

**HOPKINS HRA
AGENDA
Tuesday, July 20, 2021
7:00 pm**

**THIS AGENDA IS SUBJECT TO CHANGE
UNTIL THE START OF THE HRA MEETING**

I. CALL TO ORDER

II. ADOPT AGENDA

III. CONSENT AGENDA

1. Approve Minutes of the June 1, 2021 regular meeting
2. Approve Disbursements through June 29, 2021
3. Approve the Preliminary Development Agreement between the Hopkins Housing and Redevelopment Authority and Alatus LLC.

Recommendation: Approve Consent Agenda

IV. ADJOURN

**MINUTES OF THE HRA REGULAR MEETING PROCEEDINGS
TUESDAY, JUNE 1, 2021**

CALL TO ORDER

Pursuant to due call and notice thereof a regular meeting of the Hopkins Housing and Redevelopment Authority was held on Tuesday, June 1, 2021 at 7:00 p.m. in the Council Chambers at City Hall, 1010 1st Street South, Hopkins. Mayor Gadd called the meeting to order with Commissioners Halverson, Hunke, Beck and Brausen attending. Also present were Executive Director Mike Mornson and Assistant Executive Director Kersten Elverum.

CONSENT AGENDA

Motion by Brausen **Second** by Halverson

Motion to approve the Consent Agenda.

1. Approve Minutes of the May 4, 2021, regular meeting
2. Approve Disbursements through May 14, 2021

Ayes: Beck, Brausen, Halverson, Hunke, Gadd

Nays: None. Motion carried.

ADJOURNMENT

There being no further business to come before the HRA and upon a motion by Halverson, second by Hunke, the meeting was unanimously adjourned at 7:02 p.m.

Jason Gadd, Chair

Michael J. Mornson, Executive Director

Accounts Payable

Checks by Date - Summary by Check Date

User: klindbery
Printed: 7/16/2021 8:39 AM

Check No	Vendor No	Vendor Name	Check Date	Void Checks	Check Amount
15234	102	CENTERPOINT ENERGY	05/28/2021	0.00	1,690.87
15235	187	BOBBY PARKER	05/28/2021	0.00	125.00
15236	112	VERIZON	05/28/2021	0.00	240.11
Total for 5/28/2021:				0.00	2,055.98
15237	106	C. NABER & ASSOCIATES	06/11/2021	0.00	231.00
15238	120	CITY OF HOPKINS	06/11/2021	0.00	3,122.35
15239	137	FINKEN	06/11/2021	0.00	12.60
15240	141	GRAINGER	06/11/2021	0.00	230.74
15241	103	HANCE ACE HARDWARE	06/11/2021	0.00	60.22
15242	110	HD SUPPLY FACILITIES MAINT	06/11/2021	0.00	337.97
15243	115	NAHRO MN	06/11/2021	0.00	15.00
15244	202	ROBERT B. HILL CO.	06/11/2021	0.00	452.51
15245	119	XCEL ENERGY	06/11/2021	0.00	3,165.42
Total for 6/11/2021:				0.00	7,627.81
15246	212	DICK'S SANITATION SERVICE, INC.	06/15/2021	0.00	381.18
Total for 6/15/2021:				0.00	381.18
15247	1	CITY OF HOPKINS	06/25/2021	0.00	42,760.59
15248	142	HOME DEPOT CREDIT SERVICES	06/25/2021	0.00	424.65
15249	122	MIDWEST MAINTENANCE & MECHA	06/25/2021	0.00	50.00
15250	187	BOBBY PARKER	06/25/2021	0.00	125.00
15251	112	VERIZON	06/25/2021	0.00	369.69
15252	111	WM CORPORATE SERVICES, INC.	06/25/2021	0.00	3,060.92
Total for 6/25/2021:				0.00	46,790.85
15253	213	DREW D. OBERMAIER	06/29/2021	0.00	500.00
Total for 6/29/2021:				0.00	500.00
Report Total (20 checks):				0.00	57,355.82

PRELIMINARY DEVELOPMENT AGREEMENT – ALATUS 325 BLAKE ROAD

Proposed Action

Staff recommends adoption of the following motion: Move to approve the Preliminary Development Agreement between the Hopkins Housing and Redevelopment Authority and Alatus LLC.

With this motion, the agreement will be executed.

Overview

The City of Hopkins has been working with the Minnehaha Creek Watershed District (MCWD) on selecting a developer for the 325 Blake Road site and at the June 17, 2021, City Council meeting voted to select Alatus as the preferred developer.

The project, as proposed, is a mixed-use development with 775 housing units including approximately 600 apartments, 125 senior cooperative units and 50 townhomes. The plans also call for approximately 23,500 sf of retail/commercial and outdoor community space.

The project will be refined through community input and additional design, with the result being a final development plan. The final development plan will be the basis for a full financial analysis of the need for public assistance. The intent of the Preliminary Development Agreement is to give the developer time to work through the project development process without being in a competitive situation with other developers, while achieving milestones important to the City. The agreement also assures the City that costs incurred will be paid by the developer.

Primary Issues to Consider

- What are the terms of the Preliminary Development Agreement?

Supporting Information

- Preliminary Development Agreement - Alatus 325 Blake Road Project

Kersten Elverum
Director of Planning & Development

Financial Impact: \$ _0 _____ Budgeted: Y/N ____ Source: _____

Related Documents (CIP, ERP, etc.): _____

Analysis of the Issues

- **What are the terms of the Preliminary Development Agreement?**

The following is a summary of the proposed Preliminary Development Agreement between the HRA and Alatus, LLC:

The developer agrees to work toward a purchase agreement with the Minnehaha Creek Watershed District (MCWD), undertake preliminary engineering and geotechnical analysis, and work towards a water focused design and public connections to Minnehaha Creek related to the portion of the site to be retained by the MCWD. The developer will submit a proposal that will show the proposed improvements including location, size and nature of the proposed development, on-site public improvements, public versus privately-maintained areas and enter into any required operating and maintenance agreements with the appropriate entities.

The developer agrees to complete environmental reviews, submit an overall cost estimate for the development and a preliminary schedule for starting and completing all phases of the development. The developer will also submit a full project proforma detailing all sources and uses of funds and seek to secure a commitment for financing, including grant funds. The developer will also work with the City, Authority and MCWD on the process, plan and implementation of community engagement.

Under the agreement, the City/HRA agrees to coordinate meetings, assist in identifying and costing out public improvements necessary for construction, identify fees, the approval process and timeline for development approvals, identify sources of public financial assistance including grants, begin the process of creating a tax increment financing district and assist in completing environmental reviews and grant applications.

The agreement will be in place for one year and the developer agrees to escrow funds with the City to cover the cost of expert and professional services associated with the development including environmental, legal and financial review.

Alternatives

The HRA Board has the following options regarding this item:

- Elect to approve the agreement as proposed.
- Modify the agreement and approve.
- Elect not to enter into a preliminary development agreement with Alatus at this time.

**PRELIMINARY DEVELOPMENT AGREEMENT
(Alatus 325 Blake Road Project)**

THIS AGREEMENT, dated this 20th day of July, 2021, by and between the Hopkins Housing and Redevelopment Authority, a body politic and corporate under the laws of Minnesota (the “Authority”), and Alatus LLC, a Minnesota limited liability company, or permitted successors or assigns (the “Developer”):

WITNESSETH:

WHEREAS, the Authority desires to promote redevelopment of certain property within the City of Hopkins (the “City”), consisting of property owned by the Minnehaha Creek Watershed District (the “MCWD”) and located at 325 Blake Road (the “Property”), which property is legally described in Exhibit A attached hereto; and

WHEREAS, the Developer desires to acquire the Property from the MCWD for purposes of constructing a mixed-use (multi-family residential, senior cooperative, townhomes and commercial) development on the Property (the “Development”), and has submitted a proposal outlining its general development terms and goals, a portion of which is attached hereto as Exhibit B; and

WHEREAS, the Developer has requested that the Authority explore the use of tax increment financing under Minnesota Statutes, Sections 469.174 to 469.1794, as amended (the “Tax Increment Act”) or other public financial assistance to offset a portion of the public and private costs of the Development, including without limitation the costs of public improvements and underground parking on the Property (the “Redevelopment Costs”); and

WHEREAS, the Authority’s Board of Commissioners has reviewed the Developer’s development concept and desires to enter into this Preliminary Development Agreement to allow the Developer to further refine its development concept and to negotiate public participation in the Development, and approval of the final development concept; and

WHEREAS, the Authority and the Developer are willing and desirous to undertake the Development if (i) a satisfactory agreement can be reached regarding the Authority’s commitment for public assistance necessary for the Development; (ii) satisfactory mortgage and equity financing, or adequate cash resources for the Development can be secured by the Developer; (iii) the economic feasibility and soundness of the Development and other necessary preconditions have been determined to the satisfaction of the parties; (iv) the parties reach a satisfactory resolution of zoning, land use, site design, and engineering issues; and (v) the Developer successfully negotiates the purchase of the Property from the MCWD; and

WHEREAS, the Authority is willing to evaluate the Development and work toward all necessary agreements with the Developer if the Developer agrees to reimburse the Authority for

its costs relating to the Development, even if the Development is abandoned or necessary agreements are not reached under the terms of this Agreement; and

WHEREAS, the MCWD and the Developer will enter into a purchase agreement that will give the developer the right to purchase the redevelopment property under the agreed upon terms identified in a separate agreement; and

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and obligations set forth herein, the parties agree as follows:

1. The Authority and Developer agree that this Agreement is intended to be preliminary in nature. Before the Authority and Developer can make a decision on whether to proceed with the implementation of the Developer's development concept, it will be necessary to assemble and consider information relative to the uses, design, economics and other aspects of the Development. The purpose of this Agreement is to allow the Developer an opportunity to assemble such necessary information and to refine the above referenced development concept.

2. During the term of this agreement, the Authority agrees to negotiate solely with the Developer relative to the development of the Property by the Developer, in an attempt to formulate a definitive Redevelopment Contract ("Contract") based on the following:

- (a) the Developer's proposal (when submitted) together with any changes or modifications required by the Authority;
- (b) such documentation regarding economic feasibility of the Project as the Authority may wish to undertake during the term of this Agreement; and
- (c) other terms and conditions of this Agreement.

3. It is the intention of the parties that this Agreement: (a) documents the present understanding and commitments of the parties; and (b) will lead to negotiation and execution of a mutually satisfactory Contract for the Development prior to the termination date of this Agreement. The Contract (together with any other agreements entered into between the parties hereto contemporaneously therewith) when executed, will supersede all obligations of the parties hereunder.

4. During the term of this Agreement, the Developer shall:

- (a) Identify the Property to be acquired to undertake and complete the Development and work to secure a purchase agreement with the MCWD.
- (b) Undertake preliminary engineering, soil testing/borings and geotechnical analysis of the Property to be acquired.

(c) Work with the MCWD and its consultants, the City and Authority on a water focused design and public connections to Minnehaha Creek related to the MCWD's portion of the site to be retained by MCWD and any integration into the Development.

(d) Submit a proposal to the Authority, which proposal must show the location, size, and nature of the proposed Development, including renderings, elevations, and other graphic or written explanations of the Development. This proposal will be shared with the MCWD for conformance with water focused design related to the portion of the site MCWD will retain and any integration into the Development.

(e) Identify any on-site public improvements expected or required to be completed as part of the Development, including but not limited to any new roads and storm water ponding.

(f) Identify public versus privately maintained areas of the Development and work with City and MCWD to determine responsibility, any cost sharing as appropriate for public areas and enter into any required operating and maintenance agreements with the appropriate entity(ies).

(g) Complete environmental reviews as may be required for the Development, including but not limited to, an Environmental Assessment Worksheet (EAW).

(h) Submit an over-all cost estimate for the design and construction of the Development to the Authority.

(i) Submit a preliminary schedule for the starting and completion of all phases of the Development.

(j) Submit to the Authority a project pro forma detailing all costs of the Development and the sources and uses of all funds to be raised to finance the Development.

(k) Seek to secure a commitment for financing sufficient for construction of the first phase of Development.

(l) Work with the Authority or City to identify potential funding sources and provide information necessary to apply for funding grants from governmental grant sources.

(m) Work with the City, Authority and MCWD on development of a process and plan for community engagement as mutually determined by the parties.

(n) Work with City, Authority, MCWD and the Developer's third-party consultant to implement the community engagement plan to solicit public input regarding the proposed Development.

(o) Make all required presentations to the City Council of the City, the Authority's Board of Commissioners and the City Planning and Zoning Commission in connection with approvals for the Development.

(p) Make required presentations to the MCWD.

All of the information described above shall be prepared or collected at the sole expense of the Developer. The Developer agrees that, if requested by the Authority, it will provide the Authority with quarterly status reports on progress made with respect to its activities under this Agreement. The Developer shall have no obligation to provide the Authority or City any reports, tests, analyses or any other due diligence it has prepared internally or obtained from any third party except as specifically provided herein.

5. During the term of this Agreement, the Authority agrees to:

(a) Coordinate meetings with staff, the Authority, City Council, Planning and Zoning Commission and the community to refine the Development plans.

(b) Assist in identifying public improvements necessary to be constructed in connection with the Development, including but not limited to new roadways and storm water ponding.

(c) Work with the Developer to seek all necessary information with regard to the anticipated public costs associated with the Development.

(d) Identify construction, permit, application, utility and any other fees and the amount of such fees that the Developer may be expected to pay in connection with the Development.

(e) Identify the approval process and timeframes for development approvals that may be expected for the Development.

(f) Identify the sources of public financial assistance that may be made available to the Developer in connection with the Development such as tax increment financing and state, local and federal grants. If any such financial assistance is actually provided in connection with the Development, the amount, timing and terms of such assistance will be set forth in the definitive Contract and no commitment is being made in this Agreement that any such assistance will be provided to the Developer.

(g) Commence the process necessary to undertake such public assistance as is necessary pursuant to the terms of the proposal, including but not limited to creation of a Redevelopment TIF District.

(h) Cooperate with the Developer, at the Developer's expense, in completing any environmental reviews or studies as required by Section 4(g).

(i) Work with the Developer to identify and assist in applying for funding grants from governmental grant sources.

6. It is expressly understood that execution and implementation of the Contract shall be subject to:

(a) A determination by the Authority in its sole discretion that its undertakings are feasible based on (i) the projected tax increment revenues and any other revenues designated by the Authority; (ii) the purposes and objectives of any tax increment, development, or other plan created or proposed for the purpose of providing financial assistance for the Development; and (iii) the best interests of the Authority.

(b) A determination by the Developer that the Development is feasible and in the best interests of the Developer.

7. This Agreement is effective from the date hereof through July 20, 2022. After such date, neither party shall have any obligation hereunder except as expressly set forth to the contrary herein. No approval given by the Authority hereunder or in connection herewith shall be deemed to constitute an approval of the Development for any purpose other than as stated herein and the process outlined in this Agreement shall not be deemed to supersede any concept review, conditional use permit, vacation, subdivision, or other zoning or planning approval process of the Authority, City or the MCWD relative to the Development or the Property.

8. The Developer shall be solely responsible for all costs incurred by the Developer. In addition, the Developer shall reimburse the Authority for the following costs:

(a) As of the date of execution of this Agreement, the Developer has entered into the Authority's Pre--Application Escrow Agreement as set forth in Exhibit C and deposited with the Authority funds in the amount of \$25,000, receipt of which the Authority hereby acknowledges. The Authority may apply such deposit to pay any "Authority Costs," which means: reasonable and necessary out-of-pocket costs incurred by the Authority, as evidenced by itemized bills and invoices for (i) the Authority's financial advisor in connection with the Authority's financial participation in redevelopment of the Property, including without limitation the establishment of a tax increment financing district and/or the issuance of any debt by the Authority or City in connection therewith, (ii) the Authority's legal counsel in connection with negotiation and drafting of this Agreement and any related agreements or documents, and any legal services related to the Authority's or City's participation in redevelopment of the Property, including without limitation all legal costs related to the establishment of any tax increment financing district and/or the issuance of any debt by the Authority or City in connection therewith; (iii) any other costs of issuance by the Authority or City for any debt in connection with the redevelopment of the Property, to the extent not paid from the proceeds of such debt; and (iv) consultants retained by the Authority or City for planning, environmental review, and traffic engineering for redevelopment of the Property. At Developer's request, but no more often than monthly, the Authority will provide

Developer with a written report on current and anticipated expenditures for Authority Costs, including invoices or other comparable evidence.

(b) If the City or Authority issue any debt obligations on behalf of the Developer, including without limitation any general obligation tax increment revenue bonds (the "Debt"), the Developer will be solely responsible for the payment of all principal and interest on such Debt.

(c) If at any time during the term of this Agreement the Authority determines that the amounts deposited by Developer are insufficient to pay Authority Costs, the Authority may notify the Developer in writing as to any additional amount required to be deposited. The Developer must deposit such additional funds within 30 days after receipt of the Authority's notice.

(d) Upon termination of this Agreement in accordance with its terms, the Authority will return to the Developer the balance of any funds deposited under this section that are on hand as of the date of receipt of the notice of termination, less \$1,000 representing a nonrefundable application fee, and less any Authority Costs incurred through the date of receipt of the notice of termination. For the purposes of this paragraph, Authority Costs are considered to be incurred if they have been paid, relate to services performed, or are payable under a contract entered into, on or before the date of receipt of the notice of termination.

This Section 8 shall survive termination of this Agreement and shall be binding on the Developer regardless of the enforceability of any other provision of this Agreement.

9. This Agreement may be terminated upon 30 days written notice by the Authority to the Developer if:

(a) an essential precondition to the execution of a Contract cannot be met; or

(b) if, in the sole discretion of the Authority, an impasse has been reached in the negotiation or implementation of any material term or condition of this Agreement or the Contract; or

(c) The Authority determines that its Administrative Costs will exceed the amount initially deposited for such purpose under Section 8(a), and the Developer does not deliver additional security to the Authority pursuant to Section 8(c) of this Agreement.

If the Authority terminates the Agreement under this Section 9, the Developer shall remain liable to the Authority under Section 8 of this Agreement for Administrative Costs incurred by the Authority through the effective date of termination.

10. This Agreement may be modified and the term hereof may be extended only through written amendments hereto signed by both of the parties to this Agreement.

11. The Developer is designated as sole developer of the Property during the term of this Agreement. The Authority makes no representations or warranties as to control, access or ownership of any portion of the Property, but agrees that during the term of this Agreement the Authority will not enter into agreements with any other party to facilitate redevelopment of the Property.

12. In the event that the Developer, its heirs, successors or assigns, fails to comply with any of the provisions of this Agreement, the Authority may proceed to enforce this Agreement by appropriate legal or equitable proceedings, or other similar proceedings, and the Developer, its heirs, successors or assigns, agree to pay all costs of such enforcement, including reasonable attorneys' fees.

13. If any portion of this Agreement is held invalid by a court of competent jurisdiction, such decision shall not affect the validity of any remaining portion of the Agreement.

14. In the event any covenant contained in this Agreement should be breached by one party and subsequently waived by another 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. This Agreement may not be amended nor any of its terms modified except by a writing authorized and executed by all parties hereto.

15. Notice or demand or other communication between or among the parties shall be sufficiently given if sent by mail, postage prepaid, return receipt requested or delivered personally:

(a) As to the Authority:
Hopkins Housing and Redevelopment Authority
1010 First Street South
Hopkins, MN 55343
Attn: Director of Planning and Development

(b) As to the Developer:
Alatus LLC
IDS Center
80 South 8th Street, Suite 4155
Minneapolis, MN 55402
Attn: Director of Development

16. This Agreement may be executed simultaneously in any number of counterparts, all of which shall constitute one and the same instrument.

17. 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.

18. The Developer hereby agrees to protect, defend and hold the Authority and its officers, elected and appointed officials, employees, administrators, commissioners, agents, and representatives harmless from and indemnified against any and all loss, cost, fines, charges, damage and expenses, including, without limitation, reasonable attorney's fees, consultant and expert witness fees, and travel associated therewith, due to claims or demands of any kind whatsoever arising out of (i) the development, marketing, sale or leasing of all or any part of the Property, including, without limitation, any claims for any lien imposed by law for services, labor or materials furnished to or for the benefit of the Property, or (ii) any claim by the state of Minnesota or the Minnesota Pollution Control Agency or any other person pertaining to the violation of any permits, orders, decrees or demands made by said persons or with regard to the presence of any pollutant, contaminant or hazardous waste on the Property; and (iii) or by reason of the execution of this Agreement or the performance of this Agreement. The Developer, and the Developer's successors or assigns, agree to protect, defend and save the Authority, and its officers, agents, and employees, harmless from all such claims, demands, damages, and causes of action and the costs, disbursements, and expenses of defending the same, including but not limited to, attorneys fees, consulting engineering services, and other technical, administrative or professional assistance. This indemnity shall be continuing and shall survive the performance, termination or cancellation of this Agreement. Nothing in this Agreement shall be construed as a limitation of or waiver by the Authority of any immunities, defenses, or other limitations on liability to which the Authority is entitled by law, including but not limited to the maximum monetary limits on liability established by Minnesota Statutes, Chapter 466.

19. The Developer, for itself, its attorneys, agents, employees, former employees, insurers, heirs, administrators, representatives, successors, and assigns, hereby releases and forever discharges the Authority, and its attorneys, agents, representatives, employees, former employees, insurers, heirs, executors and assigns of and from any and all past, present or future claims, demands, obligations, actions or causes of action, at law or in equity, whether arising by statute, common law or otherwise, and for all claims for damages, of whatever kind or nature, and for all claims for attorneys' fees, and costs and expenses, including but not limited to all claims of any kind arising out of the negotiation, execution, or performance of this Agreement between the parties.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Authority has caused this Agreement to be duly executed in its name and behalf and its seal to be duly affixed hereto and the Developer has caused this Agreement to be duly executed as of the day and year first above written.

ALATUS LLC

By _____
Chris Osmundson
Its Director of Development

**HOPKINS HOUSING AND
REDEVELOPMENT AUTHORITY**

By _____
Jason Gadd
Its President

By _____
Mike Mornson
Its Executive Director

EXHIBIT A

Description of Property

EXHIBIT B

Developer's Proposal - Summary

INTRODUCTION TO 325 BLAKE ROAD MIXED-USE DEVELOPMENT

- 325 Blake Road (the "Redevelopment Site") is a 12+/- acre site located along Minnehaha Creek and adjacent to Blake Road in Hopkins.
- The Redevelopment Site will include approximately 600+/- apartments, 125+/- senior cooperative units, 23,500+/- sq. ft. of retail/commercial space, substantial public infrastructure and outdoor community space, and 50+/- town homes to help blend with the adjacent neighborhoods.



EXHIBIT C

PRE-APPLICATION ESCROW AGREEMENT

This Pre-Application Escrow Agreement (the “Agreement”) is entered into as of the date indicated below by and between the Hopkins Housing and Redevelopment Authority, a body politic and corporate under the laws of Minnesota (the “Authority”), the City of Hopkins, a municipal corporation under the laws of Minnesota (the “City”), and Alatus LLC, a Minnesota limited liability company, or permitted successors or assigns (the “Applicant”). The parties hereto have entered into this Agreement effective as of the 20th day of July, 2021.

Recitals

- A. The Applicant intends to undertake a project, entitled 325 Blake Road Project (the “Project”), that will require the submission of one or more applications to the Authority or the City, including, without limitation, applications for financial assistance, environmental reviews, concept plan, site plan, rezoning, and preliminary and final plat (subdivision).
- B. Prior to the submission of such applications, certain environmental review, financial assistance review, concept plan review and other work is necessary from the Authority’s and the City’s planning, engineering, financial and legal consultants related directly to the Project for which the Authority and City will incur costs (the “Professional Costs”).
- C. In order to facilitate the expedient review and work by the Authority and the City and its consultants and rather than requiring the Applicant to submit an application and associated escrows immediately, the parties desire to enter into this Agreement to provide for a pre-application escrow account to establish a fund from which the Authority and the City can reimburse itself for its actual Professional Costs it incurs related to the Project.

Agreement

The parties to this Agreement hereby agree as follows:

1. Escrow. The Applicant agrees to fully reimburse the Authority and the City for the Professional Costs the Authority and the City incur related to the Project. To secure the payment of those costs, the Applicant shall, within five days from the effective date of this Agreement, remit payment to the Authority and the City in the amount of \$25,000 to be held by the Authority and the City in escrow (“Escrow”). The Authority and the City will deposit the Escrow in a non-interest-bearing account and shall withdraw funds from it as needed to reimburse itself for the Authority’s and the City’s actual Professional Costs. The Authority’s and the City’s authority to reimburse itself for its costs from the Escrow is not dependent on, or limited by, any changes the Applicant may make to the Project or by the Applicant not following through with the Project. The Escrow provided under this Agreement does not necessarily replace any portion of the escrow amount the Applicant may be required to provide at the time of submitting an application, although the Authority and the City may

separately agree to allow the unused portion of the Escrow to offset a portion of any escrow required to be submitted with an application.

2. Additional Escrow. If the Authority or the City determine the amount deposited as Escrow will not be sufficient to fully reimburse the Professional Costs of either party, the Applicant will be notified as to the additional amount(s) that must be deposited before the Authority or the City will authorize their consultants to continue to respond to the Applicant's or work on matters associated with the Project. The additional amount(s) shall be deposited within five days of such notification. If the Applicant fails to provide the required additional amount(s), or for any reason fails to fully reimburse the Authority or the City for their Professional Costs, the Applicant expressly agrees that any such unreimbursed amount constitutes a service charge the City may collect pursuant to Minn. Stat. § 366.012 by way of Minn. Stat. § 415.01 by certifying the unreimbursed amount, and any collection costs, to the county auditor in any county in the state in which the Applicant owns property for collection together with the taxes imposed on the property. The Authority or the City may also exercise any other authority available to either party under law to recover their unreimbursed Professional Costs from the Applicant.
3. Return of Escrow. Once the Applicant submits an application to the Authority or the City for the Project, or indicates in writing that it will not be pursuing the Project and requests a return of the remaining Escrow, the Authority and the City will return any remaining portion of the Escrow to the Applicant, without interest, within 30 days after completing all payments to their consultants related to the Project. The Applicant understands that the consultants' billing cycle may result in a bill not being received, processed, and paid by the City for up to two months or more after the work was performed. Upon request by the Applicant, the Authority and the City shall provide the Applicant a list of each amount deducted from the Escrow.
4. No Obligation. The Authority and the City desire to promote and facilitate projects that are proposed in a way consistent with its City Code and associated land use controls; however, the Authority and the City entering into this Agreement does not obligate either party to provide any particular level or timing of service, either directly or through their consultants, and such services shall in no way give rise to any guarantees or warranties. Furthermore, by entering into this Agreement the Authority and the City are not expressly or implicitly agreeing to any proposals or land use requests which the Applicant may submit to the Authority or the City, whether related to the Project or otherwise. Any such proposals and requests will need to be processed and acted on in accordance with the Authority's and the City's established procedures.
5. No Joint Venture. Nothing herein constitutes the creation of a joint venture or joint undertaking between the Authority, the City and the Applicant. This Agreement is simply providing a means for reimbursing the Authority and the City for their Professional Costs incurred related to Project just as if the Applicant had formally submitted an application to the Authority and the City. Furthermore, nothing herein shall constitute, or be construed as constituting, a waiver of any limitation on, or exemption from, liability available to the Authority or the City under Minn. Stat. Chap. 466 or other law.

IN WITNESS WHEREOF, the Authority, the City and the Applicant have caused this Agreement to be duly executed as of the day and year first above written.

APPLICANT:

By: _____

By: _____

Its: _____

Its: _____

AUTHORITY:

By: _____
Jason Gadd, President

By: _____
Mike Mornson, Executive Director

CITY:

By: _____
Jason Gadd, Mayor

By: _____
Mike Mornson, City Manager