

**SECOND AMENDMENT
DEVELOPMENT AGREEMENT
DULUTH ECONOMIC DEVELOPMENT AUTHORITY
SATURDAY ZENITH, LLC
ZENITH (HISTORIC OLD CENTRAL HIGH SCHOOL) PROJECT**

THIS SECOND AMENDMENT to DEVELOPMENT AGREEMENT entered into this _____ day of _____, 2023, by and between the DULUTH ECONOMIC DEVELOPMENT AUTHORITY, an economic development authority created and existing under Minnesota Statutes (1989) Chapter 469, hereinafter referred to as "DEDA", and SATURDAY ZENITH, LLC, a Minnesota limited liability company, hereinafter referred to as "Developer".

WHEREAS, effective as of August 24, 2021, DEDA and Developer entered into a Development Agreement bearing DEDA Contract No. 21 860 123 for the redevelopment of the Building and Property defined therein, this Agreement was recorded in the Office of St. Louis County Recorder on June 1, 2022, as Document No.01444149 and the Office of St. Louis County Registrar of Titles on June 1, 2022, as Document No. 1057152; and which agreement was amended by the First Amendment thereto effective as of December 17, 2021 and bearing DEDA Contract No. 21 860 123⁽¹⁾, this First Amendment was recorded in the Office of St. Louis County Recorder on July 18, 2022, as Document No.01447776 and the Office of St. Louis County Registrar of Titles on July 18, 2022, as Document No. 1058923; and which agreement was amended by a Amended and Restated Development Agreement effective as of April 15, 2022 and bearing DEDA Contract No.22 860 107, this Amended and Restated Agreement was recorded in the Office of St. Louis County Recorder on August 26, 2022, as Document No.01450737 and in the Office of St. Louis County Registrar of Titles on August 26, 2022, as Document No. 1060542; which Development Agreement, First Amendment, and Amended and Restated Agreement are hereinafter referred to as the "Original Agreement; and

WHEREAS, after careful analysis of the projected costs of the Project and of the financial resources available and economic feasibility of such funding to pay for the costs of the Project described herein, the parties desire to enter into this Second

Amendment to further amend the Original Agreement.

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

1. Except as otherwise defined in this Second Amendment, terms defined in the Original Agreement and used herein shall have the meaning assigned to them in the Agreement.
2. Paragraph H of ARTICLE I is hereby amended as follows:

Eligible Project Costs: means those Project Costs set forth in Exhibit A which may be legally funded with tax increment proceeds under Minnesota Statutes §469.174 et. seq. and case law. The current estimate of Eligible Project Costs is \$5,465,000.
3. Paragraph J of ARTICLE I is hereby amended as follows:

Project: means the Building on the Property by Developer of not less than One Hundred Twenty (120) residential apartment units consisting of studio apartments, one-bedroom apartments, two-bedroom apartments, and three-bedroom apartments, Ten Percent (10%) or more of which will be held for rent to persons having an income at or below 60% of the area median income at rental rates determined by the United States Department of Housing and Urban Development to be affordable to such persons, and common area space adequate to serve the needs of the building occupants, all at a cost of not less than Fifty-six Million Dollars (\$56,000,000) including property acquisition, and all according to the plans approved by the Director pursuant to Article IV and pursuant to required City approvals. In the event that the application of the percentage calculation above results in a fractional unit, the number of units to be held for rent to persons having an income at or below 60% of the area median income shall be rounded up to the next higher number of units.

4. Paragraph A of ARTICLE VI is hereby amended as follows:

Issuance of TIF Note: Upon DEDA's issuance of the Certificate of Completion pursuant to Paragraph D of Article V and the submission of the audit provided for in Paragraph B below, DEDA shall execute and deliver to Developer a TIF Note in substantially the form of Exhibit D. The principal amount of the TIF Note shall be \$5,465,000 or the amount of documented Eligible Project Costs, whichever is less, and the term of the TIF Note shall be up to twenty-six (26) years, whichever occurs first; provided that in the event that the Project Costs is less than Fifty-six Million Dollars (\$56,000,000) the amount of the TIF Note will be further reduced by an amount equal to one-half (1/2) of the difference between Fifty-six Million Dollars (\$56,000,000) and the amount of the Project Costs determined in the manner set forth in Paragraph B below.

5. Paragraph C of ARTICLE VI is hereby amended as follows:

First TIF Payment: Pursuant to the TIF Plan, DEDA's first receipt of Available Tax Increment will be in 2024. Interest payable on the TIF Note(s) is the amount of 4.5% per annum at 3% inflation shall start to accrue on the date of execution of the TIF Note. There shall be no accrual of interest on unpaid interest. As required by statute, the amount of Available Tax Increment shall not exceed the amount of Eligible Project Costs incurred and paid by the Developer.

(remainder of page intentionally left blank)

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

DULUTH ECONOMIC DEVELOPMENT
AUTHORITY

By: _____
Its President

STATE OF MINNESOTA)
) SS
COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by ChaQuana McEntyre, the President of the Duluth Economic Development Authority, an economic development authority created and existing under Minnesota Statutes, on behalf of the Authority.

Notary Public

By: _____
Its Secretary

STATE OF MINNESOTA)
) SS
COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by Ellie Just, the Secretary of the Duluth Economic Development Authority, an economic development authority created and existing under Minnesota Statutes, on behalf of the Authority.

Notary Public

SATURDAY ZENITH, LLC,
A Minnesota limited liability company

By: _____
Name: _____
Its: _____

STATE OF MINNESOTA)
) SS
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023, by _____, the _____ of Saturday Zenith, LLC, a Minnesota limited liability company, for and on behalf of the company.

Notary Public

This instrument was drafted by:

Attorney for the Duluth Economic
Development Authority
410 City Hall
Duluth, MN 55802
(218) 730-5490

Exhibit A
Eligible Project Costs

1. Land / Building Acquisition	\$3,090,000
2. Environmental Costs	\$1,029,000
3. Utilities	\$123,000
4. Site prep, parking lots, misc.	\$1,270,000

Total: \$5,512,000

*TIF Proceeds = Up to \$5,465,000

**Exhibit D TIF Note
Zenith Historic Old Central High School**

Principal Amount
\$5,465,000

Annual Rate
4.5%

Inflation
3.00%

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

TAX INCREMENT FINANCING (TIF) REVENUE NOTE
(ZENITH HISTORIC OLD CENTRAL HIGH SCHOOL REDEVELOPMENT)

The Duluth Economic Development Authority, an economic development authority created and existing pursuant to Minnesota Statutes Chapter 469 (“DEDA”), hereby acknowledges itself to be indebted and, for value received, hereby promises to pay SATURDAY ZENITH, LLC, a Minnesota limited liability company (the “Developer”), or its registered assigns (the “Registered Owner”), the principal amount of Five Million Four Hundred Sixty Five Thousand and 0/100th Dollars (\$5,465,000), which is the amount determined in Paragraph A of Article VI of that certain Development Agreement between DEDA and the Developer dated August 24, 2021, and bearing DEDA Contract No. 21 860 123; which agreement was amended by the First Amendment dated December 17, 2021 and bearing DEDA contract No. 21 860 123(1); and which agreement was amended by a Amended and Restated Development Agreement dated April 15, 2022 and bearing DEDA Contract No. 22 860 107 as may be amended from time to time (the “Agreement”), but only in the manner, at the times, from the sources of revenue, and to the extent hereinafter provided.

This TIF Note is issued pursuant to the Agreement. Terms are defined in this TIF Note or in the Agreement. The principal amount of this TIF Note, as adjusted above, shall bear interest at the annual rate specified above and interest shall start to accrue as of the date of execution of this TIF Note. There shall be no accrual of interest on unpaid interest. Interest shall be computed on the basis of a 360-day year of twelve 30-day months.

This Note is issued and payable solely from Available Tax Increment, as defined in the Agreement, actually received and retained by DEDA. DEDA shall pay to the Registered Owner of the TIF Note bi-annual payments in the amount of the Available Tax Increment payable on August 1 and February 1 of each year, commencing on August 1,

2024, to and including February 1, 2050, or, if the 1st should not be a business day the next succeeding business day (the "Scheduled Payment Dates"). Available Tax Increment shall first be applied to accrued interest and then to principal.

This Note shall terminate and be of no further force and effect following (a) February 1, 2050; (b) any date upon which the Agreement or this TIF Note has terminated under said Agreement; or (c) on the date that all principal and interest payable hereunder shall have been paid in full; whichever occurs earliest. This TIF Note may be prepaid in whole or in part at any time without penalty.

DEDA makes no representation or covenant, express or implied, that the Available Tax Increment will be sufficient to pay, in whole or in part, the amounts which are or may become due and payable hereunder.

DEDA's payment obligations hereunder shall be further conditioned on the fact that no Event of Default by Developer under the Agreement shall have occurred and be continuing, but such unpaid amounts shall become payable, without interest accruing thereon in the meantime, if said Event of Default shall thereafter have been cured; and, further, if pursuant to the occurrence of an Event of Default under the Agreement DEDA elects to terminate the Agreement or this TIF Note, DEDA shall have no further debt or obligation under this Note whatsoever. Reference is hereby made to all of the provisions of the Agreement for a fuller statement of the rights and obligations of DEDA to pay the principal of this TIF Note and the interest thereon, and said provisions are hereby incorporated into this TIF Note as though set out in full herein.

THIS TIF NOTE IS A SPECIAL, LIMITED REVENUE OBLIGATION AND NOT A GENERAL OBLIGATION OF DEDA OR THE CITY OF DULUTH (THE "CITY") AND IS PAYABLE BY DEDA ONLY FROM THE SOURCES AND SUBJECT TO THE QUALIFICATIONS STATED OR REFERENCED HEREIN. THIS TIF NOTE IS NOT A GENERAL OBLIGATION OF DEDA OR THE CITY, AND NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWERS OF DEDA OR THE CITY ARE PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THIS TIF NOTE AND NO PROPERTY OR OTHER ASSET OF DEDA OR THE CITY, SAVE AND EXCEPT THE ABOVE REFERENCED PLEDGED AVAILABLE RELATED TAX INCREMENTS, IS OR SHALL BE A SOURCE OF PAYMENT OF DEDA'S OBLIGATIONS HEREUNDER.

The Registered Owner shall never have or be deemed to have the right to compel any exercise of any taxing power of DEDA, the City or of any other public body, and neither DEDA, the City nor any person executing or registering this TIF Note shall be liable personally hereon by reason of the issuance or registration thereof or otherwise.

This TIF Note is issued by DEDA in aid of financing a project pursuant to and in full conformity with the Constitution and laws of the State of Minnesota, including Minnesota Statutes §§469.174 to 469.1799, the Minnesota Tax Increment Act.

THIS TIF NOTE HAS NOT BEEN REGISTERED UNDER ANY FEDERAL OR STATE SECURITIES LAWS AND MAY NOT BE SOLD, ASSIGNED, PLEDGED, OR

OTHERWISE DISPOSED OF OR TRANSFERRED EXCEPT AS PROVIDED FOR IN THE AGREEMENT.

This TIF Note may be assigned only as provided in the Agreement and, upon such assignment, the assignor shall promptly notify DEDA at the office of the Executive Director by registered mail, and the assignee shall surrender the same to the Executive Director either in exchange for a new fully registered note or for transfer of this Note on the registration records for the TIF Note maintained by DEDA. Each permitted assignee shall take this TIF Note subject to the foregoing conditions and subject to all provisions stated or referenced herein and in the Agreement.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions, and things required by the Constitution and laws of the State of Minnesota to be done, to have happened, and to be performed precedent to and in the issuance of this TIF Note have been done, have happened, and have been performed in regular and due form, time, and manner as required by law; and that this TIF Note, together with all other indebtedness of DEDA outstanding on the date hereof and on the date of its actual issuance and delivery, does not cause the indebtedness of DEDA to exceed any constitutional or statutory limitation thereon.

IN WITNESS WHEREOF, the Duluth Economic Development Authority, by its Board of Commissioners, has caused this TIF Note to be executed by the manual signatures of the President and the Secretary of DEDA and has caused this Note to be issued on and dated _____, 20__.

DULUTH ECONOMIC DEVELOPMENT
AUTHORITY

By: _____
Its President

By: _____
Its Secretary

Approved as to form
Assistant City Attorney