,000 in total Loans in the City of Duluth during this grant period.

5. Granting Requirement

During the term of the Agreement, Grantee shall have extended Loans to no less than Ten (10) Borrowers qualifying for Loans under the terms and conditions of this Grant Agreement.

6. Job Creation Requirement

Grantee shall require that all Borrowers create not less than One (1)

new job within the corporate limits of the City of Duluth for each Five Thousand Dollars (\$5,000) or portion thereof of Grant funds loaned to each Borrower pursuant to this Agreement.

II. Grant Proceeds Disbursement to Grantee

1. Time for Disbursement

As of January 15, 2021, Grantee shall be entitled to invoice DEDA for up to One Hundred Twenty-Five Thousand Dollars (\$125,000) of the Grant amount provided for hereunder, subject to meeting the conditions of this Article. If Grantee is not in default of its obligations under this Agreement or this Agreement has not been otherwise terminated as provided for herein, on or after January 15, 2022, Grantee shall be entitled to invoice DEDA for the remaining amount of the Grant subject to said conditions. If Grantee is in conformance with the requirements of this Agreement, DEDA agrees to disburse Grant funds to Grantee within Ninety (90) days of receipt of Grantee's invoice.

2. Source of Grant Funds

All funds granted to Grantee pursuant to this Agreement shall be payable from DEDA Fund 860.

3. Conditions of Disbursement

In addition to having provided to the Executive Director its Program Guidelines attached as Exhibit A, prior to be entitled to disbursement of the Grant funds hereunder, Grantee shall provide to DEDA a complete listing of the sources and amounts of all funds anticipated to be used by Grantee to fulfill the lending requirements of Article I Section 4. above. If the source or amount of any Grantee funds necessary to meet Grantee's commitments under said Article I Section 4 does not consist of funds in hand or is not based on binding commitments from their source, Grantee shall so indicate and shall state the date by which such commitment shall be binding.

4. Document Update Requirement

In the event that, after providing Exhibit A or the funding source

document required by Section 3. above to the Executive Director, Grantee makes any changes to said documents or becomes aware of any facts which would cause changes to said documents, Grantee shall promptly report said changes to the Executive Director.

III. General Terms and Conditions

1. Amendments

Any alterations, variations, modifications or waivers of terms of this Agreement shall be binding upon the DEDA and Grantee only upon being reduced to writing and signed by a duly authorized representative of each party.

2. Assignment

Grantee represents that it will utilize only its own personnel in the performance of the services set forth herein; and further agrees that it will neither assign, transfer or subcontract any rights or obligations under this Agreement without prior written consent of the Executive Director.

3. Data and Confidentiality, Records and Inspection

a. All reports, data, information, documentation and material given to or prepared by Grantee pursuant to this Agreement will be confidential and will not be released by Grantee without prior authorization from the DEDA.

b. Grantee agrees that all work created by Grantee for the DEDA is a “work made for hire” and that the DEDA shall own all right, title, and interest in and to the work, including the entire copyright in the work (“DEDA Property”). Grantee further agrees that to the extent the work is not a “work made for hire” Grantee will assign to DEDA ownership of all right, title and interest in and to the work, including ownership of the entire copyright in the work. Grantee agrees to execute, at no cost to DEDA, all documents necessary for DEDA to perfect its ownership of the entire copyright in the work. Grantee

represents and warrants that the work created or prepared by Grantee will be original and will not infringe upon the rights of any third party, and Grantee further represents that the work will not have been previously assigned, licensed or otherwise encumbered.

- c. Records shall be maintained by Grantee in accordance with requirements prescribed by the DEDA and Generally Accepted Accounting Principles and with respect to all matters covered by this Agreement. Such records shall be maintained for a period of six (6) years after receipt of final payment under this Agreement.
- d. Grantee will ensure that all costs shall be supported by properly executed invoices, contracts, vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible.
- f. Grantee shall be responsible for furnishing to the DEDA records, data and information as the DEDA may require pertaining to matters covered by this Agreement.
- g. Grantee shall ensure that at any time during normal business hours and as often as the DEDA may deem necessary, there shall be made available to the DEDA for examination, all of its records with respect to all matters covered by this Agreement Grantee will also permit the DEDA to audit, examine, and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment, and other data relating to all matters covered by this Agreement.

4. Grantee Representation and Warranties

Grantee represents and warrants that:

- a. Grantee and all personnel to be provided by it hereunder has sufficient training and experience to perform the duties set forth

herein and are in good standing with all applicable licensing requirements.

- b. Grantee and all personnel provided by it hereunder shall perform their respective duties in a professional and diligent manner in the best interests of the DEDA and in accordance with the then current generally accepted standards of the profession for the provisions of services of this type.
- c. Grantee has complied or will comply with all legal requirements applicable to it with respect to this Agreement. Grantee will observe all applicable laws, regulations, ordinances and orders of the United States, State of Minnesota and agencies and political subdivisions thereof.
- d. The execution and delivery of this Agreement and the consummation of the transactions herein contemplated do not and will not conflict with, or constitute a breach of or a default under, any agreement to which the Grantee is a party or by which it is bound, or result in the creation or imposition of any lien, charge or encumbrance of any nature upon any of the property or assets of the Grantee contrary to the terms of any instrument or agreement.
- e. There is no litigation pending or to the best of the Grantee's knowledge threatened against the Grantee affecting its ability to carry out the terms of this Agreement or to carry out the terms and conditions of any other matter materially affecting the ability of the Grantee to perform its obligations hereunder.
- f. The Grantee will not, without the prior written consent of the DEDA, enter into any agreement or other commitment the performance of which would constitute a breach of any of the terms, conditions, provisions, representations, warranties and/or covenants contained in this Agreement.

5. Agreement Period

The term of this Agreement shall commence on the Effective Date and

performance shall be completed by December 31, 2022, unless terminated earlier as provided for herein except that any of the terms and conditions of this Agreement that, by their nature extend beyond the aforesaid date, shall continue to be force and effect as long as necessary for Grantee to fulfill said obligations under this Agreement. In the event of termination, all property and finished or unfinished documents and other writings prepared by Grantee under this Agreement shall become the property of the DEDA and Grantee shall promptly deliver the same to the DEDA. Grantee shall be entitled to compensation for services properly performed by it to the date of termination of this Agreement. In the event of termination due to breach by Grantee, the DEDA shall retain all other remedies available to it, and the DEDA shall be relieved from payment of any fees in respect of the services of Grantee which gave rise to such breach.

6. Independent Contractor

a. It is agreed that nothing herein contained is intended or should be construed in any manner as creating or establishing the relationship of copartners between the parties hereto or as constituting Grantee as an agent, representative or employee of the DEDA for any purpose or in any manner whatsoever. The parties do not intend to create any third party beneficiary of this Agreement. Grantee and its employees shall not be considered employees of the DEDA, and any and all claims that may or might arise under the Worker's Compensation Act of the State of Minnesota on behalf of Grantee's employees while so engaged, and any and all claims whatsoever on behalf of Grantee's employees arising out of employment shall in no way be the responsibility of DEDA. Except for compensation provided in Section II of this Agreement, Grantee's employees shall not be entitled to any compensation or rights or benefits of any kind whatsoever from DEDA, including without limitation, tenure rights, medical and hospital care, sick and vacation leave, Worker's

Compensation, Unemployment Insurance, disability or severance pay and P.E.R.A. Further, DEDA shall in no way be responsible to defend, indemnify or save harmless Grantee from liability or judgments arising out of intentional or negligent acts or omissions of Grantee or its employees while performing the work specified by this Agreement.

- b. The parties do not intend by this Agreement to create a joint venture or joint enterprise, and expressly waive any right to claim such status in any dispute arising out of this Agreement.
- c. Grantee expressly waives any right to claim any immunity provided for in Minnesota Statutes Chapter 466 or pursuant to the official immunity doctrine.

7. Indemnity

To the extent allowed by law, Grantee shall defend, indemnify and hold DEDA and its employees, officers, and agents harmless from and against any and all cost or expenses, claims or liabilities, including but not limited to, reasonable attorneys' fees and expenses in connection with any claims resulting from the Grantee's a) breach of this agreement or b) its negligence or misconduct or that of its agents or contractors in performing the Services hereunder or c) any claims arising in connection with Grantee's employees or contractors, or d) the use of any materials supplied by the Grantee to the DEDA unless such material was modified by DEDA and such modification is the cause of such claim. This Section shall survive the termination of this Agreement for any reason.

8. Insurance

Grantee shall obtain and maintain for the Term of this Agreement the following minimum amounts of insurance from insurance companies authorized to do business in the State of Minnesota.

- a. Public Liability and Automobile Liability Insurance with limits not less than **\$1,500,000** Single Limit, shall be in a company approved

by the DEDA of Duluth; and shall provide for the following: Liability for Premises, Operations, Completed Operations, and Contractual Liability. **DEDA of Duluth shall be named as Additional Insured by endorsement** under the Public Liability and Automobile Liability, or as an alternate, Grantee may provide Owners-Contractors Protective policy, naming himself and DEDA of Duluth. **Upon execution of this Agreement**, Grantee shall provide Certificate of Insurance evidencing such coverage with 30-days' notice of cancellation, non-renewal or material change provisions included.

- b. Grantee shall also provide evidence of Statutory Minnesota Workers' Compensation Insurance.
- c. A certificate showing continued maintenance of such insurance shall be on file with the DEDA during the term of this Agreement.
- d. The DEDA of Duluth does not represent or guarantee that these types or limits of coverage are adequate to protect the Grantee's interests and liabilities.

9. Defaults and Remedies

a. General Events of Default

The following shall be deemed to be general events of default by Grantee under the terms and conditions of this Agreement to which the remedies set forth in Subparagraph 2 below shall be applicable except as otherwise set forth in this Agreement.

- 1. Grantee shall fail to observe or perform any of the terms, conditions, covenants or agreements required to be observed or performed by it or any successor or assigns of Grantee pursuant to this Agreement and such failure shall

continue for a period of sixty (60) calendar days after DEDA has, pursuant to the provisions of this Agreement, given written notice to Grantee of such default or, in the event that such default shall be incapable of cure during said sixty (60) day period, shall have failed to commence to cure said default within sixty (60) days of the date of said notice and to diligently pursue the same to completion.

2. Grantee makes an assignment for the benefit of its creditors or admits in writing its inability to pay its debts as they become due; or an adjudication of bankruptcy or insolvency as made as to Grantee or its business; or Grantee files a petition of bankruptcy or files a petition seeking any reorganization, dissolution, liquidation, or rearrangement, composition, readjustment or similarly under any present or future bankruptcy or insolvency, statute, law or regulation; or Grantee files an answer admitting to or not contesting to the material allegations of a petition filed against in such proceeding or fails to have dismissed or vacated within sixty (60) days after its filing such a petition or seeks or consents or acquiesces in the appointment of any trustee, receiver or liquidator of a material part of Grantee's properties or fails to have dismissed or vacated within sixty (60) days after the appointment without the consent or acquiescence of Grantee of any trustee, receiver or liquidator of any material part of Grantee's properties.

b. General Remedies

Except as otherwise set forth in this Agreement, DEDA shall have the following remedies in the event of a default by Grantee:

1. Seek and be entitled to monetary damages from Grantee for any damages, including consequential damages incurred by DEDA as a result of Grantee's default.
2. Cease making payments of Grant funds.
3. Seek and be entitled to injunctive or declaratory relief as is necessary to prevent Grantee's violation of the terms and conditions of this Agreement or to compel Grantee's performance of its obligations hereunder.
4. Seek such other legal or equitable relief as a court of competent jurisdiction may determine is available to DEDA.

10. Notices

Unless otherwise expressly provided herein, any notice or other communication required or given shall be in writing and shall be effective for any purpose if served, with delivery or postage costs prepaid, by nationally recognized commercial overnight delivery service or by registered or certified mail, return receipt requested, to the following addresses:

DEDA: Duluth Economic Development Authority
411 W First Street
City Hall Room 418
Duluth MN 55802
Attn: Executive Director

Grantee: Entrepreneur Fund, Inc.
202 West Superior Street, Suite 311
Duluth, MN 55802
Attn: Shawn Wellnitz

11. Civil Rights Assurances

Grantee, as part of the consideration under this Agreement, does hereby covenant and agree that:

- a. No person on the grounds of race, color, creed, religion, national origin, ancestry, age, sex, marital status, status with respect to public assistance, sexual orientation, and/or disability shall be excluded from any participation in, denied any benefits of, or otherwise subjected to discrimination with regard to the work to be done pursuant to this Agreement.
- b. That all activities to be conducted pursuant to this Agreement shall be conducted in accordance with the Minnesota Human Rights Act of 1974, as amended (Chapter 363), Title 7 of the U.S. Code, and any regulations and executive orders which may be affected with regard thereto.

12. Laws, Rules and Regulations

Grantee agrees to observe and comply with all laws, ordinances, rules and regulations of the United States of America, the State of Minnesota and the City of Duluth with respect to their respective agencies which are applicable to its activities under this Agreement.

13. Applicable Law

This Agreement, together with all of its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

14. Force Majeure

Neither party shall be liable for any failure of or delay in performance of its obligations under his Agreement to the extent such failure or delay is due to circumstances beyond its reasonable control, including, without limitation, acts of God, acts of a public enemy, fires, floods, wars, civil disturbances, sabotage, accidents, insurrections, blockades, embargoes, storms, explosions, labor disputes, acts of any governmental body (whether civil or military, foreign or domestic), failure or delay of third parties or governmental bodies

from whom a party is obtaining or must obtain approvals, franchises or permits, or inability to obtain labor, materials, equipment, or transportation. Any such delays shall not be a breach of or failure to perform this Agreement or any part thereof and the date on which the party's obligations hereunder are due to be fulfilled shall be extended for a period equal to the time lost as a result of such delays.

15. Severability

In the event any provision herein shall be deemed invalid or unenforceable, the remaining provision shall continue in full force and effect and shall be binding upon the parties to this Agreement.

16. Entire Agreement

It is understood and agreed that the entire agreement of the parties including all exhibits is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof. Any amendment to this Agreement shall be in writing and shall be executed by the same parties who executed the original agreement or their successors in office.

17. Counterparts

This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, but all of which together shall constitute but one and the same instrument. Signatures to this Agreement transmitted by facsimile, by electronic mail in "portable document format" (".pdf"), or by any other electronic means which preserves the original graphic and pictorial appearance of the Agreement, shall have the same effect as physical delivery of the paper document bearing the original signature.

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the date of attestation shown below.

**DULUTH ECONOMIC
DEVELOPMENT AUTHORITY**

By:

EXHIBIT A
PROGRAM GUIDELINES

RESOLUTION 20D-45

RESOLUTION AUTHORIZING A FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT WITH LSC FLATS, LLC RELATED TO CONSTRUCTION OF STUDENT HOUSING NEAR LAKE SUPERIOR COLLEGE

RESOLVED, by the Duluth Economic Development Authority ("DEDA") that the proper DEDA officials are hereby authorized to enter into a First Amendment, substantially in the form of that attached hereto as Exhibit A (DEDA Contract No. 19 860 929¹), to the Development Agreement with LSC Flats, LLC related to construction of student housing near lake Superior College, extending certain timelines.

Approved by the Duluth Economic Development Authority this 27th day of May, 2020.

Attest:

Executive Director

STATEMENT OF PURPOSE:

The purpose of this resolution is to authorize an amendment to the Development Agreement with LSC Flats, LLC ("Developer") that will extend the Closing Date deadline to January 31, 2021, the deadline to commence construction to June 1, 2021, and the deadline to complete the project to December 31, 2022. The Developer anticipated closing on the property during the summer of 2020; unfortunately, the COVID-19 pandemic has disrupted various aspects of project, including finalizing lending. To provide the Developer and its partners ample time to secure financing and complete the project, staff recommends approving this First Amendment.

**DEVELOPMENT AGREEMENT
FIRST AMENDMENT
DULUTH ECONOMIC DEVELOPMENT AUTHORITY
LSC FLATS, LLC**

THIS FIRST AMENDMENT to DEVELOPMENT AGREEMENT is entered into by and between the DULUTH ECONOMIC DEVELOPMENT AUTHORITY, an economic development authority created and existing under Minnesota Statutes (1989) Chapter 469, hereinafter referred to as "DEDA", and LSC FLATS, LLC, a Minnesota limited liability company, hereinafter referred to as "Developer."

WHEREAS, on September 25, 2019, DEDA and Developer entered into a Development Agreement pursuant to which Developer agreed to acquire DEDA and State of Minnesota owned property located near Lake Superior College in Duluth, Minnesota and develop it into student housing (the "Agreement"); and

WHEREAS, the parties desire to amend the Agreement to extend certain timelines contained therein.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, the parties hereto agree as follows:

1. Except as otherwise defined in this First Amendment, terms defined in the Agreement and used herein shall having the meaning assigned to them in the Agreement.

2. Paragraph A of ARTICLE VII is hereby amended as follows:

A. Closing Date

Subject to Minnesota State assuring DEDA that the contemplated Closing Date is acceptable to Minnesota State, the closing on the purchase and sale contemplated by this Agreement (the "Closing") shall occur on the latest of (i) January 31, 2021 or (ii) on an earlier date agreed to by Developer and DEDA (the "Closing Date"). In the event Minnesota

State informs DEDA that the Closing date is not acceptable, the Closing Date shall be extended to accommodate Minnesota State. DEDA's acceptance of the Minnesota State Land shall occur immediately prior to DEDA's conveyance of the Minnesota State Land to Developer. The conveyance of the Easement Property shall also occur on the Closing Date. The Closing will take place at the offices of Title which shall act as closing agent, at such time as the parties shall mutually agree. It is anticipated that a physical closing may not occur and that documents or counterparts of documents may be delivered to and collected by Title. The parties shall deliver to Title an executed copy of this Agreement, which shall constitute instructions. If required by Title, the parties shall execute any printed form escrow instructions used by Title; provided, however, that any provisions of such instructions which conflict with this Agreement shall be governed by this Agreement. DEDA shall deliver possession of the Property immediately after Closing. In the event the Closing does not occur on or before January 31, 2021, then either Developer or DEDA may cancel this Agreement upon fifteen (15) days' written notice to the other party.

3. Paragraph A of ARTICLE IX is hereby amended as follows:

A. Construction

Upon the fulfillment of Developers obligations provided for in Articles II, III, VI, and VIII above, Developer shall promptly commence construction of the Project in conformance with the approved plans and specifications, but in no event later than June 1, 2021. Construction of the Project shall be completed not later than December 31, 2022 except that an extension of said time for completion upon the request of Developer may be Approved by the Executive Director.

4. At the time of Closing, Developer shall record this First Amendment in the office of the St. Louis County Recorder and/or the Registrar of Titles (as applicable) and shall pay all costs associated therewith. Upon recording, Developer shall immediately submit to the City an executed original of this First Amendment showing the date and document numbers of record, or a duly certified copy of the filed original.

5. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, but all of which together shall constitute but one and the same instrument.

6. Except as provided for in this First Amendment, the terms and conditions of the Agreement remain in force and effect.

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RESOLUTION 20D-46

RESOLUTION AUTHORIZING A FOURTH AMENDMENT TO THE DEVELOPMENT AGREEMENT WITH NORTHSTAR DEVELOPMENT INTERESTS, LLC, A FIRST AMENDMENT TO MINIMUM MARKET VALUE ASSESSMENT AGREEMENT, AND A CONSENT TO ASSIGNMENT OF THE MINIMUM MARKET VALUE ASSESSMENT AGREEMENT ALL RELATED TO THE VOYAGEUR LAKEWALK INN

RESOLVED, by the Duluth Economic Development Authority ("DEDA") that the proper DEDA officials are hereby authorized to enter into a Fourth Amendment to the Development Agreement, substantially in the form of that attached hereto (DEDA Contract No. 19 860 927⁴) with Northstar Development Interests, LLC ("Developer") related to the Voyageur Lakewalk Inn Redevelopment, allowing the Developer to assign the Development Agreement to a related entity, The Lakeview Properties LLC.

FURTHER RESOLVED, by DEDA that the proper DEDA official are hereby authorized to execute a First Amendment to Minimum Market Value Assessment Agreement, substantially in the form of that attached hereby (DEDA Contract No. _____), with Northstar Development Interests, LLC and the County Assessor for St. Louis County, Minnesota clarifying language related to administrative or judicial review of the Assessor's classification of the development property.

FURTHER RESOLVED, by DEDA that the proper DEDA officials are hereby authorized to execute a Consent to Assignment of the Minimum Market Value Assessment Agreement, substantially in the form of that attached hereto (DEDA Contract No. _____), pursuant to which the Minimum Market Value Assessment Agreement is assigned to The Lakeview Properties LLC.

Approved by the Duluth Economic Development Authority this 27th day of May, 2020.

ATTEST:

Executive Director

STATEMENT OF PURPOSE: The purpose of this resolution is to approve a Fourth Amendment to the Development Agreement with Developer allowing the Developer to assign the Development Agreement to a related entity, The Lakeview Properties LLC. The Developer has established Lakeview Properties, a single-purpose LLC, for the development and future operations of the project. The lead development team will remain the same; the reassignment of the Development Agreement provides additional flexibility to secure and organize private funding and ownership.

The resolution also authorizes DEDA to execute a Consent to Assignment of the Minimum Market Value Assessment Agreement to a related entity, The Lakeview Properties LLC; this corresponds with the assignment of the Development Agreement.

Finally, the resolution authorizes amending the Minimum Market Value Assessment Agreement to clarify the intent of the language surrounding the Developer's right to appeal the County's property valuation only if said valuations are above the amount established in the Agreement.

**DEVELOPMENT AGREEMENT
DULUTH ECONOMIC DEVELOPMENT AUTHORITY
NORTHSTAR DEVELOPMENT INTERESTS, LLC
VOYAGEUR LAKEWALK INN REDEVELOPMENT
FOURTH AMENDMENT**

THIS FOURTH AMENDMENT entered into this _____ day of _____, 2020, is by and between the DULUTH ECONOMIC DEVELOPMENT AUTHORITY, an economic development authority created and existing under Minnesota Statutes (1989) Chapter 469, whose address is 402 City Hall, 411 West First Street, Duluth, MN 55802 (hereinafter referred to as "DEDA") and NORTHSTAR DEVELOPMENT INTERESTS, LLC, a Delaware limited liability company, whose address is 10 West Mifflin Street, Suite 400, Madison, WI 53703 (hereinafter referred to as "Developer").

WHEREAS, on August 26, 2019, DEDA and Developer entered into a Development Agreement pursuant to which Developer agreed to develop/redevelop certain property located at 333, 319, 321 and 323 East Superior Street in downtown Duluth into a fifteen story multi-family residential rental and mixed use development pertaining to property located in St. Louis County, Minnesota and legally described in Exhibit A attached hereto;

WHEREAS, on December 18, 2019, the parties entered into a First Amendment to the Development Agreement extending by three months the time within which Developer must commence construction; and

WHEREAS, on December 18, 2019, the parties entered into a Second Amendment to the Development Agreement extending by four months the time within which Developer must commence construction; and

WHEREAS, on _____, 2020, the parties entered into a Third Amendment to the Development Agreement (the Development Agreement, First, Second and Third Amendments hereinafter referred to as the "Agreement") extending the time within which Developer must commence and complete Project construction and providing for the TIF Note to be issued concurrent with the closing on Developer's construction financing; and

WHEREAS, the parties desire to enter into a Fourth Amendment to the Agreement allowing the Developer to assign the Agreement to a related entity; and

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

1. Paragraph B, Transfers prior to expiration of the Continued Operations Covenant of Article XII, Provisions Against Liens, Assignments and Transfer, requires prior written approval by DEDA of any total or partial sale, assignment, conveyance, trust, lien or power of attorney, or of any change in the identity of the principals or their respective percentages of ownership or voting rights if such change would result in a change of control, or of a transfer in any other way of all or any portion of the Property, the Project, Developer, this Agreement or any other contract or agreement entered into in connection with carrying out Developer's obligations under the Agreement. Developer desires to assign the Agreement to THE LAKEVIEW PROPERTIES LLC, a Delaware limited liability company. NORTHSTAR DEVELOPMENT INTERESTS, LLC, is currently the sole member of THE LAKEVIEW AT 333 SUPERIOR, LLC, which is the sole member of THE LAKEVIEW PROPERTIES LLC. DEDA acknowledges that: (a) membership interests of THE LAKEVIEW AT 333 SUPERIOR, LLC totaling less than fifty percent (50%) of the total membership interests in such company may be issued, sold or transferred to third party investors if the same does not result in a change in control; and (b) membership interests of NORTHSTAR DEVELOPMENT INTERESTS, LLC totaling less than fifty percent (50%) of the total membership interests in such company may be issued, sold, or transferred to third party investors if the same does not result in a change in control; each of the foregoing transfers whether now or hereafter consummated being authorized pursuant to Article XII of the Agreement. DEDA hereby approves the assignment of the Agreement, in the form attached hereto as Exhibit B, to THE LAKEVIEW PROPERTIES LLC.
2. Promptly upon execution of this Fourth Amendment, Developer agrees to record this Fourth Amendment in the offices of the St. Louis County Recorder and the Registrar of Title and to pay all costs associated therewith. Upon recordation, Developer shall promptly submit to DEDA an executed original of the Fourth Amendment showing the date and document numbers of record, or a certified copy of the filed original.
3. This Fourth Amendment may be executed, acknowledged and delivered in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
4. Except as provided in this Fourth Amendment, all terms and conditions of the Agreement shall remain in force and effect.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and date shown below.

EXHIBIT A TO FOURTH AMENDMENT TO DEVELOPMENT AGREEMENT

Legal Description of Development Property

That real property located in St. Louis County, Minnesota and legally described as follows:

Lot 10, in Block 7, Portland Division of Duluth, including the strip of land on the Northerly end of said Lot 10, In Block 7, Portland Division of Duluth, lying within 15 feet of the center line of the alley, running through said Block 7 and Lot 11, Block 7, Portland Division of Duluth;

and

Lot 11, Block 7, Portland Division of Duluth;

and

Lot 12, Block 7, Portland Division of Duluth;

and

All that part or parcel of Block 7, Portland Division of Duluth, according to the recorded plat thereof, on file and of the record in the office of the Register of Deeds which is contained and being within the following boundary lines, to wit:

The center line of Superior Street in front of said Block;

the center line of the alley in the rear of said Block;

the center line of Fourth Avenue east to the easterly of said Block;

and the extended Westerly boundary line of Lot 15 in said Block.

The tract of land in Portland Division of Duluth, enclosed in the following described boundary lines, to-wit:

a. The original center line of East Superior Street, as such Street was dedicated by the original plat of Portland Division of Duluth, which plat was filed for record April 23, 1870 in Book A of Plats on page 91 thereof.

b. The center line of the alley between Block 26 and Block 7 as dedicated by said Plat.

c. The extended Westerly line of Lot 13 in said Block 7.

d. The extended Easterly line of Lot 14 in said Block 7.

Exhibit B to Fourth Amendment to Development Agreement

ASSIGNMENT AND ASSUMPTION OF DEVELOPMENT AGREEMENT

This ASSIGNMENT AND ASSUMPTION OF DEVELOPMENT AGREEMENT (this “Assignment”) is dated to be effective as of the ___ day of _____, 2020, by and between NORTHSTAR DEVELOPMENT INTERESTS, LLC, a Delaware limited liability company (“Assignor”) and THE LAKEVIEW PROPERTIES LLC, a Delaware limited liability company (“Assignee”). Assignor and Assignee are sometimes referred to together in this Assignment as the “Parties.”

RECITALS

WHEREAS, Assignor is a party to that certain Development Agreement by and between Assignor, as the “Developer” and the Duluth Economic Development Authority (“DEDA”), dated August 26, 2019, recorded with the St. Louis County Recorder and the Registrar of Titles on _____, 2020, as Document No. _____; as amended by a First Amendment to Development Agreement dated as of December 18, 2019, recorded with the St. Louis County Recorder and the Registrar of Titles on _____, 2020, as Document No. _____; a Second Amendment to Development Agreement dated as of December 18, 2019, recorded with the St. Louis County Recorder and the Registrar of Titles on _____, 2020, as Document No. _____; a Third Amendment to Development Agreement dated as of _____, 2020, recorded with the St. Louis County Recorder and the Registrar of Titles on _____, 2020, as Document No. _____; and a Fourth Amendment to Development Agreement dated as of _____, 2020, recorded with the St. Louis County Recorder and the Registrar of Titles on _____, 2020, as Document No. _____ (collectively, the “Development Agreement”, with respect to certain real property located in the City of Duluth, Minnesota and legally described in **Exhibit A** attached hereto (the “Property”); and

WHEREAS, Assignor desires to assign all of its right, title, and interest to, and obligations under, the Development Agreement to Assignee, and Assignee desires to assume and accept all of Assignor’s right, title, and interest to, and obligations under, the Development Agreement in accordance with the terms hereinafter set forth.

NOW, THEREFORE, pursuant and subject to the terms hereof and in consideration of the mutual covenants set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. Assignment. Assignor hereby assigns to Assignee all of Assignor's right, title, and interest in, and obligations under, the Development Agreement.

2. Assumption. Assignee hereby assumes all of Assignor's right, title, and interest in, and obligations under, the Development Agreement, and subject to the terms and conditions set forth in the Development Agreement, hereby covenants and agrees to comply with all the terms and conditions of the Development Agreement and to execute any and all further documents necessary in connection with fulfilling the obligations of the Developer under the Development Agreement.

3. Additional Documents. Each party agrees to execute and deliver such other instruments and take such other actions as may be reasonably necessary or appropriate to carry out and effectuate the transactions contemplated by this Assignment.

4. Binding Effect. This Assignment shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs, legal representatives, successors and assigns.

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

6. Entire Agreement. This Assignment constitutes the entire understanding and agreement between the Parties with respect to the subject matter hereof and supersedes all prior oral or written agreements pertaining thereto.

7. Headings. All headings in this Assignment are inserted for convenience only and are not intended to be part of or to affect the meaning or interpretation of this Assignment.

8. Recordation. Promptly upon execution of this Assignment, Assignee agrees to record this Assignment in the offices of the St. Louis County Recorder and the Registrar of Title and to pay all costs associated therewith. Upon recordation, Assignee shall promptly submit to DEDA an executed original of the Assignment showing the date and document numbers of record, or a certified copy of the filed original.

9. Counterparts. This Assignment may be executed, acknowledged and delivered in any number of counterparts, each of which shall be deemed an original, but all which together shall constitute one and the same instrument.

(signature pages follow)

IN WITNESS WHEREOF, the Parties have executed this Assignment to be effective as of the date first above written.

ASSIGNOR:

NORTHSTAR DEVELOPMENT INTERESTS, LLC

By: _____
Name: Robert P. Dunn

Its: Manager

STATE OF _____)

) ss.

COUNTY OF _____)

Personally came before me this ____ day of _____, 2020, Robert P. Dunn, to me known to be the Manager of Northstar Development Interests, LLC, and acknowledged that he executed the foregoing instrument on behalf of said limited liability company.

(SEAL)

*
* *print name*
Notary Public, State of _____
My Commission expires _____

ASSIGNEE:

THE LAKEVIEW PROPERTIES LLC

By: The Lakeview at 333 Superior, LLC
Its: Manager

By: Northstar Development Interests, LLC
Its: Manager

By: _____
Name: Robert P. Dunn

Its: Manager

STATE OF _____)

) ss.

COUNTY OF _____)

Personally came before me this ____ day of _____, 2020, Robert P. Dunn, to me known to be the Manager of Northstar Development Interests, LLC, the Manager of The Lakeview at 333 Superior, LLC, than Manager of The Lakeview Properties LLC and acknowledged that he executed the foregoing instrument on behalf of said limited liability company.

(SEAL)

*

* *print name*

Notary Public, State of _____

My Commission expires _____

THIS INSTRUMENT WAS DRAFTED BY:

Michael Best & Friedrich LLP

One South Pinckney Street, Suite 700

Madison, WI 53703

**EXHIBIT A TO ASSIGNMENT AND ASSUMPTION
OF DEVELOPMENT AGREEMENT**

LEGAL DESCRIPTION

Lot 10, in Block 7, PORTLAND DIVISION OF DULUTH, including the strip of land on the Northerly end of said Lot 10, in Block 7, Portland Division of Duluth, lying within 15 feet of the center line of the alley, running through said Block Seven, St. Louis County, Minnesota. (Torrens Property)

AND

Lot 11, Block 7, PORTLAND DIVISION OF DULUTH, St. Louis County, Minnesota. (Abstract Property)

AND

Lot Twelve (12), Block Seven (7), Portland Division of Duluth, St. Louis County, Minnesota. (Abstract Property)

AND

All that part or parcel of Block 7, Portland Division of Duluth, according to the recorded plat thereof, on file and of record in the office of the Register of Deeds which is contained and being within the following boundary lines, to wit: The center line of Superior Street in front of said Block; the center line of the alley in the rear of said Block; the center line of Fourth Avenue east to the easterly of said Block; and the extended Westerly boundary line of Lot 15 in said Block. The tract of land in Portland Division of Duluth, enclosed in the following described boundary lines, to-wit:

- a. The original center line of East Superior Street, as such Street was dedicated by the original plat of Portland Division of Duluth, which plat was filed for record April 23, 1870 in Book A of Plats on page 91 thereof.
- b. The center line of the alley between Block 26 and Block 7 as dedicated by said Plat.
- c. The extended Westerly line of Lot 13 in said Block 7.
- d. The extended Easterly line of Lot 14 in said Block 7. (Torrens Property)

**MINIMUM MARKET VALUE ASSESSMENT AGREEMENT
FIRST AMENDMENT**

This First Amendment to Minimum Market Value Assessment Agreement is entered into as of this ____ day of _____, 2020, between Northstar Development Interests, LLC, a Delaware limited liability company (“Developer”), Duluth Economic Development Authority, an economic development authority created and existing under Minnesota Statutes (1989) Chapter 469 (“DEDA”), and the County Assessor for St. Louis County, Minnesota, acting as assessor for the City of Duluth (the “Assessor”).

WHEREAS, on August 26, 2019, the parties entered into a Minimum Market Value Assessment Agreement (the “Agreement”) pursuant to which a minimum market value was established for certain land described on the attached Exhibit A and the improvements constructed or to be constructed thereon (the “Property”); and

WHEREAS, the parties desire to amend the Agreement to clarify language related to administrative or judicial review of the Assessor’s classification of the Property and update certain dates set forth in the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereafter contained, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Paragraph 1 of the Agreement is hereby amended to delete the date “January 2, 2021” and replace it with “January 2, 2023”.

2. Paragraph 4 a of the Agreement is hereby amended in its entirety as follows:

Developer will not seek administrative or judicial review of the assessment valuation unless the assessment valuation exceeds the Assessor’s Minimum Market Value. Developer will not seek administrative or judicial review of the Assessor’s classification of the Property except as set forth in Paragraph 9. Developer also will not seek judicial review of the applicability or constitutionality of any tax statute relating to the taxation of real property in the Project determined by any tax official to be applicable to the Project or raise the inapplicability or constitutionality of any such tax statute as a defense in any proceedings, including delinquent tax proceedings; provided, however, that “tax statute” does not include any local ordinance or resolution levying a tax; and

3. Paragraph 5 d of the Agreement is hereby amended to delete the date “December 31, 2046” and replace it with “December 31, 2048”.

4. Upon its execution, Developer shall promptly record and/or register this First Amendment in the Office of the St. Louis County Recorder and/or the Office of the St. Louis County Registrar of Titles and pay all costs associated therewith. Upon

recordation, Developer shall promptly submit to DEDA and the St. Louis County Assessor an executed original of this First Amendment showing the date and document numbers of record, or duly certified copies of the filed originals.

5. This First Amendment may be executed, acknowledged and delivered in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

6. Except as provided in this First Amendment, all terms and conditions of the Agreement shall remain in force and effect.

[Signatures on Following Page]

EXHIBIT A
Legal Description

That real property located in St. Louis County, Minnesota and legally described as follows:

Lot 10, in Block 7, Portland Division of Duluth, including the strip of land on the Northerly end of said Lot 10, In Block 7, Portland Division of Duluth, lying within 15 feet of the center line of the alley, running through said Block 7 and Lot 11, Block 7, Portland Division of Duluth;

and

Lot 11, Block 7, Portland Division of Duluth;

and

Lot 12, Block 7, Portland Division of Duluth;

and

All that part or parcel of Block 7, Portland Division of Duluth, according to the recorded plat thereof, on file and of the record in the office of the Register of Deeds which is contained and being within the following boundary lines, to wit:

The center line of Superior Street in front of said Block;
the center line of the alley in the rear of said Block;
the center line of Fourth Avenue east to the easterly of said Block;
and the extended Westerly boundary line of Lot 15 in said Block.

The tract of land in Portland Division of Duluth, enclosed in the following described boundary lines, to-wit:

- a. The original center line of East Superior Street, as such Street was dedicated by the original plat of Portland Division of Duluth, which plat was filed for record April 23, 1870 in Book A of Plats on page 91 thereof.
- b. The center line of the alley between Block 26 and Block 7 as dedicated by said Plat.
- c. The extended Westerly line of Lot 13 in said Block 7.
- d. The extended Easterly line of Lot 14 in said Block 7.

ASSIGNMENT AND ASSUMPTION OF MINIMUM MARKET VALUE ASSESSMENT AGREEMENT

This ASSIGNMENT AND ASSUMPTION OF MINIMUM MARKET VALUE ASSESSMENT AGREEMENT (this “Assignment”) is dated to be effective as of the ___ day of _____, 2020, by and between NORTHSTAR DEVELOPMENT INTERESTS, LLC, a Delaware limited liability company (“Assignor”) and THE LAKEVIEW PROPERTIES LLC, a Delaware limited liability company (“Assignee”). Assignor and Assignee are sometimes referred to together in this Assignment as the “Parties.”

RECITALS

WHEREAS, Assignor is a party to that certain Minimum Market Value Assessment Agreement by and among Assignor, Duluth Economic Development Authority (“DEDA”) and the County Assessor for St. Louis County, Minnesota, acting as assessor for the City of Duluth (the “Assessor”) dated August 26, 2019 (the “Minimum Assessment Agreement”); and

WHEREAS, in a transaction dated of even date herewith, Assignor is assigning to Assignee all of Assignors right, title, and interest to, and obligations under, the Development Agreement (as defined in the Minimum Assessment Agreement) to Assignee; and

WHEREAS, in connection with the assignment of the Development Agreement from Assignor to Assignee, Assignor desires to assign of its right, title, and interest to, and obligations under, the Minimum Assessment Agreement to Assignee, and Assignee desires to assume and accept all of Assignor’s right, title, and interest to, and obligations under, the Minimum Assessment Agreement in accordance with the terms hereinafter set forth; and

NOW, THEREFORE, pursuant and subject to the terms hereof and in consideration of the mutual covenants set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. Assignment. Assignor hereby assigns to Assignee, all of Assignor’s right, title, and interest to, and obligations under, to the Minimum Assessment Agreement.
2. Assumption. Assignee hereby assumes all of Assignor’s right, title, and interest to, and obligations under, the Minimum Assessment Agreement, and subject to the terms and conditions set forth in the Minimum Assessment Agreement, hereby covenants and agrees to comply with the terms and conditions of the Minimum Assessment Agreement and to execute any and all further documents necessary in connection with fulfilling the obligations of Assignor under the Minimum Assessment Agreement.
3. Additional Documents. Each party agrees to execute and deliver such other instruments and take such other actions as may be reasonably necessary or appropriate to carry out and effectuate the transactions contemplated by this Assignment.

4. Binding Effect. This Assignment shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs, legal representatives, successors and assigns.

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

6. Entire Agreement. This Assignment constitutes the entire understanding and agreement between the Parties with respect to the subject matter hereof and supersedes all prior oral or written agreements pertaining thereto.

7. Headings. All headings in this Assignment are inserted for convenience only and are not intended to be part of or to affect the meaning or interpretation of this Assignment.

8. Counterparts. This Assignment may be executed, acknowledged and delivered in any number of counterparts, each of which shall be deemed an original, but all which together shall constitute one and the same instrument.

9. Recording. Upon its execution, Assignee shall promptly record and/or register this Assignment in the Office of the St. Louis County Recorder and pay all costs associated therewith. Upon recordation, Assignee shall promptly submit to DEDA and the St. Louis County Assessor an executed original of this Assignment showing the date and document numbers of record, or duly certified copies of the filed originals.

(signature pages follow)

IN WITNESS WHEREOF, the Parties have executed this Assignment to be effective as of the date first above written.

ASSIGNOR:

NORTHSTAR DEVELOPMENT INTERESTS, LLC

By: _____

Name: Robert P. Dunn

Its: Manager

STATE OF WISCONSIN)
) ss
COUNTY OF DANE)

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by Robert P. Dunn, the Managing Member of Northstar Development Interests, LLC, a Delaware limited liability company, on behalf of the company.

Notary Public

My Commission Expires: _____

(signatures continue on next page)

RESOLUTION 20D-47

RESOLUTION AUTHORIZING A REDEVELOPMENT GRANT APPLICATION IN AN AMOUNT NOT TO EXCEED \$1,000,000 TO THE MINNESOTA DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT RELATING TO THE PROPERTY LOCATED AT 701-730 EAST 4TH STREET, COMMITTING A DEVELOPER MATCH OF NOT LESS THAN FIFTY PERCENT OF THE AWARDED AMOUNT AND AUTHORIZING EXECUTION OF THE GRANT AGREEMENT IF AWARDED

RESOLVED, by the Duluth Economic Development Authority (“DEDA”) that DEDA act as the legal sponsor for the project as contained in the Redevelopment Grant Application in an amount not to exceed \$1,000,000 to be submitted on or before August 1, 2020, and that the President and Secretary are hereby authorized to apply to the Department of Employment and Economic Development (DEED) for funding of this project on behalf of DEDA.

BE IT FURTHER RESOLVED, that DEDA has the legal authority to apply for financial assistance, and the institutional, managerial and financial capability to ensure adequate project administration.

BE IT FURTHER RESOLVED, that DEDA has not violated any federal, state or local laws pertaining to fraud, bribery, graft, kickbacks, collusion, conflict of interest, or other unlawful or corrupt practices.

BE IT FURTHER RESOLVED, that the sources and amounts the DEDA match identified in the application in the amount of not less than fifty (50) percent of the grant award are committed to the project as identified, said match to be provided by Roers Investments LLC.

BE IT FURTHER RESOLVED, that if the project identified in the application fails to substantially provide the public benefits listed in the application within five years from the date of the grant award, DEDA may be required to repay 100 percent of the awarded grant per Minn. Stat. § 116J.575 Subd 4;

BE IT FURTHER RESOLVED, that upon approval of DEDA’s application by the state, the President and Secretary are authorized to enter into a grant agreement with the State of Minnesota for the above-referenced project; and that DEDA certifies that it will comply with all applicable laws and regulations as stated in all contract agreements.

Approved by the Duluth Economic Development Authority this 27th day of May, 2020.

ATTEST:

Executive Director

STATEMENT OF PURPOSE: Roers Investments (Developer) intends to redevelop the project site at 701-730 East 4th Street, on which it will construct a new 100-unit affordable apartment building for seniors (55+). The project, referred to as Portland Square, will offer units ranging in price from approximately \$700 to approximately \$1,200 per month for studio to 2 bedroom units, respectively. The Developer has agreed to lease all units at 60% of the Area Median Income with 15 of said units at rates that are at or below 30% of the Area Median Income.

The purpose of this resolution is to authorize DEDA to submit a Minnesota DEED Redevelopment Grant application to assist the Developer with costs associated with redevelopment of the project site. Redevelopment grants require a 1:1 local match upon award, to be paid for by the Developer. If the application is approved, this resolution also authorizes the President and Secretary to enter into the grant agreement.

DEED's Redevelopment Grant Program helps communities with the costs of redeveloping blighted industrial sites and putting land back into productive use. The current program is funded with both state general fund and state bond financing. The general fund monies can be spent on both public and private property/improvements; the bond monies must be spent on public improvements.

RESOLUTION 20D-48

RESOLUTION AUTHORIZING A CONTAMINATION INVESTIGATION AND REMEDIAL ACTION PLAN (“RAP”) DEVELOPMENT GRANT APPLICATION IN AN AMOUNT NOT EXCEED \$50,000 TO THE MINNESOTA DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT RELATING TO PROPERTY LOCATED AT 425 SOUTH LAKE AVENUE.

RESOLVED, by the Duluth Economic Development Authority (“DEDA”) that DEDA act as the legal sponsor for the project contained in the Contamination Investigation and RAP Development Grant Application in an amount not to exceed \$50,000 submitted on May 1, 2020, and that the President and Secretary of DEDA are hereby authorized to apply to the Minnesota Department of Employment and Economic Development (“DEED”) for funding of this project on behalf of DEDA.

BE IT FURTHER RESOLVED, that DEDA has the legal authority to apply for financial assistance and the institutional, managerial and financial capability to ensure adequate project administration.

BE IT FURTHER RESOLVED, that the sources and amounts of DEDA match identified in the application in the amount of not less than 12.5% of the grant award are committed to the project identified, said match to be provided by DEDA and Star NW, LLC.

BE IT FURTHER RESOLVED, that DEDA has not violated any Federal, State or local laws pertaining to fraud, bribery, graft, kickback, collusion, conflict of interest or other unlawful or corrupt practice.

BE IT FURTHER RESOLVED, the DEDA certifies that it will comply with all applicable laws and regulations as stated in all contract agreements.

Approved by the Duluth Economic Development Authority this 27th day of May, 2020.

ATTEST:

Executive Director

STATEMENT OF PURPOSE:

DEDA has for many years collaborated with ETOR Properties to operate a parking lot in Canal Park known as the “Northwest Iron Parking Lot” bounded by Buchanan Street, Morse Street, Lake Ave. S., and Canal Park Drive. Approximately 2/3 of the parking lot is owned by ETOR, and 1/3 by DEDA. At this time, DEDA is collaborating with the owners to evaluate the environmental conditions of the property to consider possible public parking and vehicular flow improvements, pedestrian area activation, and new investment.

The purpose of this resolution is to authorize DEDA to submit a Minnesota DEED Contamination Investigation and RAP Development Grant application. This information will guide the owners and DEDA to consider whether and how redevelopment might take place on the site.

Should the grant be awarded by DEED, a subsequent resolution will be brought before DEDA to accept the grant award.