



# GRAND RAPIDS ECONOMIC DEVELOPMENT AUTHORITY SPECIAL MEETING AGENDA

**Tuesday, April 16, 2024  
5:00 PM**

NOTICE IS HEREBY GIVEN, that a special meeting of the Grand Rapids Economic Development Authority will be held in the City Council Chambers in the Grand Rapids City Hall, 420 North Pokegama Avenue, in Grand Rapids, Minnesota on Tuesday, April 16, 2024 at 5:00 PM.

CALL TO ORDER

CALL OF ROLL

APPROVE CLAIMS

1. Consider approval of claims in the amount of \$64,903.52.

BUSINESS

2. Consider adopting a resolution authorizing a contract
3. Consider a resolution approving conveyance of certain property owned by GREDA and corresponding Purchase and Development Contract between GREDA and Free Range Food Co-op.

ADJOURN

## MEMBERS & TERMS

Tom Sutherland - 12/31/2024 Council Representative

Molly MacGregor - 12/31/2024 Council Representative

Wayne Bruns - 3/1/25

Sholom Blake - 3/1/25

Al Hodnik - 3/1/27

Bill Martinetto - 3/1/27

Malissa Bahr - 3/1/30

DATE: 04/11/2024  
 TIME: 14:17:12  
 ID: AP443GR0.WOW

CITY OF GRAND RAPIDS  
 DEPARTMENT SUMMARY REPORT

PAGE: 1

INVOICES DUE ON/BEFORE 04/16/2024

VENDOR #	NAME	AMOUNT DUE
-----		
EDA - CAPITAL PROJECTS		
AIRPORT SOUTH INDUSTRIAL PARKS		
0221650	BURGGRAF'S ACE HARDWARE	37.98
TOTAL AIRPORT SOUTH INDUSTRIAL PARKS		37.98
L&M DISTRIBUTION CENTER		
0718010	CITY OF GRAND RAPIDS	64,780.00
TOTAL L&M DISTRIBUTION CENTER		64,780.00
TOTAL UNPAID TO BE APPROVED IN THE SUM OF:		\$64,817.98
CHECKS ISSUED-PRIOR APPROVAL		
PRIOR APPROVAL		
1621130	P.U.C.	85.54
TOTAL PRIOR APPROVAL ALLOWED IN THE SUM OF:		\$85.54
TOTAL ALL DEPARTMENTS		\$64,903.52

DETAILED EDA BILL LIST - APRIL 16, 2024

Item 1.

DATE: 04/11/24  
 TIME: 14:15:15  
 ID: AP441000.WOW

CITY OF GRAND RAPIDS  
 DETAIL BOARD REPORT

PAGE: 1

INVOICES DUE ON/BEFORE 04/16/2024

INVOICE #	INVOICE DATE	ITEM #	DESCRIPTION	ACCOUNT #	P.O. #	PROJECT	DUE DATE	ITEM AMT
0221650 BURGGRAF'S ACE HARDWARE								
390276-E	04/10/24	01	WHL HS H20 CARTRIDGES/134387-7	427-33-00-00-4300	20241015		04/16/24	37.98
				AIRPORT S IND PK-MISCELLAN				
							INVOICE TOTAL:	37.98
							VENDOR TOTAL:	37.98
0718010 CITY OF GRAND RAPIDS								
PTL 91-033-1406-E	04/09/24	01	SPLIT 91-033-1406 7TH AVE SE	427-43-00-00-5100	20241008		04/16/24	64,780.00
				L&M DISTRIB CTR-LAND				
							INVOICE TOTAL:	64,780.00
							VENDOR TOTAL:	64,780.00
1621130 P.U.C.								
E	04/08/24	01	KENT PROP MAR ELEC	999-99-00-00-1000			04/16/24	57.64
				HOLDING ACCOUNT				
		02	KENT PROP MAR SWU	999-99-00-00-1000				8.75
				HOLDING ACCOUNT				
		03	KENT SHOP MAR ELEC	999-99-00-00-1000				10.40
				HOLDING ACCOUNT				
		04	KENT SHOP MAR SWU	999-99-00-00-1000				8.75
				HOLDING ACCOUNT				
							INVOICE TOTAL:	85.54
							VENDOR TOTAL:	85.54
							TOTAL ALL INVOICES:	64,903.52



## REQUEST FOR GRAND RAPIDS EDA ACTION

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**AGENDA DATE:** April 16, 2024

**STATEMENT OF ISSUE:** Consider adopting a resolution authorizing a contract

**PREPARED BY:** Rob Mattei, Executive Director

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### **BACKGROUND:**

The agenda item following this recommended action will consider entering into a Purchase and Development Contract with the Free Range Food Co-op.

GREDA Commissioners Bill Martinetto, Malissa Bahr and Molly MacGregor and GREDA Executive Director, Rob Mattei are members of the Co-op but not officers or managers of the Co-op.

While Minnesota Statute 471.88, Subd. 4 specifically permits an Economic Development Authority Commissioner to participate in a vote on a contract with a Co-operative, GREDA wishes to avoid even a perception of a conflict of interest in this situation.

With that said, Commissioners Martinetto, Bahr and MacGregor, if present, will abstain for a vote on this resolution authorizing a contract with the Co-op and the resolution following this that approves entering into a Purchase and Development Agreement with the Co-op. Furthermore, Commissioners Martinetto, Bahr and MacGregor as well as the Executive Director Mattei have submitted Conflict of Interest Statements to the GREDA Board, which will be entered into the public record.

### **RECOMMENDATION:**

**REQUIRED ACTION:** Make a motion adopting a resolution authorizing a contract.

**GRAND RAPIDS ECONOMIC DEVELOPMENT AUTHORITY  
ITASCA COUNTY, MINNESOTA**

**RESOLUTION NO. 24-**

**RESOLUTION AUTHORIZING A CONTRACT**

WHEREAS, the Grand Rapids Economic Development Authority (the “Authority”) is the fee owner of certain property located between NW 1st and 2nd Avenues and South of North 4th Street, Grand Rapids, Minnesota (PID Nos. 91-415-3630 and 91-410-0610) (the “Authority Property”).

WHEREAS, the Authority is considering conveying the Authority Property to Free Range Food Co-op, a cooperative association under the laws of Minnesota or an entity related thereto or affiliate thereof (the “Co-op”), to construct a cooperatively-owned grocery store and to that end has prepared a Purchase and Development Contract between the Authority and the Co-op for the sale of the Authority Property (the “Purchase Agreement”).

WHEREAS, Board Members Bill Martinetto, Molly MacGregor and Malissa Bahr are members of the Co-op.

WHEREAS, entering into a contract with the Co-op is allowed under Minnesota Statutes, Section 471.88, subdivision 4 because although Board Members Bill Martinetto, Molly MacGregor and Malissa Bahr are a shareholder or stockholder of the cooperative association, they are not an officer or manager.

WHEREAS, the Board Members have no personal financial interest in the Co-op and a statutory exception exists, but in order to avoid the appearance of impropriety, the Board desires to approve the Purchase Agreement with the Co-Op notwithstanding the potential conflict of interest.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners of the Authority, upon unanimous vote with Board Members Bill Martinetto, Molly MacGregor and Malissa Bahr abstaining, finds the Purchase Agreement is with a cooperative association of which the Board Members Bill Martinetto, Molly MacGregor and Malissa Bahr are a shareholder or stockholder but not an officer or manager.

BE IT FINALLY RESOLVED, the Authority Board hereby approves the Purchase Agreement, pursuant to Minnesota Statutes, Section 471.88, subdivision 4.

Adopted this 16th day of April 2024.

**BY THE BOARD OF COMMISSIONERS OF THE  
GRAND RAPIDS ECONOMIC DEVELOPMENT  
AUTHORITY**

\_\_\_\_\_  
President

Attest: \_\_\_\_\_  
Secretary



## REQUEST FOR GRAND RAPIDS EDA ACTION

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**AGENDA DATE:** April 16, 2024

**STATEMENT OF ISSUE:** Consider a resolution approving conveyance of certain property owned by GREDA and corresponding Purchase and Development Contract between GREDA and Free Range Food Co-op.

**PREPARED BY:** Rob Mattei, Executive Director

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### **BACKGROUND:**

On February 22<sup>nd</sup> GREDA conducted a public hearing regarding the proposed sale of GREDA property (Parcels: 91-415-3630 & 91-410-0610). These adjacent parcels are generally located north and adjacent to the Burlington Northern Railroad between 1<sup>st</sup> Avenue W. and 2<sup>nd</sup> Avenue W. in the downtown business district.

This site is specifically identified as an Opportunity Site in the *Downtown Plan* and the Plan recommends that the property be sold or leased to facilitate the development of a complementary business to bridge this void in the Downtown to improve continuity between retail areas and increase economic activity.

The general components of the Purchase and Development Agreement are:

- The “Minimum Improvements” means the construction on the Development Property of a stand-alone building that will be occupied by Free Range Food Co-op and operated as a cooperatively owned grocery store.
- Purchase Price is \$200,000
- Closing, no later than March 31, 2025
- Commencement of Minimum Improvements no later than September 1, 2025.

### **RECOMMENDATION:**

### **REQUIRED ACTION:**

GRAND RAPIDS ECONOMIC DEVELOPMENT AUTHORITY

RESOLUTION NO. \_\_\_\_\_

RESOLUTION APPROVING CONVEYANCE OF CERTAIN PROPERTY OWNED BY THE EDA AND CORRESPONDING PURCHASE AND DEVELOPMENT CONTRACT BETWEEN THE EDA AND FREE RANGE FOOD CO-OP

BE IT RESOLVED by the Board of Commissioners (“Board”) of the Grand Rapids Economic Development Authority (“Authority”) as follows:

Section 1. Recitals.

1.01. The Authority is the fee owner of certain property located between NW 1st and 2nd Avenues and South of North 4th Street, Grand Rapids, Minnesota (PID Nos. 91-415-3630 and 91-410-0610) legally described as set forth in Exhibit A attached hereto (the “Authority Property”).

1.02. The Authority intends to convey the Authority Property to Free Range Food Co-op, a cooperative association under the laws of Minnesota or an entity related thereto or affiliate thereof (the “Co-op”), to construct a cooperatively-owned grocery store and to that end has prepared a Purchase and Development Contract between the Authority and the Co-op for the sale of the Authority Property (the “Purchase Agreement”).

1.03. On February 22, 2023, the Board held a duly noticed public hearing regarding the proposed sale of the Authority Property.

1.04. The Board has determined that sale of the Authority Property as described in this resolution is in the best interest of the City and its residents, and further finds and determines that conveyance of the Authority Property has no relationship to the City’s comprehensive plan, in that no amendment or modification of the comprehensive plan is required for the conveyance.

Section 2. Sale of Authority Property Approved; Further Proceedings.

2.01. The Board approves the Purchase Agreement in substantially the form presented to the Board, together with any related documents necessary in connection therewith, including without limitation all documents, exhibits, certifications, or consents referenced in or attached to the Agreement including without limitation the deed and any documents required by the title company relating to the conveyance of Authority Property (the “Conveyance Documents”). The Board hereby approves the conveyance of the Authority Property to the Co-op in accordance with the terms of the Purchase Agreement.

2.02. The Board hereby authorizes the President and Executive Director, in their discretion and at such time, if any, as they may deem appropriate, to execute the Conveyance Documents on behalf of the Authority, and to carry out, on behalf of the Authority, the Authority’s obligations thereunder when all conditions precedent thereto have been satisfied. The Conveyance Documents shall be in substantially the form on file with the Authority and the approval hereby given to the

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

2.03. Authority staff and officials are authorized to take all actions necessary to perform the Authority’s obligations under the Purchase Agreement as a whole, including without limitation execution of the Conveyance Documents.

Approved by the Board of Commissioners of the Grand Rapids Economic Development Authority this 11<sup>th</sup> day of April, 2024.

\_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary



**EXHIBIT A**

**Legal Description of Authority Property**

Lots 5 and 8 less the North one foot (1') and all of lots 6-7, Block 36, Grand Rapids First Division according to the plat thereof on file in the office of the Register of Deeds, Itasca County, Minnesota.

AND

The North twenty-one feet (21') of Lots 6-7 together with the vacated N/S alley adjacent thereto, Block 6, Town of Grand Rapids according to the plat thereof on file in the office of the Register of Deeds, Itasca County, Minnesota

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**PURCHASE AND DEVELOPMENT CONTRACT**

**By and Between**

**GRAND RAPIDS ECONOMIC DEVELOPMENT AUTHORITY**

**and**

**FREE RANGE FOOD CO-OP**

**Dated as of: April 16, 2024**

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This document was drafted by:  
Kennedy & Graven, Chartered (GAF)  
100 S 5th St., Suite 700  
Minneapolis, Minnesota 55402  
Telephone: (612) 337-9300

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SCHEDULE C Certificate of Completion

## PURCHASE AND DEVELOPMENT CONTRACT

THIS PURCHASE AND DEVELOPMENT AGREEMENT (the “Agreement”), made on or as of the 16<sup>th</sup> day of April, 2024 (the “Effective Date”), by and between GRAND RAPIDS ECONOMIC DEVELOPMENT AUTHORITY, a public body corporate and politic (the “Authority”), established pursuant to Minnesota Statutes, Sections 469.090 to 469.1080 (hereinafter referred to as the “Act”) and FREE RANGE FOOD CO-OP, a Minnesota cooperative association (“Developer”).

WITNESSETH:

WHEREAS, the Authority was created pursuant to the Act and was authorized to transact business and exercise its powers by a resolution of the City Council of the City of Grand Rapids, Minnesota (the “City”); and

WHEREAS, the Authority has acquired certain property described in Schedule A (the “Development Property”) within the City, and intends to convey that property to Developer for development of certain improvements thereon; and

WHEREAS, the Authority believes that the development of the Development Property pursuant to this Agreement, and fulfillment generally of this Agreement, are in the vital and best interests of the City and the health, safety, morals, and welfare of its residents, and in accord with the public purposes and provisions of the applicable State and local laws and requirements.

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

## ARTICLE I

### Definitions

Section 1.1. Definitions. In this Agreement, unless a different meaning clearly appears from the context:

“Act” means the Economic Development Authority Act, Minnesota Statutes, Sections 469.090 to 469.1080, as amended.

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

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

“Authority” means the Grand Rapids Economic Development Authority, or any successor or assign.

“Authority Representative” means the Executive Director of the Authority, or any person designated by the Executive Director to act as the Authority Representative for the purposes of this Agreement.

“Certificate of Completion” means the certification substantially in the form attached hereto as Schedule C, provided to Developer, or the purchaser the Development Property, pursuant to Section 4.4 of this Agreement.

“City” means the City of Grand Rapids, Minnesota.

“Closing” has the meaning provided in Section 3.3(b) hereof.

“Construction Plans” means the plans, specifications, drawings and related documents on the construction work to be performed by Developer on the Development Property which (a) shall be as detailed as the plans, specifications, drawings and related documents which are submitted to the appropriate building officials of the City, and (b) shall include at least the following for each building: (1) site plan; (2) foundation plan; (3) floor plan for each floor, if multiple; (4) cross sections of each (length and width); (5) elevations (all sides); (6) landscape plan; and (7) such other plans or supplements to the foregoing plans as the Authority may reasonably request to allow it to ascertain the nature and quality of the proposed construction work.

“County” means the County of Itasca, Minnesota.

“Developer” means Free Range Food Co-op, a Minnesota cooperative association, or its permitted successors and assigns.

“Development Property” means the real property legally described in Schedule A attached hereto.

“Event of Default” means an action by Developer listed in Article IX of this Agreement.

“Holder” means the owner of a Mortgage.

“Minimum Improvements” means the construction on the Development Property of an stand-alone building that will be occupied by Free Range Food Co-op and operated as a cooperatively owned grocery store.

“Mortgage” means any mortgage made by Developer which is secured, in whole or in part, with the Development Property, and any modification, supplement, extension, renewal or amendment thereof.

“State” means the State of Minnesota.

“Tax Official” means any County assessor; County auditor; County or State board of equalization, the commissioner of revenue of the State, or any State or federal district court, the tax court of the State, or the State Supreme Court.

“Termination Date” means the earlier of the date the Authority terminates this Agreement due to an Event of Default by Developer under Article IX hereof, or the date of issuance of a Certificate of Completion.

“Unavoidable Delays” means unexpected delays which are the direct result of: (i) adverse weather conditions, (ii) shortages of materials, (iii) strikes, other labor troubles, (iv) fire or other casualty to the Minimum Improvements, (v) litigation commenced by third parties which, by injunction or other judicial action, directly results in delays, (vi) acts of any federal or state governmental unit, including legislative and administrative acts and moratoriums, (vii) approved changes to the Construction Plans that result in delays (viii) delays caused by the discovery of any adverse environmental condition on or within the Development Property to the extent reasonably necessary to comply with federal and state environmental laws, regulations, orders or agreements, (ix) delay in the issuance of any license or permit by any governmental entity, provided application therefor is timely made and diligently pursued by Developer and (x) any other cause or force majeure beyond the control of Developer which directly results in delays.



## ARTICLE II

### **Representations and Warranties**

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

(a) The Authority is an economic development authority duly organized and existing under the laws of the State. Under the provisions of the Act, the Authority has the power to enter into this Agreement and carry out its obligations hereunder.

(b) The activities of the Authority are undertaken to foster the development of certain real property which for a variety of reasons is presently underutilized, to create increased tax base in the City, and to stimulate further development within the City as a whole.

(c) The Authority will cooperate with Developer in obtaining all necessary permits from the City related to construction of the Minimum Improvements.

(d) The Authority will use its best efforts to facilitate development of the Minimum Improvements, including but not limited to cooperating with Developer in obtaining necessary administrative and land use approvals and construction financing pursuant to Section 7.1 hereof.

Section 2.2. Representations and Warranties by Developer. Developer represents and warrants that:

(a) Developer is a Minnesota cooperative association duly organized and in good standing under the laws of the State of Minnesota, is not in violation of any provisions of its articles of organization, operating agreement or, to the best of its knowledge, the laws of the State, is duly authorized to transact business within the State, has power to enter into this Agreement and has duly authorized the execution, delivery and performance of this Agreement by proper action of its members.

(b) If Developer acquires the Development Property in accordance with this Agreement, Developer will construct, operate and maintain the Minimum Improvements, or cause the same to be constructed, operated and maintained, in accordance with the terms of this Agreement, and all local, state and federal laws and regulations (including, but not limited to, environmental, zoning, building code and public health laws and regulations).

(c) Developer has received no written notice or communication from any local, state or federal official that the activities of Developer or the Authority on the Development Property would be in violation of any environmental law or regulation. Developer is aware of no facts the existence of which would cause the Development Property to be in violation of or give any person a valid claim under any local, state or federal environmental law, regulation or review procedure.

(d) If Developer acquires the Development Property in accordance with this Agreement, Developer will construct, or cause to be constructed, the Minimum Improvements in accordance with all local, state or federal laws or regulations.

(e) If Developer acquires the Development Property in accordance with this Agreement, Developer will timely apply for and diligently pursue all required permits, licenses and approvals, and will meet, in a timely manner, all requirements of all applicable local, state and federal laws and regulations which must be obtained or met before the Minimum Improvements may be lawfully constructed.

(f) To the best of Developer's knowledge and belief, neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with or results in a breach of, the terms, conditions or provisions of any partnership or company restriction or any evidences of indebtedness, agreement or instrument of whatever nature to which Developer is now a party or by which it is bound, or constitutes a default under any of the foregoing.

(f) To the actual knowledge of the undersigned officers of Developer, no member of the Board of Commissioners of the Authority or officer of the Authority has either a direct or indirect interest in this Agreement or the Development within the meaning of Minnesota Statutes, Sections 412.311 and 471.87, as amended, or any successor statute.

## ARTICLE III

### Conveyance of Property

Section 3.1. Status of the Property. The Authority will be the fee owner of the Development Property and will convey title to and possession of the Development Property to Developer, subject to all the terms and conditions of this Agreement.

Section 3.2. Purchase Price. The purchase price to be paid to the Authority by Developer in exchange for the conveyance of the Development Property shall be Two Hundred Thousand Dollars (\$200,000), payable by wire transfer or certified check at Closing (as defined in Section 3.3(d) hereof) (the "Purchase Price"). No earnest money is required under this Agreement.

Section 3.3. Conditions of Conveyance. The Authority shall convey fee simple title to and possession of the Development Property to Developer at Closing by quit claim deed substantially in the form set forth on Schedule B to this Agreement (the "Deed").

(a) The Authority's obligation to convey the Development Property to Developer, and otherwise perform any and all of its duties and obligations hereunder or otherwise are subject to satisfaction of the following terms and conditions:

- (1) Developer having secured financing for the acquisition of the Development Property and the construction of the Minimum Improvements and Authority having approved such financing in accordance with Article VII hereof, and Developer having closed on such financing at Closing;
- (2) There is no uncured Event of Default under this Agreement;
- (3) The Authority having approved Construction Plans for the Minimum Improvements in connection with Section 4.2 hereof; and
- (4) The Authority shall have approved the sale of the Development Property to Developer after a public hearing and upon satisfaction of all other conditions required by State law.

(collectively, the "Authority's Conditions")

The Authority's Conditions are solely for the benefit of the Authority and may be waived only by the Authority in writing. The Authority shall at all times have the right to waive those conditions described in Section 3.3(a)(1)-(4) by written notice to Developer.

(b) Developer's obligations to purchase the Development Property from the Authority and otherwise perform any and all of its duties and obligations hereunder or otherwise are subject to satisfaction of the following terms and conditions:

- (1) Developer having reviewed and approved (or waived objections to) title to the Development Property as set forth in Section 3.5 hereof.
- (2) Developer having reviewed and approved (or waived objections to) soil and environmental conditions as set forth in Section 3.6.
- (3) The representations and warranties of the Authority in this Agreement shall be true and correct in all material respects up through and including the Closing, with the same force and effect as if such representations were made at such time.
- (4) At Closing, Developer having obtained an owner's and lender's policy of title insurance with respect to the Development Property in form and substance approved by Developer.
- (5) The Authority having approved Developer's Construction Plans for the Minimum Improvements in connection with Section 4.2 hereof.
- (6) Developer shall have secured financing for the acquisition of the Development Property and the construction of the Minimum Improvements and the Authority having approved such financing in accordance with Article VII hereof.

(collectively, the "Developer's Conditions")

Developer's Conditions are solely for the benefit of Developer and may be waived only by Developer in writing. Developer shall at all times have the right to waive any condition by written notice to Authority.

(c) All conditions must be satisfied or waived on or before the Closing stated in paragraph (d) below. If any of such conditions have not been satisfied or waived not less than 15 business days prior to the Closing stated in paragraph (d) below, excepting those conditions contained in Section 3.3(b)(3) and (4), above, which must be satisfied on or at Closing, then this Agreement may be terminated, at the benefitted party's option by written notice from that party to the other. Waiver of any condition (to the extent permitted under this paragraph) must be in writing delivered by the waiving party to the other party.

(d) The closing on conveyance of the Development Property from the Authority to Developer shall occur upon satisfaction of the conditions specified in this Section, but no later than March 31, 2025, or at such other date as is mutually agreed upon by the parties (the "Closing"); provided, however, that if all of the foregoing conditions have not been satisfied or waived on or before March 31, 2025, either the Authority or Developer may thereafter terminate this Agreement by ten days written notice. Thereafter neither party shall have any obligations or liability to the other hereunder.

#### Section 3.4. Closing Costs, Recording, and Place of Document Execution.

(a) Unless otherwise mutually agreed by the Authority and Developer, the execution and delivery of the Deed, closing documents, and the payment of the Purchase Price shall be Delivery of all papers and the closing shall be made through escrow with the title company, or at such other location as is mutually agreed upon by the parties.

(b) The Deed shall be in recordable form and shall be promptly recorded in the proper office for the recordation of deeds and other instruments pertaining to the Development Property. At Closing, Developer shall pay: all recording costs, including state deed tax, in connection with the conveyance of the Development Property; title insurance commitment fees and any the cost of any premiums ordered by Developer, if any; and title company closing fees, if any. At Closing, the Authority shall pay costs of recording any instruments used to clear title encumbrances. There are no special assessments outstanding or pending on the Development Property. There are no special assessments outstanding or pending on the Development Property.

### Section 3.5. Title.

(a) Within 30 days from the Effective Date, Developer shall obtain, at its sole cost, a commitment for the issuance of an ALTA policy of title insurance for the Development Property (“Title Commitment”) from a title company of Developer’s choice. Developer shall have 20 days from the date of its receipt of the Title Commitment to review the state of title to the Development Property and to provide the Authority with a list of written objections, if any, to such title (the “Objections”), or Developer’s right to do so shall be deemed waived. Upon its receipt of the Objections, the Authority shall proceed in good faith and with all due diligence to attempt to cure the Objections at the Authority’s cost, however, the Authority will not be obligated to cure the Objections. If the Authority elects not to cure any or all of the Objections, the Authority shall provide written notice of such to Developer within 10 days from the Authority’s receipt of the Objections. In the event that the Authority does not cure objections within 45 days after its receipt of the Objections, Developer may (i) terminate this Agreement by the giving written notice of such termination to the Authority, upon the receipt of which this Agreement shall be null and void and neither party shall have any liability hereunder, except for any obligations under Section 3.9, or (ii) waive any Objections and proceed to Closing.

(b) The Authority shall take no actions to encumber title to the Development Property between the Effective Date and the time the Deed is delivered to Developer.

(c) Developer shall take no actions to encumber title to the Development Property between the Effective Date and the time the Deed is delivered to Developer. Developer expressly agrees that it will not cause or permit the attachment of any mechanics, attorneys’, or other liens to the Development Property prior to Closing. Notwithstanding termination of this Agreement prior to Closing, Developer is obligated to pay all costs to discharge any encumbrances to the Development Property attributable to actions of Developer, its employees, officers, agents or consultants, including without limitation any architect, contractor and or engineer.

Section 3.6. Soils, Environmental Conditions; As Is Conveyance. (a) Before Closing, Developer may enter the Development Property and conduct any environmental or soils studies, tests and other analyses deemed necessary by Developer. The Authority shall use best faith efforts to

apply for a grant for the costs of a Phase I environmental report. In the event a grant is not received, the Authority shall reimburse Developer for 50% of the costs of a Phase I environmental report in an amount not to exceed \$2,000 within thirty (30) days of the Authority's receipt of an invoice from Developer for such costs. The Developer shall provide a copy of the Phase I environmental report to the Authority. Except for the foregoing costs related to the Phase I environmental report, the Developer shall be responsible for the costs of all other environmental or soil studies, test or other analyses deemed necessary by Developer. Developer hereby agrees to indemnify and hold the Authority harmless from any claims, damages, costs and liability, including without limitation reasonable attorneys' fees, resulting from entering upon the Development Property or the performing of the analysis, tests or studies referred to in this Section. Developer shall not be responsible for the remediation or cleanup of any pre-existing environmental condition except upon acquisition of the Development Property as necessary for the construction of the Minimum Improvements. The Authority shall not be responsible for the remediation or cleanup of any pre-existing environmental condition. Developer shall promptly repair any damage to the Development Property arising out of its inspections of the Development Property and return the Development Property to substantially the same condition as existed prior to its inspections, except that Developer shall not be required to restore any latent defect or pre-existing condition at the Development Property not caused by Developer or its agents', contractors' or employees' entry on the Development Property. Developer shall indemnify, defend, and hold the Authority harmless from and against any damage, injury, claim or lien caused by the activities of Developer or its agents on the Property. If, at least 10 days before Closing Developer determines that hazardous waste or other pollutants as defined under federal and state law exist on the Development Property, or that the soils are otherwise unsuitable for construction of the Minimum Improvements, Developer may at its option terminate this Agreement by giving written notice to the Authority, upon receipt of which this Agreement shall be null and void and neither party shall have any liability hereunder.

(b) The Authority represents as follows:

- (i) The Authority does not know of any wells on the Development Property;
- (ii) To the Authority's actual knowledge, methamphetamine production has not occurred on the Development Property; and
- (iii) To the Authority's actual knowledge, there is no sewage treatment system located on or under the Development Property and no aboveground or underground storage tanks are presented or have been located on the Development Property;

(c) Developer acknowledges that the Authority makes no representations or warranties as to the condition of the soils on the Development Property or the Development Property's fitness for construction of the Minimum Improvements or any other purpose for which Developer may make use of the Development Property. DEVELOPER ACKNOWLEDGES THAT DEVELOPER IS PURCHASING THE DEVELOPMENT PROPERTY IN RELIANCE OF DEVELOPER'S INSPECTION OF THE PROPERTY PURSUANT TO THIS SECTION 3.6; AND ON DEVELOPER'S JUDGMENT REGARDING THE SUFFICIENCY OF SUCH INSPECTIONS. DEVELOPER IS NOT RELYING ON ANY WRITTEN OR ORAL REPRESENTATIONS, WARRANTIES OR STATEMENTS THAT THE AUTHORITY OR AUTHORITY'S AGENTS HAVE MADE. SUBJECT TO DEVELOPER'S RIGHT TO TERMINATE THIS AGREEMENT

PURSUANT TO THIS SECTION 3.6, DEVELOPER IS PURCHASING THE PROPERTY IN “**AS IS**” CONDITION. Developer further agrees that, after Closing, it will indemnify, defend, and hold harmless the Authority, the City, and their governing body members, officers, and employees, from any claims or actions arising out of the presence, if any, of hazardous wastes or pollutants on the Development Property. Nothing in this Section will be construed to limit or affect any limitations on liability of the City or the Authority under State or federal law, including without limitation Minnesota Statutes, Sections 466.04 and 604.02.

Section 3.7. Business Subsidy. The parties agree and understand that the Purchase Price is at least equal to the market value of such property, and that the conveyance described in this Agreement does not constitute a “business subsidy” within the meaning of Minnesota Statutes, Sections 116J.993 to 116J.995, as amended.

Section 3.8. Costs. The parties agree that the Authority’s costs will be paid by the Authority, and that the Developer has no obligation to reimburse the Authority for such expenditures. For purposes of this section, “Administrative Costs” means out of pocket costs incurred by the Authority together with staff costs of the Authority, all attributable to or incurred in connection with the negotiation and preparation of this Agreement in connection with the development of the Development Property.

Section 3.9 Authority’s Closing Documents. At Closing, the Authority will execute and deliver, or cause to be delivered, (i) the Deed conveying the Development Property to Developer, (ii) an affidavit that the Authority is not a “foreign person” within the meaning of the Foreign Investors Real Property Tax Act of 1980, as amended, (iii) evidence reasonably satisfactory to Developer of the authority of persons executing this Agreement and the other documentation to be executed and delivered by the Authority hereunder, (iv) subject to the approval by the Authority’s attorney, such other documents as may be reasonably required by the title company in connection with the Closing, and (v) a closing statement reflecting the payment and disbursement of the Purchase Price in accordance with this Agreement.

Section 3.10 Developer’s Closing Documents. At Closing, Developer will deliver to the title company (i) the Purchase Price in certified funds or by wire transfer, (ii) such affidavits of Developer, or other documents as may be reasonably required by the title company in order to record the Deed and issue the title policy; and (iii) a closing statement reflecting the payment and disbursement of the Purchase Price in accordance with this Agreement.

## ARTICLE IV

### **Construction of Minimum Improvements**

Section 4.1. Construction of Minimum Improvements. Subject to all other terms and conditions of this Agreement, and Developer's acquisition of the Development Property, Developer agrees that it will construct, or cause to be constructed, the Minimum Improvements on the Development Property in material accordance with the approved Construction Plans and at all times prior to the Termination Date will operate and maintain, preserve and keep the Minimum Improvements or cause the Minimum Improvements to be operated, maintained, preserved and kept with the appurtenances and every part and parcel thereof, in good repair and condition.

Section 4.2. Construction Plans. (a) Before Closing, Developer shall submit to the Authority the Construction Plans. The Authority will approve such Construction Plans in writing if: (i) such Construction Plans conform to the terms and conditions of this Agreement; (ii) such Construction Plans conform to the goals and objectives of the Development Plan between Developer and the City; (iii) such Construction Plans conform to all applicable federal, state and local laws, ordinances, rules and regulations; (iv) such Construction Plans are adequate to provide for construction of the Minimum Improvements; (v) the Construction Plans do not provide for expenditures in excess of the funds available to Developer for construction of the Minimum Improvements; and (vi) no Event of Default has occurred. No approval by the Authority shall relieve Developer of the obligation to comply with the terms of this Agreement or of the Development Plan, applicable federal, state and local laws, ordinances, rules and regulations, or to construct the Minimum Improvements in accordance therewith. No approval by the Authority shall constitute a waiver of an Event of Default. If approval of the Construction Plans is requested by Developer in writing at the time of submission, such Construction Plans shall be deemed approved unless rejected in writing by the Authority, in whole or in part. Such rejections shall set forth in detail the reasons therefore, and shall be made within 30 days after the date of their receipt by the Authority. If the Authority rejects any Construction Plans in whole or in part, Developer shall submit new or corrected Construction Plans within 30 days after written notification to Developer of the rejection. The provisions of this Section relating to approval, rejection and resubmission of corrected Construction Plans shall continue to apply until the Construction Plans have been approved or deemed approved by the Authority. The Authority's approval shall not be unreasonably withheld. Said approval shall constitute a conclusive determination that the Construction Plans (and the Minimum Improvements, constructed in accordance with said plans) comply to the Authority's satisfaction with the provisions of this Agreement relating thereto, but any approvals by the Authority hereunder will not constitute approval by any City officials regarding any City requirements related to construction of the Minimum Improvements, rather such approvals shall be governed by City ordinances, policies and procedures.

Developer hereby waives any and all claims and causes of action whatsoever resulting from the review of the Construction Plans by the Authority and/or any changes in the Construction Plans requested by the Authority. Neither the Authority nor any employee or official of the Authority shall be responsible in any manner whatsoever for any defect in the Construction Plans or in any work done pursuant to the Construction Plans, including changes requested by the Authority.



(b) If Developer desires to make any material change in the Construction Plans after their approval by the Authority, Developer shall submit the proposed change to the Authority for its approval. If the Construction Plans, as modified by the proposed change, conform to the requirements of this Section 4.2 of this Agreement with respect to such previously approved Construction Plans, the Authority shall approve the proposed change and notify Developer in writing of its approval. Such change in the Construction Plans shall, in any event, be deemed approved by the Authority unless rejected, in whole or in part, by written notice by the Authority to Developer, setting forth in detail the reasons therefor. Such rejection shall be made within 20 days after receipt of the notice of such change to the Construction Plans. The Authority's approval of any such change in the Construction Plans will not be unreasonably withheld, conditioned or delayed. Nothing in this paragraph will relieve Developer of the obligation to comply with any City ordinances or procedures regarding changes in Construction Plans, and any approvals by the Authority hereunder will not constitute approval by any City officials regarding any City requirement related to construction of the Minimum Improvements.

Section 4.3. Commencement and Completion of Construction. Subject to Unavoidable Delays, and Developer's acquisition of fee title to the Development Property, Developer must commence construction of the Minimum Improvements by September 1, 2025. Subject to Unavoidable Delays, Developer must substantially complete or cause to be substantially completed the construction of the Minimum Improvements by March 31, 2026. All work with respect to the Minimum Improvements to be constructed or provided by Developer on the Development Property shall be in substantial compliance with the Construction Plans in all material respects as submitted by Developer and approved by the Authority. For purposes of this Agreement, commencement of construction shall mean completion of site grading and commencement of foundation work on the Development Property.

Developer agrees for itself, its successors and assigns, and every successor in interest to the Development Property, or any part thereof, that Developer, and such successors and assigns, shall promptly begin and diligently prosecute to completion the development of the Development Property through the construction of the Minimum Improvements thereon, and that such construction shall in any event be commenced and completed within the period specified in this Section 4.3 of this Agreement. Subsequent to conveyance of the Development Property, or any part thereof, to Developer, and until construction of the Minimum Improvements has been completed, Developer shall make reports, in such detail and at such times as may reasonably be requested by the Authority, as to the actual progress of Developer with respect to such construction.

Section 4.4. Certificate of Completion.

(a) After substantial completion of the Minimum Improvements in accordance with those provisions of this Agreement relating solely to the obligations of Developer to construct the Minimum Improvements (including the dates for commencement and completion thereof), upon the request of Developer, the Authority will furnish Developer with a Certificate of Completion in substantially the form provided in Schedule C. Such certifications by the Authority shall be (and it shall be so provided in the Deed and in the certifications themselves) a conclusive determination of satisfaction and termination of the agreements and covenants in the Agreement and in the Deed

with respect to the obligations of Developer, and its successors and assigns, to construct the Minimum Improvements and the date for the completion thereof. Such certifications and such determination shall not constitute evidence of compliance with or satisfaction of any obligation of Developer to any Holder of a Mortgage, or any insurer of a Mortgage, securing money loaned to finance the Minimum Improvements, or any part thereof.

(b) The certificates described in this Section 4.4 of this Agreement shall be in recordable form with respect to the proper office for the recordation of deeds and other instruments pertaining to the Development Property. If the Authority shall refuse or fail to provide any certification in accordance with the provisions of this Section 4.4 of this Agreement, the Authority shall, within 30 days after written request by Developer, provide Developer with a written statement, indicating in adequate detail in what respects Developer has failed to complete the Minimum Improvements in accordance with the provisions of the Agreement, or is otherwise in default, and what measures or acts it will be necessary, in the reasonable opinion of the Authority, for Developer to take or perform in order to obtain such certification.

(c) The construction of the Minimum Improvements shall be deemed to be commenced when foundation work has commenced (as reasonably determined by the Authority Representative). The Minimum Improvements shall be deemed to be substantially completed when Developer has received a certificate of occupancy issued by the City.

Section 4.5. Land Swap. Developer has entered into negotiations with the owner of property to the north of the Development Property (the “Adjacent Property”) to exchange portions of the Development Property with the Adjacent Property. If such negotiations are successful, the Authority and Developer will negotiate an amendment to this Agreement and/or the Deed to reflect the updated legal description of the Development Property.

## ARTICLE V

### Insurance

Section 5.1. Insurance. Developer will provide and maintain at all times during the process of constructing the Minimum Improvements an All Risk Broad Form Basis Insurance Policy and, from time to time during that period, at the request of the Authority, furnish the Authority with proof of payment of premiums on policies covering the following:

- (i) Builder's risk insurance, written on the so-called "Builder's Risk – Completed Value Basis," in an amount equal to 100% of the insurable value of the Minimum Improvements at the date of completion, and with coverage available in nonreporting form on the so-called "all risk" form of policy.
- (ii) Comprehensive general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations and contractual liability insurance) together with an Owner's Contractor's Policy with limits against bodily injury and property damage of not less than \$1,000,000 for each occurrence (to accomplish the above-required limits, an umbrella excess liability policy may be used); and
- (iii) Workers' compensation insurance, with statutory coverage.

## ARTICLE VI

### **Delinquent Taxes and Review of Taxes**

Section 6.1. Right to Collect Delinquent Taxes. After Closing, Developer agrees for itself, its successors and assigns, in addition to the obligation pursuant to statute to pay real estate taxes, that it is also obligated by reason of this Agreement to pay before delinquency all real estate taxes assessed against the Development Property and the Minimum Improvements. Developer acknowledges that this obligation creates a contractual right on behalf of the City through the Termination Date to sue Developer or its successors and assigns to collect delinquent real estate taxes and any penalty or interest thereon and to pay over the same as a tax payment to the county auditor. In any such suit in which the City is the prevailing party, the City shall also be entitled to recover its costs, expenses and reasonable attorneys' fees.

Section 6.2. Review of Taxes. Developer agrees that prior to the Termination Date, Developer shall not cause a reduction in the real property taxes paid in respect of the Development Property through willful destruction of the Development Property or any part thereof. Developer also agrees that it shall not prior to the Termination Date, apply for a deferral of property tax on the Development Property pursuant to any law, or transfer or permit transfer of the Development Property to any entity whose ownership or operation of the property would result in the Development Property being exempt from real estate taxes under State law.

## ARTICLE VII

### Financing

#### Section 7.1. Financing.

(a) Before conveyance of the Development Property, Developer shall submit to the Authority evidence of one or more commitments for mortgage financing or a certificate of internal financing in an amount sufficient for acquisition of the Development Property, which the Authority shall approve in writing within 15 days after receipt thereof. The Closing Date may be extended in order to comply with the 15 day review period provided for in this Section.

(b) Before commencement of construction of the Minimum Improvements, Developer shall submit to the Authority evidence of one or more commitments for financing or financial ability on behalf of Developer in an amount which, together with committed equity for such construction, is sufficient for the construction of the Minimum Improvements on the Development Property.

(c) If the Authority finds that the mortgage financing is sufficiently committed and adequate in amount to provide for the construction of the Minimum Improvements, then the Authority shall notify Developer in writing of its approval. Such approval shall not be unreasonably withheld and either approval or rejection shall be given within 20 days from the date when the Authority is provided the evidence of financing. A failure by the Authority to respond to such evidence of financing shall be deemed to constitute an approval hereunder. If the Authority rejects the evidence of financing as inadequate, it shall do so in writing specifying the reasonable basis for the rejection. In any event, Developer shall submit adequate evidence of financing within 30 days of such rejection. Approval of any subordination agreement under Section 7.3 hereof will constitute approval of financing for the purposes of this Section.

Section 7.2. Authority's Option to Cure Default on Mortgage. In the event that there occurs a default under any Mortgage, Developer shall cause the Authority to receive copies of any notice of default received by Developer from the holder of such Mortgage. Thereafter, the Authority shall have the right, but not the obligation, to cure any such default on behalf of Developer within such cure periods as are available to Developer under the Mortgage documents.

## ARTICLE VIII

### **Prohibitions Against Assignment and Transfer; Indemnification**

Section 8.1. Representation as to Development. Developer represents and agrees that its purchase of the Development Property or portions thereof, and its other undertakings pursuant to the Agreement, are, and will be used, for the purpose of development of the Development Property and not for speculation in land holding.

Section 8.2. Prohibition Against Transfer of Property and Assignment of Agreement. Developer represents and agrees that until issuance of the final Certificate of Completion for the Minimum Improvements:

(a) Except as specifically described in this Agreement, Developer has not made or created and will not make or create or suffer to be made or created any total or partial sale, assignment, conveyance, or any trust or power, or transfer in any other mode or form of or with respect to this Agreement or the Development Property or any part thereof or any interest herein, or any contract or agreement to do any of the same, to any person or entity (collectively, a “Transfer”), without the prior written approval of the Authority’s Board of Commissioners unless Developer remains liable and bound by this Agreement, in which event, notwithstanding anything in this Agreement to the contrary, the Authority’s approval is not required. The term “Transfer” does not include (i) encumbrances made or granted by way of security for, and only for, the purpose of obtaining construction, interim or permanent financing necessary to enable Developer or any successor in interest to the Development Property, or any part thereof, to construct the Minimum Improvements, or (ii) any lease, license, easement or similar arrangement entered into in the ordinary course of business related to operation of the Minimum Improvements. Notwithstanding anything to the contrary contained herein, prior approval by the Authority is not required for any Transfer: (1) to an Affiliate so long as the proposed transferee expressly assumes the obligations of Developer or the original member; and (2) that is involuntary resulting from the death or disability of parties in control of the members of Developer.

(b) If Developer seeks to effect a Transfer which requires the approval of the Authority prior to issuance of the final Certificate of Completion for the Minimum Improvements, the Authority shall be entitled to require as conditions to such Transfer that:

(i) Any proposed transferee shall have the qualifications and financial responsibility, in the reasonable judgment of the Authority, necessary and adequate to fulfill the obligations undertaken in this Agreement by Developer as to the portion of the Development Property to be transferred.

(ii) Any proposed transferee, by instrument in writing satisfactory to the Authority and in form recordable among the land records, shall, for itself and its successors and assigns, and expressly for the benefit of the Authority, have expressly assumed all of the obligations of Developer under this Agreement as to the portion of the Development Property to be transferred and agreed to be subject to all the conditions and restrictions to

which Developer is subject as to such portion; provided, however, that the fact that any transferee of, or any other successor in interest whatsoever to, the Development Property, or any part thereof, shall not, for whatever reason, have assumed such obligations or so agreed, and shall not (unless and only to the extent otherwise specifically provided in this Agreement or agreed to in writing by the Authority) deprive the Authority of any rights or remedies or controls with respect to the Development Property or any part thereof or the construction of the Minimum Improvements; it being the intent of the parties as expressed in this Agreement that (to the fullest extent permitted at law and in equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement) no transfer of, or change with respect to, ownership in the Development Property or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, shall operate, legally or practically, to deprive or limit the Authority of or with respect to any rights or remedies or controls provided in or resulting from this Agreement with respect to the Minimum Improvements that the Authority would have had, had there been no such transfer or change. In the absence of specific written agreement by the Authority to the contrary, no such transfer or approval by the Authority thereof shall be deemed to relieve Developer, or any other party bound in any way by this Agreement or otherwise with respect to the construction of the Minimum Improvements, from any of its obligations with respect thereto.

(iii) Any and all instruments and other legal documents involved in effecting the Transfer of any interest in this Agreement or the Development Property governed by this Article VIII, shall be in a form reasonably satisfactory to the Authority.

(c) If the conditions described in Section 8.2(b) are satisfied with regard to any Transfer requiring the approval of the Authority then the Transfer will be approved and Developer shall be released from its obligations under this Agreement, as to the portion of the Development Property that is transferred, assigned, or otherwise conveyed. The provisions of this Section 8.2 apply to all subsequent transferors, assuming compliance with the terms of this Article VII.

(d) Upon issuance of the Certificate of Completion for the Minimum Improvements, Developer may transfer or assign the Development Property, the Minimum Improvements and/or Developer's rights and obligations under this Agreement with respect to such property without the written consent of the Authority.

Section 8.3. Release and Indemnification Covenants. (a) Developer releases from and covenants and agrees that the Authority, the City, and their governing body members, officers, agents, servants and employees thereof shall not be liable for and agrees to indemnify and hold harmless the Authority, the City, and their governing body members, officers, agents, servants and employees thereof against any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the Minimum Improvements.

(b) Except for any willful misconduct of the following named parties and any claim as to the legal authority of the Authority to perform as required by this Agreement, Developer agrees (if timely tendered by the Authority to Developer) to protect and defend the Authority and the governing body members, officers, agents, servants and employees thereof, now or forever, and

further agrees to hold the aforesaid harmless from any claim, demand, suit, action or other proceeding whatsoever by any person or entity whatsoever to the extent caused by the construction, installation, and operation of the Minimum Improvements.

(c) The Authority, the City, and their governing body members, officers, agents, servants and employees thereof shall not be liable for any damage or injury to the persons or property of Developer or its officers, agents, servants or employees or any other person who may be about the Development Property or Minimum Improvements due to any act of negligence of any person, other than acts of willful misconduct by the Authority and its governing body members, officers, agents, servants and employees.

(d) All covenants, stipulations, promises, agreements and obligations of the Authority contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Authority and not of any governing body member, officer, agent, servant or employee of the Authority in the individual capacity thereof.



## ARTICLE IX

### Events of Default

Section 9.1. Events of Default Defined. The following shall be “Events of Default” under this Agreement and the term “Event of Default” shall mean, whenever it is used in this Agreement (unless the context otherwise provides), any failure by any party, following notice and cure periods described in Section 9.2 hereof, to observe or perform any covenant, condition, obligation or agreement on its part to be observed or performed under this Agreement or under any other agreement entered into between Developer and the Authority in connection with development of the Development Property.

Section 9.2. Remedies on Default. Whenever any Event of Default referred to in Section 9.1 of this Agreement occurs, the non-defaulting party may exercise its rights under this Section 9.2 after providing 30 days’ written notice to the defaulting party of the Event of Default, but only if the Event of Default has not been cured within said 30 days or, if the Event of Default is by its nature incurable within 30 days, the defaulting party does not provide assurances reasonably satisfactory to the non-defaulting party that the Event of Default will be cured and will be cured as soon as reasonably possible:

(a) The Authority may suspend its performance under the Agreement until it receives assurances that Developer will cure its default and continue its performance under the Agreement.

(b) The Authority may cancel and rescind or terminate the Agreement.

(c) The Authority may take whatever action, including legal, equitable or administrative action, which may appear necessary or desirable to collect any payments due under this Agreement, or to enforce performance, and observance of any obligation, agreement, or covenant under this Agreement.

(d) If the Event of Default constitutes a breach of the condition subsequent set forth in the right of reverter in Section 9.3 hereof and that the Authority reserves in the Deed, the Authority may exercise its right of re-entry as set forth Section 9.4 hereof and in the Deed.

(e) Developer may suspend its performance under this Agreement and/or take whatever action at law or in equity may appear necessary or desirable to Developer to enforce performance and observance of any obligation, agreement, or covenant of the Authority under this Agreement. Prior to the Closing, Developer may cancel and rescind or terminate this Agreement. Nothing in this Agreement shall entitle Developer to make any claim against the Authority for any damages whatsoever and Developer’s remedies are strictly limited to the foregoing.

Section 9.3. Revesting Title in Authority Upon Happening of Event Subsequent to Conveyance to Developer. In the event that subsequent to conveyance of the Development Property to Developer and prior to the issuance of a Certificate of Completion in connection with the Minimum Improvements:

(a) Developer, subject to Unavoidable Delays, shall fail to begin construction of the Minimum Improvements in conformity with this Agreement and such failure to begin construction is not cured within 90 days after written notice from the Authority to Developer to do so; or

(b) subject to Unavoidable Delays, Developer after commencement of the construction of the Minimum Improvements, fails to carry out its obligations with respect to the construction of such improvements (including the nature and the date for the completion thereof), or abandons or substantially suspends construction work, and any such failure, abandonment, or suspension shall not be cured, ended, or remedied within 90 days after written demand from the Authority to Developer to do so; or

(c) Developer fails to pay real estate taxes or assessments on the Development Property or any part thereof when due, or creates, suffers, assumes, or agrees to any encumbrance or lien on the Development Property (except to the extent permitted by this Agreement), or shall suffer any levy or attachment to be made, or any materialmen's or mechanics' lien, or any other unauthorized encumbrance or lien to attach, and such taxes or assessments shall not have been paid, or the encumbrance or lien removed or discharged or provision satisfactory to the Authority made for such payment, removal, or discharge, within 30 days after written demand by the Authority to do so; provided, that if Developer first notifies the Authority of its intention to do so, it may in good faith contest any mechanics' or other lien filed or established and in such event the Authority shall permit such mechanics' or other lien to remain undischarged and unsatisfied during the period of such contest and any appeal and during the course of such contest Developer shall keep the Authority informed respecting the status of such defense; or

(d) there is, in violation of the Agreement, any Transfer of the Development Property in violation of the terms of Section 8.2, and such violation is not cured within 60 days after written demand by the Authority to Developer; or

(e) except as otherwise stated in Sections 9.3 (a)-(d), Developer fails to comply with any of its other covenants under this Agreement that is an Event of Default not timely cured under Section 9.3 of this Agreement; or

(f) the Holder of any Mortgage secured by the subject property exercises any remedy provided by the Mortgage documents or exercises any remedy provided by law or equity in the event of a default in any of the terms or conditions of the Mortgage, in either case which would materially adversely affect the rights and obligations of the Authority hereunder,

Then the Authority shall have the right to re-enter and take possession of the Development Property and to terminate the estate conveyed by the Deed to Developer and revert in the Authority, it being the intent of this provision, together with other provisions of the Agreement, that the conveyance of the Development Property to Developer shall be made upon, and that the Deed shall contain a condition subsequent to the effect that in the event of any default on the part of Developer and failure on the part of Developer to remedy, end, or abrogate such default within the period and in the manner stated in such subdivisions, the Authority at its option may declare a termination in favor of the Authority of the title, and of all the rights and interests in and to the Development Property conveyed to Developer, and that such title and all rights and interests of Developer, and any assigns

or successors in interest to and in the Development Property, shall revert to the Authority, but only if the events stated in Sections 9.3(a)-(f) have not been cured within the time periods provided therein where such time period is provided.

Section 9.4. Resale of Reacquired Property; Disposition of Proceeds. Upon the revesting in the Authority of title to and/or possession of the Development Property or any part thereof as provided in Section 9.3, the Authority shall, pursuant to its responsibilities under law, use its best efforts to sell the Development Property or part thereof as soon and in such manner as the Authority shall find feasible and consistent with the objectives of such law and of the Development Plan to a qualified and responsible party or parties (as determined by the Authority) who will assume the obligation of making or completing the Minimum Improvements as shall be satisfactory to the Authority in accordance with the uses specified for the Development Property or part thereof in the Development Plan. Upon resale of the Development Property proceeds thereof shall be applied:

(a) First, to reimburse the Authority for all costs and expenses incurred by it, including but not limited to salaries of personnel and attorneys' fees, in connection with the recapture, management, and resale of the Development Property (but less any income derived by the Authority from the Development Property or part thereof in connection with such management); all taxes, assessments, and water and sewer charges with respect to the Development Property or part thereof (or, in the event the Development Property is exempt from taxation or assessment or such charge during the period of ownership thereof by the Authority, an amount, if paid, equal to such taxes, assessments, or charges (as determined by the Authority assessing official) as would have been payable if the Development Property were not so exempt); any payments made or necessary to be made to discharge any encumbrances or liens existing on the Development Property or part thereof at the time of revesting of title thereto in the Authority or to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults or acts of Developer, its successors or transferees; any expenditures made or obligations incurred with respect to the making or completion of the subject improvements or any part thereof on the Development Property or part thereof; and any amounts otherwise owing the Authority by Developer and its successor or transferee, including without limitation costs incurred in preparation of the plat and survey of the Development Property; and

(b) Second, to reimburse Developer, its successor or transferee, up to the amount equal to (1) the Purchase Price paid by Developer revested; plus (2) the amount actually invested by Developer, its successor or transferee in making any improvements on the Development Property or part thereof.

Any balance remaining after such reimbursements shall be retained by the Authority as its property.

Section 9.5. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Authority or Developer is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the

Authority to exercise any remedy reserved to it, it shall not be necessary to give notice, other than such notice as may be required in this Article IX.

Section 9.6. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

Section 9.7 Attorneys' Fees. Whenever any Event of Default occurs and if the Authority employs attorneys or incurs other expenses for the collection of payments due or to become due or for the enforcement of performance or observance of any obligation or agreement on the part of Developer under this Agreement, Developer shall, within 10 days' of its receipt of written demand by the Authority, pay to the Authority the reasonable fees of such attorneys and such other expenses so incurred by the Authority.

## ARTICLE X

### Additional Provisions

Section 10.1. Conflict of Interests; Authority Representatives Not Individually Liable. The Authority and Developer, to the best of their respective knowledge, represent and agree that no member, official, or employee of the Authority shall have any personal interest, direct or indirect, in the Agreement, nor shall any such member, official, or employee participate in any decision relating to the Agreement which affects their personal interests or the interests of any corporation, partnership, or association in which they are, directly or indirectly, interested. No member, official, or employee of the Authority shall be personally liable to Developer, or any successor in interest, in the event of any default or breach by the Authority or for any amount which may become due to Developer or successor or on any obligations under the terms of the Agreement.

Section 10.2. Equal Employment Opportunity. Developer, for itself and its successors and assigns, agrees that during the construction of the Minimum Improvements provided for in the Agreement it will comply with all applicable federal, state and local equal employment and non-discrimination laws and regulations.

Section 10.3. Restrictions on Use. Provided Developer acquires fee title to the Development Property under this Agreement. Developer agrees that until the Termination Date, Developer, its successors and assigns, shall devote the Development Property to the operation of the Minimum Improvements for the uses described in the definition of such term in this Agreement, and shall not discriminate upon the basis of race, color, creed, sex or national origin in the sale, lease, or rental or in the use or occupancy of the Development Property or any improvements erected or to be erected thereon, or any part thereof.

Section 10.4. Provisions Not Merged With Deed. None of the provisions of this Agreement are intended to or shall be merged by reason of any deed transferring any interest in the Development Property and any such deed shall not be deemed to affect or impair the provisions and covenants of this Agreement.

Section 10.5. Titles of Articles and Sections. Any titles of the several parts, Articles, and Sections of the Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 10.6. No Partnership or Joint Venture. Nothing in this Agreement shall be construed or interpreted as creating a partnership or joint venture between the Authority and Developer relative to the Development Property.

Section 10.7. Notices and Demands. Except as otherwise expressly provided in this Agreement, a notice, demand, or other communication under the Agreement by any party to the others shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally; and

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

19914 Feeley 6, Warba, Minnesota 55793, Attn: Shara Dabrowski; and

(b) in the case of the Authority, is addressed to or delivered personally to the Authority at 420 N. Pokegama Avenue, Grand Rapids, Minnesota 55744, Attn: Executive Director.

Section 10.8. Entire Agreement. This Agreement, including exhibits attached hereto, and any amendments hereto signed by the parties, shall constitute the entire agreement between Developer and the Authority and supersedes any other written or oral agreements between the parties relating to the Development Property.

Section 10.9. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 10.10. Recording. This Agreement shall not be recorded with the office of the Registrar of Titles for Itasca County by either party.

Section 10.11. Amendment and Modification. No amendment, modification, of waiver of any condition, provision, or term of this Agreement shall be effective unless by written agreement approved and signed by the Authority and Developer.

Section 10.12. Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect and shall be interpreted, performed, and enforced as if the invalid or unenforceable provision did not appear herein.

Section 10.13. Authority Approvals. Unless otherwise specified, any approval required by the Authority under this Agreement may be given by the Authority Representative.

Section 10.14. Termination. This Agreement terminates on the Termination Date provided however Sections 3.6(a) and (c), and 8.3 shall survive any rescission, termination or expiration of this Agreement with respect to or arising out of any event, occurrence or circumstance existing prior to the date thereof.

Section 10.15. Choice of Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the state of Minnesota. Any disputes, controversies, or claims arising out of this Agreement shall be heard in the state or federal courts of Minnesota, and all parties to this Agreement waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK. SIGNATURE PAGES TO FOLLOW.]*

IN WITNESS WHEREOF, the Authority has caused this Agreement to be duly executed in its name and behalf and its seal to be hereunto duly affixed and Developer has caused this Agreement to be duly executed in its name and behalf as of the Effective Date.

GRAND RAPIDS ECONOMIC  
DEVELOPMENT AUTHORITY

By \_\_\_\_\_  
Its President

By \_\_\_\_\_  
Its Executive Director

STATE OF MINNESOTA    )  
                                          ) SS.  
COUNTY OF ITASCA     )

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2024, by \_\_\_\_\_ and \_\_\_\_\_, the President and Executive Director, respectively, of the Grand Rapids Economic Development Authority, a public body politic and corporate under the laws of Minnesota, on behalf of the Authority.

\_\_\_\_\_  
Notary Public

FREE RANGE FOOD CO-OP

By \_\_\_\_\_  
Its Chief Executive Officer

STATE OF MINNESOTA    )  
                                                          ) SS.  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2024, by Shara Dabrowski, Chief Executive Officer of Free Range Food Co-op, a Minnesota cooperative association, on behalf of the association.

\_\_\_\_\_  
Notary Public



**SCHEDULE A**

**DEVELOPMENT PROPERTY**

The property located in the City of Grand Rapids, Itasca County, Minnesota legally described as:

Lots 5 and 8 less the North one foot (1') and all of lots 6-7, Block 36, Grand Rapids First Division according to the plat thereof on file in the office of the Register of Deeds, Itasca County, Minnesota.

AND

The North twenty-one feet (21') of Lots 6-7 together with the vacated N/S alley adjacent thereto, Block 6, Town of Grand Rapids according to the plat thereof on file in the office of the Register of Deeds, Itasca County, Minnesota

## SCHEDULE B

### FORM OF QUIT CLAIM DEED

THIS INDENTURE, between the Grand Rapids Economic Development Authority, a public body corporate and politic under the laws of Minnesota (the “Grantor”), and Free Range Food Co-op, a Minnesota cooperative Association (the “Grantee”).

WITNESSETH, that Grantor, for good and valuable consideration the receipt whereof is hereby acknowledged, does hereby grant, bargain, quitclaim and convey to the Grantee, its successors and assigns forever, all the tract or parcel of land lying and being in the County of Itasca and State of Minnesota described as follows, to-wit (such tract or parcel of land is hereinafter referred to as the “Property”):

Lots 5 and 8 less the North one foot (1’) and all of lots 6-7, Block 36, Grand Rapids First Division according to the plat thereof on file in the office of the Register of Deeds, Itasca County, Minnesota.

AND

The North twenty-one feet (21’) of Lots 6-7 together with the vacated N/S alley adjacent thereto, Block 6, Town of Grand Rapids according to the plat thereof on file in the office of the Register of Deeds, Itasca County, Minnesota

Check here if part or all of the described real property is Registered (Torrens)

To have and to hold the same, together with all the hereditaments and appurtenances thereunto belonging.

#### SECTION 1.

It is understood and agreed that this Deed is subject to the covenants, conditions, restrictions and provisions of an agreement entered into between the Grantor and Grantee on the \_\_\_ day of \_\_\_\_\_, 2024, identified as “Purchase and Development Contract” (hereafter referred to as the “Agreement”) and that the Grantee shall not convey this Property, or any part thereof, except as permitted by the Agreement until a Certificate of Completion releasing the Grantee from certain obligations of said Agreement as to this Property or such part thereof then to be conveyed, has been placed of record. This provision, however, shall in no way prevent the Grantee from mortgaging this Property in order to obtain funds for the purchase of the Property hereby conveyed or for erecting the Minimum Improvements thereon (as defined in the Agreement) in conformity with the Agreement, any applicable development program and applicable provisions of the zoning ordinance of the City of Grand Rapids, Minnesota, or for the refinancing of the same.

It is specifically agreed that the Grantee shall promptly begin and diligently prosecute to completion the development of the Property through the construction of the Minimum Improvements thereon, as provided in the Agreement.

Promptly after completion of the Minimum Improvements and the satisfaction of the conditions in Section 4.4 of the Agreement, the Grantor will furnish the Grantee a Certificate of Completion (as defined in the Agreement) in accordance with the provisions of the Agreement. Such Certificate of Completion shall be (and it shall be so provided in the certification itself) a conclusive determination of satisfaction and termination of the agreements and covenants of the Agreement and of this Deed with respect to the obligation of the Grantee, and its successors and assigns, to construct the Minimum Improvements and the dates for the beginning and completion thereof. Such Certificate of Completion and the determination therein shall not constitute evidence of compliance with or satisfaction of any obligation of the Grantee to any holder of a mortgage, or any insurer of a mortgage, securing money loaned to finance the purchase of the Property hereby conveyed or the Minimum Improvements, or any part thereof.

If the Grantor shall refuse or fail to provide the Certificate of Completion in accordance with the provisions of the Agreement and this Deed, the Grantor shall, within 30 days after written request by the Grantee, provide the Grantee with a written statement indicating in adequate detail in what respects the Grantee has failed to complete the Minimum Improvements in accordance with the provisions of the Agreement or is otherwise in default, and what measures or acts it will be necessary, in the opinion of the Grantor, for the Grantee to take or perform in order to obtain such certification.

## SECTION 2.

The Grantee's rights and interest in the Property are subject to the terms and conditions of Section 9.3 of the Agreement relating to the Grantor's right to re-enter and revest in Grantor title to the Property under conditions specified therein, including but not limited to termination of such right upon issuance of a Certificate of Completion as defined in the Agreement.

## SECTION 3.

The Grantee agrees for itself and its successors and assigns to or of the Property or any part thereof, that the Grantee and such successors and assigns shall not discriminate upon the basis of race, color, creed, sex, or national origin in the sale, lease, or rental or in the use or occupancy of the Property of any improvements erected or to be erected thereon, or any thereof.

Until such time as a Certificate of Completion has been filed, it is intended and agreed that the above and foregoing agreements and covenants in Sections 1 and 2 herein shall be covenants running with the land for the respective terms herein provided, and that they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Deed, be binding, to the fullest extent permitted by law and equity for the benefit and in favor of, and enforceable by, the Grantor against the Grantee, its successors and assigns, and every successor in interest to the Property, or any part thereof or any interest therein, and any party in possession or occupancy of the Property or any part thereof.

The agreements and covenants in Section 3 shall be covenants running with the land.

In amplification, and not in restriction of, the provisions of the preceding section, it is intended and agreed that the Grantor shall be deemed a beneficiary of the agreements and covenants provided herein, both for and in its own right, and also for the purposes of protecting the interest of the community and the other parties, public or private, in whose favor or for whose benefit these agreements and covenants have been provided. Such agreements and covenants shall run in favor of the Grantor without regard to whether the Grantor has at any time been, remains, or is an owner of any land or interest therein to, or in favor of, which such agreements and covenants relate. The Grantor shall have the right, in the event of any breach of any such agreement or covenant to exercise all the rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breach of agreement or covenant, to which it or any other beneficiaries of such agreement or covenant may be entitled; provided that Grantor shall not have any right to re-enter the Property or revert in the Grantor the estate conveyed by this Deed on grounds of Grantee's failure to comply with its obligations under this Section 3.

#### SECTION 5.

This Deed is also given subject to:

- (a) Provision of the ordinances, building and zoning laws of the City of Grand Rapids, and state and federal laws and regulations in so far as they affect this real estate.
- (b) [Others]

Grantor certifies that it does not know of any wells on the Property.

IN WITNESS WHEREOF, the Grantor has caused this Deed to be duly executed in its behalf by its President and Executive Director and has caused its corporate seal to be hereunto affixed this \_\_\_ day of \_\_\_\_\_, 2024.

GRAND RAPIDS ECONOMIC DEVELOPMENT AUTHORITY

By \_\_\_\_\_ Its President

By \_\_\_\_\_ Its Executive Director

STATE OF MINNESOTA )
) ss
COUNTY OF ITASCA )

On this \_\_\_ day of \_\_\_\_\_, 2024, before me, a notary public within and for Itasca County, personally appeared \_\_\_\_\_ and \_\_\_\_\_ to me personally known who by me duly sworn, did say that they are the President and Executive Director, respectively of the Grand Rapids Economic Development Authority (the "Authority") named in the foregoing instrument; that said instrument was signed on behalf of said Authority pursuant to a resolution of its governing body; and said \_\_\_\_\_ and \_\_\_\_\_ acknowledged said instrument to be the free act and deed of said Authority.

\_\_\_\_\_  
Notary Public

This instrument was drafted by:

Kennedy & Graven, Chartered
150 South Fifth Street, Suite 700
Minneapolis, MN 55402

TAX STATEMENTS FOR THE REAL PROPERTY DESCRIBED IN THIS INSTRUMENT SHOULD BE SENT TO: (insert legal name and residential or business address of Grantee)

Free Range Food Co-op
Attention: Chief Executive Officer
31270 Clearwater Rd
Grand Rapids, MN 55744

## SCHEDULE C

(Top 3 Inches Reserved for Recording Data)

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### CERTIFICATE OF COMPLETION

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WHEREAS, the Grand Rapids Economic Development Authority, a public body corporate and politic (the “Grantor”), by a deed recorded in the Office of the County Recorder or the Registrar of Titles in and for the County of Itasca and State of Minnesota, as Deed Document Number(s) \_\_\_\_\_ and \_\_\_\_\_ (the “Deed”), respectively, has conveyed to Free Range Food Co-op, a cooperative association under the laws of Minnesota (the “Grantee”), the following described land in County of Itasca and State of Minnesota, to-wit:

Lots 5 and 8 less the North one foot (1’) and all of lots 6-7, Block 36, Grand Rapids First Division according to the plat thereof on file in the office of the Register of Deeds, Itasca County, Minnesota.

AND

The North twenty-one feet (21’) of Lots 6-7 together with the vacated N/S alley adjacent thereto, Block 6, Town of Grand Rapids according to the plat thereof on file in the office of the Register of Deeds, Itasca County, Minnesota

WHEREAS, said Deed contained certain covenants and restrictions set forth in Sections 1 and 2 of said Deed; and

WHEREAS, said Grantee has performed said covenants and conditions insofar as it is able in a manner deemed sufficient by the Grantor to permit the execution and recording of this certification;

NOW, THEREFORE, this is to certify that all Minimum Improvements specified to be done and made by the Grantee have been completed and the above covenants and conditions in Sections 1 and 2 of the Deed and the agreements and covenants in Article IV of the Agreement (as described in said Deed) have been performed by the Grantee therein, and the County Recorder or the Registrar of Titles in and for the County of Itasca and State of Minnesota is hereby authorized to accept for recording and to record, the filing of this instrument, to be a conclusive determination of the satisfactory termination of the covenants and conditions of Sections 1 and 2 of the Deed.

Dated: \_\_\_\_\_, 20\_\_.

**GRAND RAPIDS ECONOMIC  
DEVELOPMENT AUTHORITY**

By \_\_\_\_\_  
Executive Director

STATE OF MINNESOTA    )  
                                          ) SS.  
COUNTY OF ITASCA     )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, the Executive Director of the Grand Rapids Economic Development Authority, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the Authority.

\_\_\_\_\_  
Notary Public

This document drafted by:

Kennedy & Graven, Chartered  
150 South Fifth Street, Suite 700  
Minneapolis, MN 55402