

DEVELOPMENT AGREEMENT

Between

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

and

SOFIDEL AMERICA CORP.

Relating to DULUTH PAPER MILL REDEVELOPMENT

Dated as of _____

DEVELOPMENT AGREEMENT

THIS AGREEMENT, effective as of the date of attestation hereof by the City Clerk, by and between the DULUTH ECONOMIC DEVELOPMENT AUTHORITY, a public body, corporate and politic and political subdivision under Minnesota Statutes Chapter 469, hereinafter referred to as "DEDA", and SOFIDEL AMERICA CORP., a Florida corporation, hereinafter referred to as "Developer."

WHEREAS, Developer proposes an expansion of the papermill, and associated property located at 100 North Central Avenue in Duluth, Minnesota as hereinafter described and proposes to create a converting facility and automated warehouse for the production of tissue paper, paper towels, bathroom tissue, paper napkins and similar paper products (the hereinafter-described "Project"); and

WHEREAS, the expansion of the existing property and facilities together with the cost of conversion would render the Project not economically feasible without public assistance including assistance from the DEDA, the City of Duluth (the "City"), and from the State of Minnesota as hereinafter described; DEDA has determined that:

Without the tax increment assistance to be provided pursuant to this Agreement, the available resources would be inadequate to fund the development of said project on a financially feasible basis and that therefore, but for the tax increment assistance to be provided hereunder, the Project could not reasonably be expected to be constructed in the foreseeable future; and

The increased market value of the Property could not reasonably be expected to occur without the use of tax increment financing which would be less than the increase in the market value estimated to result from the Project after subtracting the present value of the projected tax increment for the duration of this Agreement; and

WHEREAS, the DEDA has indicated its willingness to agree to tax increment financing ("TIF") assistance for site preparation, infrastructure costs and other costs eligible for public financing under Minn. Statutes sections 469.174 through 469.1794 ("Minnesota TIF Act") related to the Project; without such assistance, the Project would not be economically viable; and

WHEREAS, Developer is pursuing a commitment for financing and has agreed to make available sufficient equity monies that, when combined with the tax increment financing, will be sufficient to complete the Project.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter contained, the parties covenant and agree for themselves and their successors and assigns as follows:

ARTICLE I

Definitions

For the purposes of this Agreement, the following terms shall have the meanings hereinafter ascribed to them unless a different meaning clearly appears from the context:

- A. Available Tax Increment: means 90% of the Captured Tax Increment in the six (6) month period preceding each Scheduled Payment Date, as defined in the TIF Note.

- B. Agreement: means this Development Agreement and its exhibits as may be amended, restated, supplemented or otherwise modified from time to time.
- C. Benefit Date: means the date upon which a Certificate of Completion has been issued by DEDA as set forth in Article VI.
- D. Captured Tax Increment: means all real estate taxes resulting solely from the payment of real estate taxes on the Captured Net Tax Capacity, as defined in Minnesota Statutes Section 469.174, Subd. 4, resulting from real property associated with the Project remitted to DEDA by the St. Louis County Auditor and received by DEDA.
- E. Certificate of Completion: means a written certification executed by the Director in recordable form certifying that the construction of the Project has been completed in conformance with the Plans required in this Agreement. A template of the Certificate of Completion is attached as Exhibit D.
- F. Certificate of Occupancy: means a document issued by the City of Duluth Building Official compliant with the requirements of Minnesota Rules, part 1300.0220.
- G. Community Benefits Program Contract Specifications: shall mean the Community Benefits Program Contract Specifications on file in the office of the City Purchasing Agent. A current version is attached as Exhibit F.
- H. Contract: means the contract or contracts for the construction of any structures or improvements to the Property as part of the Project.
- I. Contractor: means the contractor or contractors contracted by the Developer to construct any structures or improvements to the Property as part of the Project.
- J. Costs: means, without intending thereby to limit or restrict any proper definition of such costs under any applicable laws or sound accounting practices, the following costs for construction of the Project:
1. Obligations incurred for labor and to contractors, builders, equipment suppliers and materialmen in connection with the Project acquisition, construction and installation of the Project;
 2. Site improvement and off-site improvement costs required for the construction of the Project; and
 3. Fees and expenses of the Engineer, legal counsel and other professionals for surveys and estimates and other preliminary investigations, preparation of plans, drawings and specifications, assistance with bidding, and supervising construction, as well as for the performance of all other duties of the Engineer and other professionals in relation to the acquisition, betterment and financing of the Project.
- K. County: shall mean St. Louis County, Minnesota.
- L. Director: means the Executive Director of the Duluth Economic Development Authority or such other person as is designated to act on their behalf with regard to this Agreement.
- M. Documents: means this Agreement, the Plans, the MIF Loan Agreement, the Tax Increment Financing Documents and any other documents given to the DEDA to evidence, effect, secure or modify the Documents.
- N. Effective Date: means the date on which the last party signs this Agreement, or the date upon which environmental review of the Property has been completed as required by Minnesota Statutes Chapter 116D and Minnesota Rules, Part 4410, whichever is later.

- O. Eligible Project Costs: means those costs of the types and categories described on Exhibit C which may be legally funded with tax increment proceeds under the Minnesota TIF Act.
- P. Engineer: means Sofidel America, Corp., with office at Building One, 300 Welsh Rd Suite 200, Horsham, PA 19044.
- Q. Event of Default: means an event which, with notice or passage of time or both, would constitute default under this Agreement.
- R. Full-Time Equivalent or FTE: is the equivalent of one person working 2080 hours or more per year; or the ratio of the total paid hours during a calendar year (permanent part time or full time) as the numerator, to the total of working hours in that same period (2080 hours per year), as the denominator.
- S. Full-Time Job: means an employee that is employed 2080 hours per year.
- T. Living Wage Ordinance: means Article XXVI of Chapter 2 of the Duluth City Code, 1959, as amended.
- U. JCF Grant: means the Jobs Creation Fund Grant in the amount of up to One Million Seven Hundred Thousand Dollars (\$1,700,000) from the State of Minnesota through its Department of Employment and Economic Development pursuant to Minnesota Statutes § 116J.8748.
- V. MIF Loan: means a forgivable loan by the City in the amount of up to Three Million One Hundred Thousand Dollars (\$3,100,000) of Minnesota Investment Fund funds from the State of Minnesota through its Department of Employment and Economic Development pursuant to Minnesota Statutes § 116J.8731 and Minn. Rules Chapter 4300 under the terms and conditions set forth in the MIF Loan Agreement, which funds will be loaned to Developer.
- W. MIF Loan Agreement: means the agreement between DEED and the City, a copy of which is attached hereto and made a part hereof as Exhibit E, setting forth the terms and conditions of the MIF Loan to the City.
- X. New Jobs: means the new permanent, Full-Time Job or FTE non-contract, non-seasonal jobs to be created by the Developer on or after the Effective Date at the Project site.
- Y. Plans: means the working drawings, specifications and elevations for the construction of any element of the Project requiring construction as described above and in Article III below, approved as provided for in said Article III, including improvements to public infrastructure needed as a result of the Project if any, along with the Engineer's certified estimate of the Project Costs.
- Z. Project: means the construction of any buildings or structures necessary for the Project necessary to convert the existing facilities to the production of tissue paper, paper towels, bathroom tissue, paper napkins and similar paper products and associated costs. The Project, combined with certain related equipment costs, is estimated to cost of up to Two hundred Million Dollars (\$200,000,000) but in no event at a cost of no less than One Hundred and Eighty Million Dollars (\$180,000,000).
- AA. Project Labor Agreement or PLA: shall mean a Project Labor Agreement conforming to that approved by the City Council pursuant to Section 2-29 (b) of the Duluth City Code, 1959, as amended, a form is attached as Exhibit E.
- BB. Property: means the real estate located in St. Louis County, Minnesota and described in Exhibit A hereto.

- CC. Repayments: means any payments from Developer to the City, DEDA or the State of Minnesota required hereunder.
- DD. TIF: means Tax Increment Financing.
- EE. TIF District No. 38: means DEDA's Tax Increment Financing District No.38, which shall only include the Project site and the boundaries of which shall not be changed without the prior written consent of Developer, which may be withheld by Developer in its sole discretion.
- FF. TIF Note: means a limited revenue tax increment financing pay-as-you-go note issued by DEDA to Developer pursuant to this Agreement in substantially the form of Exhibit B.
- GG. TIF Plan: means the Tax Increment Financing Plan for TIF District No. 38 authorized in accordance with the TIF Act, which TIF Plan is on file in the office of the Director.
- HH. Total Project Costs: means the overall cost for the Project which includes the Eligible Project Costs as described in Exhibit C.

ARTICLE II

Preconditions to Project Construction

Prior to the DEDA's obligations to Developer under this Agreement becoming binding on and enforceable against the DEDA and as a precondition thereof, Developer shall provide to the DEDA the following items which shall be subject to the approval of the Director in writing, which approval shall not be unreasonably withheld:

- A. Deed
Evidence that the Property is owned by Developer in fee simple absolute and that an appropriate policy of title insurance has been issued in the name of Developer.
- B. Approvals
Evidence of the approval of the TIF Plan.
- C. Plans
Approved Plans for the construction and installation of the Project as described above and in Article III below, including improvements to public infrastructure needed as a result of the Project if any, along with the Engineer's certified estimate of the Total Project Costs.
- D. Contract
A copy of the executed Contract between Developer and a Contractor or Contractors necessary to complete the construction and installation of the Project in accordance with the Plans, approved pursuant to Article III below and an executed PLA or PLAs with said Contractor for the Project. In addition, the Contract shall commit the Contractor to conform to the requirements of the Community Benefits Program Contract Specifications. The Contract shall provide that payments for the work thereunder are the sole obligation of Developer.
- E. MIF Loan Agreement
A fully executed copy of the MIF Loan Agreement.
- F. JCF Grant
Proof of the receipt by Developer of the JCF Grant.
- G. Financing

Copies of financing commitments or capital commitments by Developer or a certification as to availability of funds acceptable to Director, which are utilized by Developer for the capital necessary so that the total of said commitments and certification are not less than the Total Project Costs.

H. Construction Cost Certification

Evidence satisfactory to the Director that the Total Project Cost of the Project together with certain related equipment costs will equal or exceed One Hundred Eighty Million Dollars \$180,000,000.

I. Additional Documentation

Developer shall also deliver the following documents to the DEDA:

1. Corporate Resolutions authorizing the Documents;
2. Developer's certificate of good standing from the Minnesota Secretary of State; and
3. Insurance Certificates.

J. Survey

A survey of the Property prepared by a Registered Land Surveyor under the laws of the State of Minnesota.

ARTICLE III

Project Plans

A. Plans, Specifications and Elevations

No less than thirty (30) days prior to the commencement of construction of the Project by Developer, or such lesser time as approved by the Director, Developer shall submit Plans to the Director for approval. All such Plans shall be in conformance with this Agreement, with the schematic design which shall consist of drawings and other documents illustrating scale and relationship of various Project components, and with all applicable laws, ordinances, rules, regulations and requirements of the City, the State of Minnesota and the United States of America. The Director shall review such plans, specifications and elevations within thirty (30) days of submission of same by Developer. The Director's approval shall be provided to Developer in writing. If the Director rejects such plans, specifications and elevations in whole or in part as not being in compliance with the foregoing requirements, and upon notification to Developer of said rejection together with a detailed explanation of the reason or reasons therefor, Developer shall submit new or corrected plans, specifications and elevations meeting said objections within forty-five (45) days of said notice. The provisions of this Paragraph relating to approval, rejection and resubmission of corrected plans hereinafter provided for with respect to the originally submitted plans, specifications and elevations shall continue to apply until said plans, specifications and elevations have been approved in writing by the Director. The Director's approval of Developer's plans, specifications and elevations shall not constitute a waiver of building code, zoning ordinance or other applicable codes or ordinances imposed in the future upon Developer by law.

B. Changes After Initial Approval

Any material or substantial changes made to Plans by Developer after initial review by the Director shall be submitted to the Director for approval in the same manner provided for in Paragraph A above.

ARTICLE IV

Construction

A. Construction/Installation

Upon the fulfillment of the preconditions to construction provided for in Article II and upon award of the Contract pursuant to this Agreement, Developer shall commence construction and implementation of the Project in conformance with the Plans approved pursuant to Article III. Provided, however, that said work shall be commenced no later than December 1, 2024 and shall be completed not later than December 31, 2027. Notwithstanding the above, the above period may be extended upon the prior written approval of the Director.

B. Developer to Bear All Costs

Developer specifically agrees to bear all costs related to the construction and implementation of the Project and any modifications thereto utilizing its equity and financing.

C. Prevailing Wage

Developer shall cause the laborers, mechanics or apprentice-trainees directly employed in the Project to be paid the wage rates as provided in the federal Davis Bacon Act, as amended, and as required by the MIF Loan and the JCF Grant. Payroll for the construction trades must be submitted to the Director on a monthly basis.

D. Progress Reports

Until the entire Project has been completed, Developer shall make reports in such detail and at such times as may reasonably be requested by the Director as to the actual progress of Developer with respect to the Project. Additionally, upon reasonable notice, Developer also agrees that it will permit the DEDA access to the Property and the Project to ascertain the progress of the Project.

ARTICLE V

Audits

The DEDA and its representatives shall have the right at all reasonable times, upon reasonable notice, to inspect, examine and copy all books and records of Developer relating to the Project. Additionally, Developer shall cause the Engineer to allow the DEDA and its representatives at all reasonable times, upon reasonable notice, to inspect, examine and copy all books and records of the Engineer relating to the Project during the construction and for a period of six (6) years after the recordation of the Certificate of Completion. Such records of Developer and the Engineer shall be kept and maintained by Developer for a period of six (6) years following the recordation of the Certificate of Completion as provided for in Article VI.

ARTICLE VI

Certificate of Completion

Upon completion by Developer of the Project in accordance with this Agreement, the Director, shall within thirty (30) days of written request from Developer, furnish to Developer an appropriate certificate certifying completion the Project (Certificate of Completion), substantially

in the form of that attached hereto as Exhibit D. A Certificate of Completion shall not be issued until all elements of the Project have been completed. The Certificate of Completion shall constitute a conclusive determination of satisfaction of the completion by the Developer of the Project undertaken pursuant to this Agreement. Immediately upon issuance of the Certificate of Completion, Developer agrees to record the Certificate of Completion in the office of the St. Louis County Recorder and/or Registrar of Titles and to pay all costs associated therewith. Upon recordation, Developer shall immediately submit to the DEDA an executed original of the Certificate of Completion showing the date and document numbers of record, or a certified copy of the filed original. In the event the Director refuses or denies to provide a Certificate of Completion, the Director will, within said thirty-day (30) period, provide Developer a written statement indicating the reasons for such refusal or denial and what measures or actions are required in order to obtain a Certificate of Completion.

ARTICLE VII

Tax Increment Financing Payment Obligations

A. Minnesota TIF Act applies

The Minnesota TIF Act (Minn. Statutes sections 469.174 through 469.1794) applies to the TIF provisions of this Agreement. TIF related terms used in this Agreement shall have the meanings for those terms given to them in the Minnesota TIF Act.

B. Payment to Developer

The TIF Notes issued under this Agreement shall state that Developer shall receive ninety percent (90%) of the payments of Captured Tax Increment for each year of the term of the TIF Note.

C. TIF District No. 38 Plan

The Project is located in TIF District No. 38, an economic development district within the meaning of the Minnesota TIF Act. A TIF Plan has been created for TIF District No. 38 and applies to the Project.

D. TIF District

The TIF District shall be compliant with the Minnesota TIF Act and shall be approved through the TIF district adoption process described in the Minnesota TIF Act.

E. Audit required before issuance of TIF Notes

After construction is complete, Developer shall submit to the Director an audit of the Total Project Costs for the Project prepared by a certified public accountant ("TIF Audit"). Developer may select the certified public accountant to perform the TIF Audit but that person or entity shall be subject to the prior written reasonable approval of the Director. The Director shall review the TIF Audit for conformance to the requirements of this Agreement, and approve the TIF Audit if in conformance.

F. TIF Note form

After issuance of the Certificate of Completion and the submission of the TIF Audit, DEDA shall execute and deliver to Developer a TIF Note substantially in the form of Exhibit B.

G. Principle amount of TIF Note

The principal amount of the TIF Note for the Project shall be \$14,308,195 or the amount of documented Eligible Project Costs, whichever is less; provided that in the event

that the Total Project Costs are less than the estimated Total Project Costs, as those costs are described in Exhibit C, the amount of the TIF Note will be further reduced by an amount equal to one-half (1/2) of the difference between estimated Total Project Costs, as those costs described in Exhibit C, and actual Total Project Costs.

H. Date of first receipt of tax increment

The date of the first receipt of tax increment shall be the date of DEDA's receipt from the St. Louis County Auditor's Office of the first payment of Capture Tax Increment for the Project.

I. TIF Note interest

Interest payable on the TIF Note in the amount of 6% per annum shall start to accrue on the date of execution of the TIF Note. There shall be no accrual of interest on unpaid interest.

J. Maximum amount of tax increment

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.

K. Bi-annual TIF payments

Payments under the TIF Note shall be bi-annual payments in the amount of the Available Tax Increment attributed to the Property received by DEDA in the six months preceding each Scheduled Payment Date as defined in the TIF Note. DEDA shall not be obligated to make any payments except as provided in the TIF Note.

L. TIF Note not a security

The TIF Note will be issued without registration under the State or federal securities laws pursuant to an exemption for such issuance. The TIF Note may not be assigned, transferred, or pledged, in whole or in part, except in conjunction with and to the same transferee as an assignment of this Agreement with the approval of Director or as otherwise permitted under Article XI of this Agreement.

M. Register of TIF Note identify holder

The Director shall maintain a register setting forth the current holder of the TIF Note which shall be determinative of the identity holder to whom payments on the Note are to be made. If the TIF note is assigned, transferred, or pledged, it is the responsibility of Developer to provide information to the Director on the change in identify holder.

N. Pay-as-you-go TIF Note

DEDA's financial commitment for payment of the TIF Note under this Agreement is a revenue obligation only and will be paid by DEDA only out of Available Tax Increment actually received by DEDA. Developer acknowledges that DEDA makes no representation or warranties that the Available Tax Increment will be sufficient to pay Developer all amounts due and payable pursuant to the TIF Note. Developer acknowledges that St. Louis County's obligation to distribute tax increment to DEDA is subject to Minnesota Statutes Chapter 276. Developer acknowledges that Available Tax Increment is subject to calculation by St. Louis County and changes in state statute and that some or all of the amount of the TIF Note may not be paid and in such event, the amount of payments otherwise due to Developer under this Agreement shall be deemed no longer due from DEDA and DEDA shall have no further obligations for payments of said amounts.

O. Estimates Only

Developer acknowledges that the estimates of Available Tax Increment and tax projections, which may have been made by DEDA, are estimates only, are made for the sole use and benefit of DEDA and the City, and are not intended for Developer's reliance.

P. Changes in Law; St. Louis County

DEDA does not warrant that it will have through the term of this Agreement the continuing legal ability under state law to apply Available Tax Increment to the payment of the TIF Note. Notwithstanding the foregoing, nothing in this Agreement or any other Document shall preclude Developer from (i) seeking remedy against third parties, including without limitation the State of Minnesota and St. Louis County due to changes in state law and/or failure by St. Louis County to remit monies to DEDA; and (ii) challenging the applicability of any law, rule or regulation enacted after the date of this Agreement to this Agreement or the Project, provided DEDA shall not be made party to any action. Upon a change in law which prevents DEDA from any receipt of payments of Capture Tax Increment, DEDA may provide written notice to Developer of DEDA's election to terminate this Agreement. If Developer does not commence an action to seek its available remedies under this Article within thirty (30) days of such notice, this Agreement shall terminate as of the date of said notice. If Developer commences an action within thirty (30) days, this Agreement may continue, but DEDA's obligations shall be suspended, until Developer has exhausted its remedies under this Article, at which time the Agreement shall be deemed terminated as of the date of notice.

Q. Minimum Assessment.

The minimum market value assessed for the Project shall, from and after January 2, 2028, be not less than \$111,137,700.

The parties agree to enter into an Assessment Agreement in the form of that attached hereto as Exhibit G and to use their best efforts to cause the St. Louis County Assessor to execute the same. Promptly upon execution of the Assessment Agreement, Developer agrees to record the Assessment Agreement in the office of the St. Louis County Record and/or Registrar of Title against the Property and to pay all costs associated therewith. Upon recordation, Developer shall promptly submit to DEDA evidence of recording showing the date and document numbers of record.

ARTICLE IX

Business Subsidy Agreement

The provisions of this Article constitute the "business subsidy agreement" for purposes of the Minnesota Business Subsidy Act (Minnesota Statutes Sections 116J.993-995 and its successor statute).

A. Definitions

For the purposes of determining whether the Business Subsidy Goal set forth in Paragraph D of this Article has been met, the following terms shall have the meanings hereinafter ascribed to them:

1. Benefit Date: means the date upon which a Certificate of Completion has been issued by DEDA as set forth in Article VI.
2. Report Period: means that calendar year, from January 1st of any year through December 31st of that calendar year for the period prior to the year in which a report referred to in Paragraph E of this Article is required.

Compliance Date: means the date that is two (2) years after the Benefit Date.

B. Business Subsidy.

The business subsidy provided to Developer consists of the tax increment assistance in an amount up to \$14,308,195 net present value provided through the establishment of an economic development tax increment financing district, TIF District No. 38.

C. Need for Subsidy.

Without the tax increment assistance to be provided pursuant to this Agreement, the costs of development of the Project are not economically feasible without such assistance and that, therefore, but for the tax increment assistance to be provided for hereunder, the Project could not reasonably be expected to be constructed in the foreseeable future.

D. Public Purpose.

The public purpose of the tax increment assistance to be provided pursuant to this Agreement is to construct a Project which will create jobs that pay a livable wage, enhance the City's tax base, and achieve redevelopment on sites which would not be developed without assistance. In accordance with §116J.994, subdivision 4, DEDA has determined after a public hearing that the creation or retention of jobs is a goal of this development/redevelopment effort. Accordingly, the wage and job goals are creation of at least One Hundred and Sixty (160) new jobs at the Project site, having a base wage of not less than \$18.00 per hour, exclusive of benefits.

E. Business Subsidy Goal.

Achievement of the Business Subsidy Goal in accordance with Minnesota Statutes §116J.994 shall be measured as follows: Developer agrees that on or before December 31, 2027, it shall have constructed the Project on the Property in accordance with this Agreement (the "Business Subsidy Goal"). On the Compliance Date, the Developer shall have:

1. Maintained (80) permanent, non-contract, non-seasonal FTE jobs;
2. Created at least One Hundred and Sixty new jobs at the Project site, having a base wage of not less than \$18.00 per hour, exclusive of benefits

F. Reporting Requirement.

On or before March 1st of each year following the commencement of this Agreement, Development shall file with DEDA and for two (2) years after the Benefit Date, reports on forms developed by the Minnesota Department of Employment and Economic Development ("DEED") setting forth Developer's progress in meeting the Business Subsidy Goal during the preceding Reporting Period. Said report shall include the information required in Minnesota Statute §116J.994, subdivision 7, and shall be accompanied by such documentation as the Director of Planning and Economic Development shall reasonably request in writing. All such reports shall be signed on behalf of Developer by an officer of Developer with authority to bind Developer.

G. Penalty.

If DEDA does not receive the reports described in Paragraph E of this Article, it will send to Developer a warning by certified mail within one week of the required filing date. If within 14 days of the post marked date of the warning the reports are not made, Developer agrees to pay DEDA a penalty of \$100 for each subsequent day until the report is filed, up to a maximum of \$1,000.

H. Special Event of Default if Business Subsidy Goals Not Met.

Developer agrees that if the Business Subsidy Goal of Project construction is not met by December 31, 2027, subject to Article XXV hereof and as determined in the reasonable discretion of DEDA, Developer shall not receive any tax increment financing assistance under this Agreement.

I. Additional Enforcement.

In the event that Developer shall fail for any reason whatsoever to meet the reporting requirements of Paragraph F of this Article fully and completely and in a timely manner as required, said failure shall be deemed to be a material breach of the terms and conditions of this Agreement and, in addition to the rights and remedies available to DEDA pursuant to Paragraph G, DEDA shall be entitled to withhold any payment due from DEDA under this Agreement and to withhold the performance of any obligation owed by DEDA under this Agreement until Developer's reporting obligations pursuant to this Article have been fully complied with. Further, DEDA shall be entitled to reimbursement for any reasonable costs, including the value of staff time and attorneys' fees and costs, incurred by DEDA to secure Developer's compliance with the reporting requirements.

J. Other Financial Assistance.

In addition to the tax increment assistance provided under this Agreement, the Developer has received or expects to receive as part of this Project the following financial assistance from other "grantors" as defined in the Business Subsidy Act: \$ 1,700,000 JCF Grant, and \$3,100,000 in MIF; and clean-up incentives in a range of about \$1,000,000 to \$2,000,000.

K. Continued Operations Covenant.

Developer agrees to own and operate the Building and the Project and to not assign, convey, transfer, sell or change its identity in violation of Article XI, for at least nine (9) years after the Benefit Date (the "Continued Operations Covenant").

ARTICLE X

Operating Covenants

Developer agrees that in its operations and use of the Project and the Property, in accordance with industry standards, during the Term, Developer shall:

A. Maintenance

At all times cause the Project and the Property to be operated and maintained in a neat, orderly condition, to maintain and preserve and keep in good repair, working order and condition said Project and Property and to perform all needed and proper repairs, renewals and replacements necessary to be made thereto. The maintenance of the Project and the Property shall include but not be limited to maintenance of all foundations, external walls, doors, windows, utility openings and all roofing systems, as well as outside maintenance including snow removal, grass cutting and landscape maintenance, and all other exterior maintenance to the Project and the Property.

B. Utilities

Unless disputed, pay or cause to be paid any and all charges for utilities furnished to the Project and the Property including but not limited to hook-up charges and assessments related to all utilities, including but not limited to steam, water, sewer, gas, telephone, cable or satellite TV, and electrical power.

C. Licenses and Permits

Preserve the existence of all of its licenses, permits and consents to the extent necessary and desirable to the operation of its business and affairs relating to the Project and the Property and to be qualified to do business in the State of Minnesota.

D. Obey All Laws

Conduct its affairs and carry on its business and operations with respect to the Project and the Property in such a manner as to comply with any and all applicable laws of the United States and the State of Minnesota including all laws related to unlawful discrimination and duly observe and conform to all valid orders, regulations and requirements of any governmental authority related to the conduct of its business and the ownership of the Project and the Property; provided that nothing herein contained shall require it to comply with, observe and conform to any such law or regulation or requirement so long as the validity thereof shall be contested in good faith through proper legal action provided that such protest shall in no way affect Developer's title to the Project and the Property.

E. Payment of Taxes

Promptly pay or cause to be paid all lawful taxes and governmental charges, including real estate taxes and assessments at any time levied upon or against it or the Project and the Property, subject to the right to contest in good faith in accordance with Minnesota law.

F. Assessment Fees and Charges

Pay or cause to be paid when due or payable all special assessments levied upon or with respect to the Project and/or the Property, or any part thereof, and to pay all fees, charges and rentals for utilities, service or extensions for the Project and the Property and all other charges lawfully made by any governmental body for public improvements, subject to Developer's right to contest such matters in good faith in appropriate procedures, except as limited by the Minimum Assessment Agreement.

G. Obligations and Claims

Promptly pay or otherwise satisfy and discharge all of the obligations and indebtedness and all demands and claims against the Project and the Property as and when the same become due and payable other than any thereof whose validity, amount or collectability is being contested in good faith by appropriate proceedings.

H. Living Wage

Pay to both current and new employees a living wage as set forth in the Living Wage Ordinance, or the base wage as provided in Article IX, whichever is greater.

I. Continued Use

Continued Use of the Project and Property as a papermill containing a converting facility and automated warehouse of approximately 580,000 square feet for the production of tissues paper, paper towels, bathroom tissue, paper napkins, and similar paper products.

ARTICLE XI

Provision against Liens

A. Provision against Liens

Except for encumbrances as permitted pursuant to this Article, Developer shall not create, permit or allow any mortgage or encumbrance, or allow any mechanic's liens to be filed or established or remain against the Project, the Property or any part thereof, which would materially or adversely affect DEDA's interest in this Agreement. Developer shall have the right in good faith to contest the validity of any lien, claim, or liability, and shall not be required to remove such lien, claim or liability so long as Developer is contesting the validity and amount thereof, and shall first notify DEDA of its intention to do so. The foregoing provisions

shall not restrict Developer from placing a lien, encumbrance or mortgage on the Project, the Property, or any part thereof for financing purposes wherein such financing is necessary for the acquisition and construction of the Project, and Developer shall first notify DEDA of its intention to do so. Mechanics liens up to an aggregate amount of \$1,000,000 shall be permitted under this Article XI. All restrictions set forth in this Article XI A. shall terminate upon the issuance of a Certificate of Completion for the Project. This Article XI A. shall not restrict easements, which shall only be subject to the notice requirements of Article XV B. 11.

B. Provision Against Assignments, Transfers or Change in Identity of Developer

Developer recognizes that, in view of the importance of the development of the Project to the general welfare of the community and the fact that any act or transaction involving or resulting in a change in the identity of the parties in control of Developer is of particular concern to the community, the DEDA is relying upon the qualifications and identity of Developer to build and operate the Project. Therefore, except for the purposes of obtaining financing or as otherwise allowed by this Agreement, Developer represents and agrees for itself, its successors and assigns that it 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, lease, trust, lien or power of attorney, and has not or will not otherwise transfer in any other way all or any portion of the Project, this Agreement or any other contract or agreement entered into in connection with carrying out its obligations hereunder; and except for financing, Developer will not make or create or suffer to be made any such transfer of Developer's rights hereunder without the prior approval of the DEDA until a Certificate of Completion has been obtained. Notwithstanding the above, Developer may sell or transfer its interest in the Project to a Related or Affiliated Entity or as part of an organizational acquisition or merger without the prior approval of the DEDA. An entity acquiring or accepting an interest in the Project as part of an organizational acquisition or merger shall be required to execute a joinder agreement to this Agreement and the other Documents, and upon execution and delivery of such joinder, DEDA shall execute a release of Developer's obligations under this Agreement and the other Documents. Developer shall give written notice of such sale or transfer and provide copies of the sale or transfer documentation evidencing assignment and assumption of Developer's rights and obligations under this Agreement, and well as any Guaranty required above to the Director within thirty (30) days of the event of sale or transfer.

ARTICLE XII

Indemnification

A. Generally

Developer shall, to the fullest extent permitted by law, protect, indemnify and save DEDA and its officers, agents, servants, and employees, harmless from and against all liabilities, losses, damages, costs, expenses, including reasonable attorneys' fees and expenses, whether asserted by itself or arising from any third party, causes of action, suits, claims, demands and judgments of any nature arising from any of the following:

1. Any injury to or death of any person or damage to property in or upon the Project or the Property or growing out of or in connection with the use or non-use, condition or occupancy of the Project or the Property or any part thereof and also, without limitation, any and all acts or operations related to the construction or installation of the Project

on any portion of the Property. The foregoing indemnification shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefits payable by or for the Developer customers, suppliers or affiliated organizations under any Workers' Compensation Act, Disability Benefit Acts or any other Employee Benefit Acts;

2. Any violation of any provision of this Agreement by Developer;
3. Any violation of any contract, agreement or restriction related to Developer's occupancy, ownership, or use of the Project or the Property which shall have existed at the commencement of the term of this Agreement or shall have been approved by Developer;
4. Any violation, or alleged violation by Developer, or any employee or agent of Developer or any contractor of Developer, of state, federal or local law, rule or regulation affecting the Project, the Property, or the ownership, occupancy or use thereof; and
5. Any mechanic's liens or similar liens.

B. Environmental Indemnification

In addition to the generality of the foregoing, Developer hereby agrees that for itself, its successors and assigns that it will indemnify and save DEDA and its officers, agents, servants and employees harmless from and against all liabilities, losses, damages, costs, expenses, including reasonable attorneys' fees and expenses, causes of action, suits, claims, demands and judgments arising out of any condition existing on the Project or the Property arising out of Developer's use and occupancy of the Property or the Project or both which constitutes a violation of any environmental law or laws with respect to pollutants or hazardous or dangerous substances promulgated by the government of the United States or of the State or of any such duly promulgated rules and regulations of the United States Environmental Protection Agency or the Minnesota Pollution Control Agency or the presence on the Property of any element, compound, pollutant, contaminant, or toxic or hazardous substance, material or waste, or any mixture thereof, which otherwise causes injury or death to persons or damage to the Project or the Property and that indemnification granted hereby shall include all costs of clean-up, remediation, together with the costs incurred in proceedings before any court of law or administrative agency, including reasonable attorneys' fees, expenses, the fees and expenses of persons providing technical expertise addressing such problems, including expert witnesses, the costs of preparing and securing approval of Response Action Plans, as defined by the foregoing agencies, as may be necessary to meet the requirements of said agencies and any other costs and expenses of any kind whatsoever arising out of conditions existing on the Project or the Property.

The indemnification set forth in this Article shall survive any termination of this Agreement, foreclosure, or deed in lieu transfer of the Project or the Property.

C. Indemnification Procedures

Promptly after receipt by the DEDA of notice of the commencement of any action with respect to which Developer is required to indemnify the DEDA under this Article, the DEDA shall notify Developer in writing of the commencement thereof, and, subject to the provisions as hereinafter stated, Developer shall assume the defense of such action, including the employment of counsel satisfactory to the DEDA and the payment of expenses. In so far as such action shall relate to any alleged liability of the DEDA with respect to which indemnity

may be sought against Developer, the DEDA shall have the right to employ separate counsel in any such action and to participate in the defense thereof, and the fees and expenses of such separate counsel shall be at the expense of Developer.

ARTICLE XIII

Insurance

Developer shall procure and continuously maintain insurance covering all risks of injury to or death of persons or damage to the Project, the Property, and any other property permanently located or exclusively used at the Project site arising in any way out of or as a result of Developer's occupancy of or use of the Project or the Property, carried in the name of Developer, any subtenant and the DEDA as their respective interests may appear, as follows:

A. Insurance During Construction

Developer, prior to entering on the Property for construction of the Project, shall procure or cause to be procured and maintain or require all contractors to procure and maintain the following insurance at not less than the limits of coverage or liability indicated during the period of construction as follows:

1. Property Insurance

Developer shall provide "All Risk" builders' risk insurance on all work on the Project, including foundations, permanent fixtures and attachments, machinery and equipment included in or installed under the construction contract, debris removal, engineers' fees, temporary structures, materials, equipment and supplies of all kinds located on the Project, to the full replacement value thereof, except that such policy may provide for a deductible amount not to exceed Fifty Thousand Dollars (\$50,000) per occurrence. Said insurance shall be endorsed to provide consent for occupancy of the Project and shall be maintained in effect until permanent property coverage as provided for hereinafter is in force. Such insurance shall be provided by Developer as set forth below and shall bear a payee clause in favor of the DEDA with loss proceeds under any property policies made payable to the DEDA, to the extent of its interest. Said insurance may be written in the name of Developer or may be provided by Developer's Contractor in which case it shall name both Developer and DEDA as additional insureds. The Developer shall be solely responsible for ensuring that such insurance is provided. Contractor, subcontractors, and suppliers and Developer shall waive all rights against the DEDA for damages caused by fire or insured perils, except such rights as are set forth hereunder to the proceeds of such insurance payable in the event of such loss.

2. Public Liability Insurance

Public Liability Insurance written on an "occurrence" basis under Commercial General Liability Insurance and Automobile Liability Insurance Form with "Broad Form" property damage liability coverage in limits of not less than \$2,000,000 per occurrence and in the aggregate for personal injury, bodily injury and death, and limits of \$2,000,000 for property damage liability. If per person limits are specified, they shall be for not less than \$2,000,000 per person and be for the same coverages. The insurance requirements of this subparagraph may be met by augmenting an industry-standard liability policy with an "umbrella" policy, the combined limits of which meet those requirements. The DEDA shall be named as additional insureds on the Commercial General Liability and Automobile

Liability insurance policies against losses caused by the negligent act or omission of Developer. The Contractor shall also require such liability coverage of its contractors and subcontractors unless they are insured under the contractor's policies. The contractors' and subcontractors' liability coverages shall include:

- a. Contractors' public liability--premises and operations;
- b. Independent contractors' vicarious liability;
- c. Personal injury;
- d. Owned, non-owned, and hired vehicles;
- e. Contractual liability covering customary construction contract and subcontract indemnify provisions; and
- f. Workers' Compensation coverage in required statutory limits. Policy shall carry an "all states" endorsement. In addition, employer's liability coverage shall be maintained in limits of \$100,000 per employee.

B. Permanent Insurance.

Developer shall procure and continuously maintain, except as otherwise provided below, insurance covering all risks of injury to or death of persons or damage to property arising in any way out of or as a result of Developer's ownership, occupancy or use of the Project or Property, carried in the name of the Developer as follows:

1. Property Insurance

Prior to the expiration of the builders' risk coverage specified above and during the entire term of this Agreement, the Project, including all fixtures, equipment and machinery, shall be insured to the full replacement value thereof against all risk of Direct Physical Loss, except that such insurance may provide for a deductible amount not to exceed \$750,000 per occurrence; provided that if Developer shall have provided to the DEDA a first secured position on a piece of equipment acceptable to the Director and having a marketable value of at least \$500,000, the deductible amount may be up to \$500,000. For the purposes hereof, "all risk" means insurance equivalent in scope to protect against all risks of direct physical loss ordinarily insured against in the region. The insurance policy shall bear a payee clause in favor of the DEDA with loss proceeds under any property policies made payable to the DEDA, to the extent of its interest. Developer hereby waives any and all claims or causes of action against the DEDA for damages caused by an insured peril hereunder, except such rights hereinafter set forth to an interest in the insurance proceeds payable in the event of such loss.

2. Liability Insurance

During the construction period (unless covered under the policies required previously) and permanently thereafter for the balance of the term of this Agreement, Developer shall procure and maintain continuously in force Public Liability Insurance written on an "occurrence" basis under a Comprehensive General Liability Form in limits of not less than \$2,000,000 per occurrence for personal bodily injury and death and limits of \$2,000,000 for property damage liability. If person limits are specified, they shall be for not less than \$2,000,000 per person and be for the same coverages. The insurance requirements of this subparagraph may be met by augmenting an industry-standard liability policy with an "umbrella" policy, the combined limits of which meet those requirements. The City and DEDA shall be named as additional insureds therein. Insurance shall cover:

- a. Public liability, including premises and operations coverage.
- b. Independent contractors' vicarious liability;

- c. Personal injury.
- d. Owned, non-owned and hired vehicles.
- e. Contractual liability covering the indemnity obligations set forth herein.
- f. Products--completed operations.

3. Workers' Compensation

Workers' Compensation Coverage in statutory amounts with "all states" endorsement. Employees' liability insurance shall be carried in limits of \$100,000 per employee.

C. Requirements for All Insurance

All insurance required in this Article shall be taken out and maintained in responsible insurance companies organized under the laws of the states of the United States and licensed to do business in the State of Minnesota.

D. Policies

Developer shall be required to supply to the DEDA certification of all policies required under this Agreement. In addition, Developer shall be required to supply to DEDA written certifications of insurance requiring each insurer providing such policies require the insurer to give the DEDA thirty (30) days' written notice prior to cancellation or modification of said insurance.

E. Reconstruction Obligation and Uninsured Loss

In the event the Project or the Property or any portion thereof is destroyed by fire or other casualty, Developer shall forthwith repair, reconstruct, and restore the Project and the Property to substantially the same scale and condition, quality, and value as existed prior to the event causing such damage or destruction, and to the extent necessary to accomplish such repair, reconstruction, and restoration, only to the extent the proceeds of any insurance received by Developer shall cover the costs thereof. Developer shall timely take all actions necessary, including paying any deductible amount, to secure its rights to make an insurance claim for the insurance proceeds for all insurable losses. If such insurance proceeds are not sufficient for the foregoing, Developer may elect not to repair, reconstruct or restore the Project and Developer may notify DEDA that Developer can no longer fulfill its obligations under this Agreement, is terminating this Agreement and will not seek additional payments under the TIF Note.

ARTICLE XIV

Developer Defaults and Remedies Therefor

A. Events of Default

The following shall be deemed to be Events of Default by Developer under the terms and conditions of this Agreement to which the remedies set forth in Paragraph B below shall be applicable as otherwise set forth in this Agreement. Except as otherwise specifically provided herein, following notice of a default, Developer shall have 60 days to cure such default and provide evidence of such cure to the DEDA.

1. Prior to the issuance of the Certificate of Completion, Developer shall not permit any encumbrance on the Project or the Property, except as expressly permitted in the Documents.
2. Any of the following shall occur:

- i. Developer shall seek relief in bankruptcy, or make a general assignment for the benefit of creditors; or
 - ii. There is filed by or against Developer a petition in bankruptcy or for the appointment of a receiver; or
 - iii. Any creditor commences under any bankruptcy or insolvency law proceedings for relief against Developer; or
 - iv.
 - v. Developer discontinues its business as a going concern, or
 - vi. Developer defaults on any other obligation to the DEDA beyond any applicable notice and cure periods; or
 - vii. Developer's business is taken over or control is assumed by any government or governmental agency.
3. Any of the following shall occur:
- i. Developer fails to observe or perform any material term, condition, obligation, covenant or agreement required under this Agreement or the Documents and such failure is not cured within in all material respects sixty (60) days after delivery of written notice by the DEDA to Developer describing the failure and the act required to cure the failure.
 - ii. Any warranty, representation or statement made by Developer in any Document, is untrue or misleading in any material respect.
 - iii. Any financial information provided by or on behalf of Developer is untrue or misleading in any material respect.
 - iv. Any of the Documents ceases to be enforceable against Developer.
 - v. Without prejudice to any applicable cure period, Developer defaults to comply with any monetary undertakings under any loan, extension of credit, security agreement, and such default (i) would materially affect the Project or Property, or materially affect Developer's ability to make or perform its obligations under any of the Documents, and (ii) amounts to at least \$14,308,195
 - vi. Material foreclosure or forfeiture proceedings, by judicial proceeding by any governmental agency against any collateral securing financing which amount is equal to at least \$14,308,195. However, this Event of Default shall not apply if there is a good faith dispute by Developer as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding.
 - vii. Developer fails to pay when due any real estate tax payment or legally imposed assessment with regard to the Property or the Project when due and payable, unless contested in good faith.

B. General Remedies

Except as otherwise set forth in this Agreement, the DEDA shall have the following remedies in the case of an Event of Default by Developer:

1. Terminate this Agreement, the TIF Note, or any of the Documents.
2. Withhold the performance of any obligation owed by the DEDA under this Agreement or any of the Documents.

3. Cease making payments under this Agreement and the TIF Note of Available Tax Increment.
4. Any of the various remedies expressly provided in any of the Documents.
5. Seek and be entitled to monetary damages from Developer for any damages incurred by DEDA as a result of Developer's default; and except as limited by this Agreement, seek injunctive, declaratory or equitable relief.

C. Non-Waiver

The waiver by the DEDA of any default on the part of Developer or the failure of the DEDA to declare default on the part of Developer of any of its obligations pursuant to this Agreement or the other Documents shall not be deemed to be a waiver of any subsequent default on the part of Developer of the same or of any other obligation of Developer under this Agreement or the other Documents. To be effective, any waiver of any default by Developer hereunder must be in writing by the DEDA.

D. Remedies Cumulative

Except as otherwise provided in Article XIV B, the remedies provided under this Agreement shall be deemed to be cumulative and non-exclusive and the election of one remedy shall not be deemed to be the waiver of any other remedy with regard to any occasion of an Event of Default hereunder.

E. Attorneys' Fees

In the event that a party is in breach or default of any of the terms and conditions of this Agreement or the Documents, and the other party successfully takes legal action to enforce said rights herein, in addition to the foregoing, the non-breaching and non-defaulting party shall be entitled to prompt reimbursement for its reasonable attorneys' fees, costs, and disbursements occasioned in enforcing its rights hereunder.

ARTICLE XV

Representations, Covenants and Warranties

A. Representations, Covenants and Warranties of the DEDA

The DEDA represents, covenants and warrants as follows:

1. DEDA is a lawfully constituted economic development authority under the laws of the State of Minnesota.
2. The officers of the DEDA executing this Agreement have been duly authorized to execute and deliver this Agreement and perform its obligations hereunder pursuant to the terms and provisions.
3. This Agreement is binding and enforceable against the DEDA in all respects.

B. Representations, Covenants and Warranties of Developer

At all times during the Term of this Agreement, Developer represents, covenants and warrants as follows:

1. Developer is a duly formed and validly existing corporation under the laws of the State of Florida, is authorized to transact business in the State of Minnesota, is not in violation of its organizational documents, has power to enter into this Agreement and to perform its obligations hereunder, and has duly authorized the execution, delivery,

- and performance of this Agreement and the other Documents by proper corporate action.
2. Developer is not in violation of any provision of its organizational documents, or any indenture, mortgage, deed of trust, indebtedness, agreement, judgment, decree, order, statute, rule or regulation to which is a party or by which it or its properties are bound or affected, other than violations and defaults which would not, individually or in the aggregate, have a material adverse effect on the financial position or results of operation of the Project by Developer.
 3. The execution and delivery by Developer of this Agreement, compliance with the provisions thereof by Developer, and the performance by Developer of its agreements, covenants, and obligations under this Agreement, do not, in any material respect, constitute on the part of Developer a breach or violation of, or default under, its organizational documents, will not violate any law or regulation applicable to Developer, or result in the breach of, or constitute a default under, any indenture or loan, credit, or other agreement or instrument to which Developer is a party or by which it or the Property is bound or affected.
 4. There are no actions, suits or proceedings pending or, to the knowledge of Developer, threatened against Developer or any premises leased or owned by Developer in any court or before any federal, state or municipal or other governmental agency which, if decided adversely to Developer, would have a material adverse effect upon Developer, the Property, the financial position of Developer, or the operation of the Project, and that Developer is not in default of any order of any court or governmental agency.
 5. No consent, approval, or authorization of, or permit or license from, or registration with, or notice to any federal or state regulatory authority or any third party not already obtained is required in connection with the execution, delivery, and performance by Developer of this Agreement, or any document or instrument related thereto.
 6. It is not in default of the payment of principal of or interest on any indebtedness for borrowed money or in default under any instrument or agreement pursuant to which the indebtedness has been incurred.
 7. Except as permitted in this Agreement or any other Document, Developer will not sell, encumber, transfer or otherwise pledge the Project or the Property to any other person for any purpose whatsoever except with the prior written consent of DEDA.
 8. Developer shall notify DEDA promptly in writing of any default in connection with this Agreement or the Documents promptly upon Developer becoming aware of such default.
 9. Except as otherwise permitted, Developer shall not, without written consent of DEDA, engage in any business activity on the Property different than those in which Developer is presently engaged with respect to the Project, or cease operations, liquidate, merge, transfer, acquire, or consolidate with any other entity, change ownership, dissolve, or transfer or sell the Project or the Property out of the ordinary course of business.
 10. Developer shall not enter into any agreement containing any provisions which would be violated or breached by the performance of Developer's obligations under this Agreement or in connection herewith.
 11. Developer shall provide prior notice to DEDA of any additional declaration, condition, restriction, or easement on the Project or the Property.

12. Developer shall be responsible for constructing the Project in accordance with the terms of this Agreement and all applicable local, state and federal laws and regulations (including, but not limited to, environmental, zoning, building code and public health laws and regulations, and federal Davis-Bacon). Developer shall obtain, in a timely manner, all required permits, licenses and approvals, and shall 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 Project may be lawfully constructed. Developer shall be responsible for obtaining all of the permits and licenses necessary for construction and operation of the Project.
13. The execution of this Agreement has been duly and fully authorized by Developer's governing body or board, that the officer of Developer who executed this Agreement on its behalf is fully authorized to do so, and that this Agreement when thus executed by said officer on its behalf will constitute and be the binding obligation and agreement of Developer in accordance with the terms and conditions thereof.
14. This Agreement is binding and enforceable against Developer in all respects.

ARTICLE XVI

Term

The term of this Agreement shall commence on the Effective Date and shall continue for a period of nine (9) years from the date of receipt by DEDA from the St. Louis County Auditor's Office of the first payment of Captured Tax Increment, or unless this Agreement is otherwise terminated as provided for herein. Termination shall not terminate the indemnification provisions or any other provisions of this Agreement which by their nature survive termination and shall not terminate any other rights or remedies arising under this Agreement due to any event of default which occurred prior to such termination.

ARTICLE XVII

Runs with the Land

This Agreement shall be deemed to run with the Land. This Agreement shall inure to the benefit of the parties hereto and to their successors and assigns.

ARTICLE XVIII

Notices

Any notice, demand or other communication under this Agreement by either party to the other shall be deemed to be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid to:

In the case of the DEDA:

DEDA
Attn: Executive Director
402 City Hall

411 West First Street
Duluth, MN 55802

In the case of Developer:

SOFIDEL AMERICA CORP.
300 Welsh Road
Building One
Horsham, PA 19044 USA

or at such address with respect to either party as that party may, from time to time, designate in writing and forward to the other as provided in this section.

ARTICLE XIX

Recordation

Immediately upon execution of this Agreement, Developer agrees to record this Development Agreement in the office of the St. Louis County Recorder and/or Registrar of Titles and to pay all costs associated therewith. Upon recordation, Developer shall immediately submit to the DEDA an executed original of the Development Agreement showing the date and document numbers of record, or a certified copy of the filed original.

ARTICLE XX

Disclaimer of Relationships

Developer acknowledges that nothing contained in this Agreement nor any act by the DEDA or Developer shall be deemed or construed by Developer or by any third person to create any relationship of third-party beneficiary, principal and agent, limited or general partner, or joint venture between the DEDA and Developer, and/or a third party.

ARTICLE XXI

Applicable Law

This Agreement together with all of its Articles, sections, paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota. All proceedings related to this Agreement shall be venued in Duluth, Minnesota.

ARTICLE XXII

Judicial Interpretation

Should any provision of this Agreement require judicial interpretation, the court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be

construed more strictly against the party who itself or through its agent or attorney prepared the same, it being agreed that the agents and attorneys of both parties have participated in the preparation hereof.

ARTICLE XXIII

Title of Articles

Any title, Articles, section and paragraphs in this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

ARTICLE XXIV

Severability

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

ARTICLE XXV

Unavoidable Delays

Neither party shall be held responsible for, and neither party shall be in considered in default of this Agreement as a result of, but not limited to, delay or default caused by fire, casualty, riot, acts of God, war, terrorism, disease, flooding, natural disasters, government actions, judicial actions by third parties, labor disputes, embargoes, or adverse weather conditions, except for delays caused by government and judicial actions which could have been avoided by compliance with laws, rules and regulations of which either party had knowledge or should have reasonably had knowledge.

ARTICLE XXVI

Entire Agreement

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

ARTICLE XXVII

Counterparts

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

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

DULUTH ECONOMIC DEVELOPMENT
AUTHORITY

SOFIDEL AMERICA CORP.,
a Florida corporation

By: _____
Its President

By: _____

Name: _____

By: _____
Its Secretary

Its: _____

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

The foregoing instrument was acknowledged before me this _____ day of _____, 2024, by _____ and _____, the President and Secretary, respectively, of the Duluth Economic Development Authority, an economic development authority created and existing under Minnesota Statutes, on behalf of the Authority.

STATE OF _____)
) SS
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2024, by _____, to _____ of SOFIDEL AMERICA CORP., a Florida corporation, on behalf of the corporation.

Notary Public

This instrument was drafted by:

Amanda M. Mangan
Assistant City Attorney
City of Duluth
411 West First Street, Room 440 City Hall
Duluth, MN 55802
(218) 730-5490

Exhibit A. Legal Description of Property

Exhibit B. Form of TIF Note

Exhibit C. Eligible Project Costs; Total Project Costs

Exhibit D. Form of Certificate of Completion

Exhibit E. Form of Project Labor Agreement

Exhibit F. Community Benefits Program Contract Specifications

Exhibit G Minimum Assessment Agreement

Exhibit A

Property Legal Description

- 010-2806-00020: Lot 2, Block 1, Lake Superior Paper Division, except minerals. St. Louis County, Minnesota.
- 010-2806-00030: Lot 3, Block 1, Lake Superior Paper Division, Except that portion described as follows: Commencing at a capped square tube noted on the plat and located at the intersection of the center line of Polk Street and the East line of 55th Avenue West (also known as Central Avenue) the Point of Beginning; thence North 00 degrees 00 minutes 01 seconds East along East line of 55th Avenue West (also known as Central Avenue) a distance of 282.80 feet; thence North 89 degrees 59 minutes 56 seconds East a distance of 250.00 feet; thence South 00 degrees 00 minutes 01 seconds West a distance of 282.80 feet, more or less, to the center line of Polk Street, thence South 89 degrees 59 minutes 58 seconds West along the center line of Polk Street 250.00 feet, more or less, to the Point of Beginning, And also except minerals. St. Louis County, Minnesota.
- 010-2806-00040: Lot 1, Block 2, Lake Superior Paper Division, except minerals. St. Louis County, Minnesota.

Exhibit B
Form of TIF Note

Principal Amount

Annual Rate

\$ _____

6.00%

UNITED STATES OF AMERICA

STATE OF MINNESOTA

COUNTY OF ST. LOUIS

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

TAX INCREMENT FINANCING (TIF) REVENUE NOTE
(DULUTH PAPER MILL 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 SOFIDEL AMERICA CORP. a Florida corporation (the “Developer”), or its registered assigns (the “Registered Owner”), the principal amount of \$ _____ and ____/100th Dollars (\$ _____), which is the amount determined in Article VII of that certain Development Agreement between DEDA and the Developer dated _____, 2024, and bearing DEDA Contract No. _____, 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, 20__, to and including February 1, 20__, 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, 20__; (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
Attorney for Duluth Economic Development Authority

Exhibit C

Eligible Project Costs; Total Project Costs

Exhibit C

TOTAL PROJECT COSTS (Estimated) with EQUIPMENT EXCLUDED	
Engineering / site investigations	\$3,000,000
Mass earth / piling works	\$16,000,000
Buildings	\$83,400,000
Total Real Estate Costs	\$102,400,000



ELIGIBLE PROJECT COSTS (Estimated)	
Land/Building Acquisition	\$0
Site Improvements/Preparation	\$10,000,000
Utilities	\$5,000,000
Other Qualifying Improvements	\$6,259,938
Administrative Costs (up to 10%)	\$2,834,716
Eligible Project Costs	\$24,094,654

Exhibit D

Form of Certificate of Completion

CERTIFICATE OF COMPLETION

RECITALS:

A. On _____, 20____, the Duluth Economic Development Authority, an economic development authority created and existing under Minnesota Statutes Chapter 469 (“DEDA”), and SOFIDEL AMERICA CORP., a Florida corporation (“Developer”), entered into a Development Agreement, which agreement was recorded in the Office of the St. Louis County Registrar of Title on _____, 2024, as Document No. _____ (the “Development Agreement”), relating to property located in St. Louis County, Minnesota, and legally described in the attached Exhibit A (the “Property”).

B. Capitalized terms used in this Certificate of Completion but not defined herein shall have the meanings ascribed to them in the Development Agreement.

C. Article VI of the Development Agreement provides that a Certificate of Completion be issued by DEDA’s Executive Director upon, among other things, completion by Developer of the construction of the Project in accordance with the Development Agreement.

D. Developer has completed construction of the Project in a manner deemed sufficient by DEDA to permit execution and recording of this Certificate of Completion.

NOW, THEREFORE, in consideration of the foregoing recitals:

1. Construction of the Project required to be performed by Developer pursuant to the Development Agreement with respect to the Property, has been completed, and those requirements under the Development Agreement which relate solely to construction obligations of the Project have been fulfilled, but all other conditions and restrictions contained in the Development Agreement shall remain in effect.

2. The Registrar of Titles in and for St. Louis County, Minnesota, are hereby authorized to accept for recording and to record this instrument.

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

By: _____
Executive Director

STATE OF MINNESOTA)
) SS

COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this _____ day of _____, 202_, by _____, the Executive Director of the Duluth Economic Development Authority, an economic development authority under Minnesota Statutes Chapter 459, on behalf of the authority.

Notary Public

This instrument drafted by:

Amanda M. Mangan
Assistant City Attorney
Attorney for the Duluth Economic Development Authority
411 West First Street
Room 440 City Hall
Duluth, MN 55802
(218) 730-5490

Exhibit E
Project Labor Agreement

CITY OF DULUTH PROJECT LABOR AGREEMENT

ARTICLE I PURPOSE

This Agreement is entered into as of the date of attestation by the City Clerk, by and between Click or tap here to enter text., its successors or assigns (hereinafter “Project Contractor”), and the City of Duluth, (hereinafter “Owner”¹) and the Duluth Building and Construction Trade Council, on behalf of its affiliated local unions, acting on their own behalf and on behalf of their respective affiliates and members whose names are subscribed hereto and who have, through their duly authorized officers, executed this Agreement (hereinafter collectively called the “Union or Unions”), with respect to the construction of the Click or tap here to enter text. (hereinafter “Project”).

The term “Contractor” shall include all construction contractors and subcontractors of whatever tier engaged in construction work within the scope of this Agreement, including the Project Contractor when it performs construction work within the scope of this Agreement. Where specific reference to Click or tap here to enter text. alone is intended, the term “Project Contractor” is used.

The parties recognize the need for the timely completion of the Project without interruption or delay. This Agreement is intended to establish a framework for labor-management cooperation and stability. The Contractor(s) and the Unions agree that the timely construction of this Project will require substantial numbers of employees from construction and supporting crafts possessing skills and qualifications that are vital to its completion. They will work together to furnish skilled, efficient craft workers for the construction of the Project.

Further, the parties desire to mutually establish and stabilize wages, hours and working conditions for the craft workers on this construction project, to encourage close cooperation between the Contractor(s) and the Unions to the end that a satisfactory, continuous and harmonious relationship will exist between the parties to this Agreement.

Therefore, in recognition of the special needs of this Project and to maintain a spirit of harmony, labor-management peace, and stability during the term of this Agreement, the parties agree to abide by the terms and conditions in this Agreement, and to establish effective and binding methods for the settlement of all misunderstandings, disputes or grievances which may arise. Further, the Contractor(s) and all contractors of whatever tier, agree not to engage in any lockout, and the Unions agree not to engage in any strike, slow-down, or interruption or other disruption of or interference with the work covered by this Agreement.

¹ Where the work is performed under Contract with the City of Duluth, the “Owner” is the City of Duluth. Where the Owner receives financial assistance or payment from the City, the Owner is the corporation, firm or other entity that is receiving the assistance or payment.

ARTICLE II

SCOPE OF AGREEMENT

Section 1. This Project Labor Agreement shall apply and is limited to all construction work included in all bid categories for the Project under the direction of and performed by the Contractor(s), of whatever tier, which may include the Project Contractor, who have contracts awarded for such work on the Project. Such work shall include site preparation work and dedicated off-site work.

The Project is defined as: [Click or tap here to enter text.](#)

Section 2. It is agreed that the Project Contractor shall require all Contractors of whatever tier who have been awarded contracts for work covered by this Agreement to accept and be bound by the terms and conditions of this Project Labor Agreement by executing the “Agreement to Bound” form attached as Exhibit 1 prior to commencing work. This Project Labor Agreement is a material term of the bid specifications for the Project and therefore, regardless of whether a contractor executes this Agreement, by virtue of the owner and/or Project Contractor accepting the bid offer of the Contractor, a Contractor who performs work on this project is bound to this PLA regardless of their execution of this Agreement. The Project Contractor shall assure compliance with this Agreement by the Contractors. It is further agreed that, where there is a conflict, the terms and conditions of this Project shall supersede and override terms and conditions of any and all other national, area, or local collective bargaining agreements, except for all work performed under the NTL Articles of Agreement, The National Stack/Chimney Agreement, the National Cooling Tower Agreement, all instrument calibration work and loop checking shall be performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians, and the National Agreement of the International Union of Elevator Constructors, with the exception of Article V, VI and VII of this Project Labor Agreement, which shall apply to such work. It is understood that this is a self-contained, stand alone, Agreement and that by virtue of having become bound to this Project Agreement, neither the Project Contractor nor the Contractors will be obligated to sign any other local, area or national agreement.

Section 3. Nothing contained herein shall be construed to prohibit, restrict or interfere with the performance of any other operation, work, or function which may occur at the Project site or be associated with the development of the Project.

Section 4. This Agreement shall only be binding on the signatory parties hereto and shall not apply to their parents, affiliates or subsidiaries.

Section 5. The Owner and/or Project Contractor have the absolute right to select any qualified bidder for the award of contracts on this Project without reference to the existence or non-existence of any agreements between such bidder and any party to this Agreement; provided, however, only that such bidder is willing, ready and able to become a party to and comply with this Project Agreement, should it be designated the successful bidder.

Section 6. As areas and systems of the Project are inspected and construction tested by the Project Contractor or Contractors and accepted by the Owner, the Project Labor Agreement will not have further force or effect on such items or areas, except when the Project Contractor or Contractors are

directed by the Owner to engage in repairs, modifications, check-out, and warranty functions required by its contract with the Owner during the term of this Agreement.

Section 7. It is understood that the Owner, at its sole option, may terminate, delay and/or suspend any or all portions of the Project at any time.

Section 8. It is understood that the liability of any employer and the liability of the separate unions under this Agreement shall be several and not joint. The unions agree that this Agreement does not have the effect of creating any joint employer status between or among the Owner, Contractor(s) or any employer.

Section 9. The provisions of this Project Labor Agreement shall apply to all craft employees represented by any Union listed in Schedule A hereto attached and shall not apply to other field personnel or managerial or supervisor employees as defined by the National Labor Relations Act. No Contractor party is required to sign any other agreement as a condition of performing work within the scope of this Agreement. However, any Contractor performing work on the Project which is not party to a Local Area Labor Agreement for a craft employed by the Contractor, agrees to install hourly wage rates, hours, fringe benefit contributions, referral procedures and all other terms and conditions of employment as fully set forth in the applicable Local Area Agreement as described in Schedule A for work on the Project for each craft employed by the Contractor. But in no event shall the wages be less than the wages that are applicable to this project under the Minnesota Prevailing Wage Act, Minn. Stat. § 177.43. All employees covered by this Agreement shall be classified in accordance with the work performed. Nothing in this Agreement requires employees to join a union or pay dues or fees to a union as a condition of working on the covered project. This Agreement is not, however, intended to supersede independent requirements in applicable local union agreements as to contractors that are otherwise signatory to those agreements and as to employees of such employers performing covered work.

Section 10. The Contractors agree to timely pay contributions to the established employee benefit funds in the amounts designated in the Local Area Labor Agreements attached as Schedule A.

The Contractors adopt and agree to be bound by the written terms of the legally-established Trust Agreements specifying the detailed basis on which payments are to be made into, and benefits paid out of, such Trust Funds. The Contractors authorize the parties to such Trust Agreements to appoint trustees and successor trustees to administer the Trust funds and hereby ratify and accept the Trustees so appointed as if made by the Contractors.

Section 11. All workers delivering fill, sand, gravel, crushed rock, transit/concrete mix, ready mix, asphalt or other similar material and all workers removing any materials from the construction site shall receive a total package of wages and benefits at least and not lower than the wages and benefits provided for in the then current Highway, Heavy Construction Agreement between Teamsters Local 346 and the Associated General Contractors of America, or the Highway Heavy Prevailing Wage Schedule, whichever is greater.

ARTICLE III
UNION RECOGNITION AND UNION SECURITY

Section 1. The Contractors recognize the signatory Unions as the sole and exclusive bargaining representatives of all craft employees within their respective jurisdictions working on the Project within the scope of this Agreement.

Section 2. Authorized representatives of the Union shall have access to the Project, provided they do not interfere with the work of employees and further provided that such representatives comply fully with the posted visitor and security and safety rules of the Project.

ARTICLE IV **REFERRAL OF EMPLOYEES**

Applicants for the various classifications covered by this Agreement required by the Employer or Contractors on the Project shall be referred to the Contractors by the Unions. The Unions represent that its local unions administer and control their referrals and it is agreed that these referrals will be made in a non-discriminatory manner and in full compliance with Federal and State laws.

ARTICLE V **MANAGEMENT'S RIGHTS**

The Project Contractor and Contractors of whatever tier retain full and exclusive authority for the management of their operations. Except as otherwise limited by the terms of this Agreement or the applicable local area agreements, the Contractors shall direct their working forces at their prerogative, including, but not limited to hiring, promotion, transfer, lay-off or discharge for just cause.

ARTICLE VI **WORK STOPPAGES AND LOCKOUTS**

Section 1. During the term of this Agreement there shall be no strikes, picketing, work stoppages, slowdowns or other disruptive activity for any reason by the Unions or by any employee, and there shall be no lockout by the Contractor. Failure of any Union or employee to cross any picket line established at the Project site is a violation of this Article.

Section 2. The Unions shall not sanction, aid or abet, encourage or continue any work stoppage, strike, picketing or other disruptive activity at the Contractor's project site or any site of a contractor or supplier necessary for the performance of work at the project site and shall undertake all reasonable means to prevent or to terminate any such activity. No employee shall engage in activities which violate this Article. Any employee who participates in or encourages any activities which interfere with the normal operation of the Project shall be subject to disciplinary action, including discharge, and if justifiably discharged for the above reasons, shall not be eligible for rehire on the Project for a period of not less than thirty (30) days.

Section 3. The Unions shall not be liable for acts of employees for whom it has no responsibility. The International Union General President or Presidents will immediately instruct, order and use the best efforts of his office to cause the Local Union or Unions to cease any violations of this Article. An International Union complying with this obligation shall not be liable for unauthorized acts of its Local Union. The principal officer or officers of a Local Union will immediately instruct, order and

use the best efforts of his office to cause the employees the Local Union represents to cease any violations of this Article. A Local Union complying with this obligation shall not be liable for unauthorized acts of employees it represents. The failure of the Contractor to exercise its right in any instance shall not be deemed a waiver of its right in any other instance.

Section 4. Any party alleging a breach of this Article shall have the right to petition a court for temporary and permanent injunctive relief. The parties agree that the moving party, upon proving a breach of this Agreement, shall be entitled to temporary and permanent injunctive relief.

ARTICLE VII **SAFETY**

The parties are mutually committed to promoting a safe working environment for all personnel at the job site. It shall be the responsibility of each employer to which this PLA applies to provide and maintain safe working conditions for its employees, and to comply with all applicable federal, state and local health and safety laws and regulations.

ARTICLE VIII **UNION-MANAGEMENT COOPERATION COMMITTEE**

The parties to this Agreement agree to form a Union-Management Committee, consisting of signatory unions, contractors, and representatives of the City of Duluth. The purpose of the Committee is to ensure cooperation on matters of mutual concern, including productivity, quality of work, safety and health.

ARTICLE IX **DISPUTES AND GRIEVANCES**

Section 1. This Agreement is intended to provide close cooperation between management and labor. Each of the Unions will assign a representative to this Project for the purpose of completing the construction of the Project economically, efficiently, continuously, and without interruptions, delays, or work stoppages.

Section 2. The Contractors, Unions, and the employees, collectively and individually realize the importance to all parties to maintain continuous and uninterrupted performance of the work on the Project, and agree to resolve disputes in accordance with the grievance-arbitration provisions set forth in this Article.

Section 3. Any question or dispute arising out of and during the term of this Project Labor Agreement (other than trade jurisdictional disputes) shall be considered a grievance and subject to resolution under the following procedures:

Step 1. (a) When an employee subject to the provisions of this Agreement feels he or she is aggrieved by a violation of this Agreement, he or she, through his or her local union business representative or job steward, shall, within ten (10) working days after the occurrence of the violation, or knowledge of the violation, give notice to the work-site representative of the involved Contractor stating the provision(s) of the Local Area Agreement and/or this PLA alleged to have been violated. The

business representative of the local union or the job steward and the work-site representative of the involved Contractor and the Project Contractor shall meet and endeavor to adjust the matter within three (3) working days after timely notice has been given. The representative of the Contractor shall keep the meeting minutes and shall respond to the Union representative in writing (copying the Project Contractor) at the conclusion of the meeting but not later than twenty-four (24) hours thereafter. If they fail to resolve the matter within the prescribed period, the grieving party may, within forty-eight (48) hours thereafter, pursue Step 2 of the Grievance Procedure, provided the grievance is reduced to writing, setting forth the relevant information concerning the alleged grievance, including a short description thereof, the date on which the grievance occurred, and the provision(s) of the Local Area Agreement and/or this PLA alleged to have been violated.

(b) Should the Local Union(s) or the Project Contractor or any Contractor have a dispute with the other party and, if after conferring, a settlement is not reached within seven (7) working days, the dispute may be reduced to writing and proceed to Step 2 in the same manner as outlined herein for the adjustment of an employee complaint.

Step 2. The Business Manager or his or her designee of a Local Union and the involved Contractor shall meet within seven (7) working days of the referral of a dispute to this second step to arrive at a satisfactory settlement thereof. Meeting minutes shall be kept by the Contractor. If the parties fail to reach an agreement, the dispute may be appealed in writing in accordance with the provisions of Step 3 within seven (7) calendar days thereafter.

Step 3. (a) If the grievance has been submitted but not adjusted under Step 2, either party may request in writing, within seven (7) calendar days thereafter, that the grievance be submitted to an Arbitrator mutually agreed upon by them. The Contractor and the involved Union shall attempt mutually to select an arbitrator, but if they are unable to do so, they shall request the Federal Mediation and Conciliation Service to provide them with a list of seven (7) neutral arbitrators from which the Arbitrator shall be selected. The parties shall alternatively strike arbitrators from the list until one remains, who shall preside at the hearing. The party striking first shall be determined by the flip of a coin. The decision of the Arbitrator shall be final and binding on all parties. The fee and expenses of such Arbitration shall be borne equally by the Contractor and the involved Local Union(s).

(b) Failure of the grieving party to adhere to the time limits established herein shall render the grievance null and void. The time limits established herein may be extended only by written consent of the parties involved at the particular step where the extension is agreed upon. The Arbitrator shall have the authority to make decisions only on issues presented to him or her, and he or she shall not have authority to change, amend, add to or detract from any of the provisions of this Agreement.

Section 4. The Project Contractor and Owner shall be notified of all actions at Steps 2 and 3 and shall, upon their request, be permitted to participate in all proceedings at these steps.

ARTICLE X **JURISDICTIONAL DISPUTES**

Section 1. The assignment of work will be solely the responsibility of the Contractor performing the work involved; and such work assignments will be in accordance with the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry (the "Plan") or any successor Plan.

Section 2. All jurisdictional disputes on this Project, between or among Building and Construction Trades Unions and employers, parties to this Agreement, shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the Contractors and Unions parties to this Agreement.

Section 3. All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Contractor's assignment shall be adhered to until the dispute is resolved. Individuals violating this section shall be subject to immediate discharge.

Section 4. Each Contractor will conduct a pre-job conference with the appropriate Building and Construction Trades Council prior to commencing work. The Project Contractor and the Owner will be advised in advance of all such conferences and may participate if they wish.

ARTICLE XI **SUBCONTRACTING**

The Project Contractor agrees that neither it nor any of its contractors or subcontractors will subcontract any work to be done on the Project except to a person, firm or corporation who is or agrees to become party to this Agreement. Any contractor or subcontractor working on the Project shall, as a condition to working on said Project, become signatory to and perform all work under the terms of this Agreement.

ARTICLE XII **HELMETS TO HARDHATS**

Section 1. The Employers and Unions recognize a desire to facilitate the entry into the building and construction trades of veterans who are interested in careers in the building and construction industry. The Employers and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter "Center") and the Center's "Helmets to Hardhats" program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the parties.

Section 2. The Unions and Employers agree to coordinate with the Center to create and maintain an integrated database of veterans interested in working on this Project and of apprenticeship and employment opportunities for this Project. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience.

ARTICLE XIII **LABOR HARMONY CLAUSE**

The contractor shall furnish labor that can work in harmony with all other elements of labor employed on the Project and shall submit a labor harmony plan to demonstrate how this will be done. "Harmony" shall include the provision of labor that will not, either directly or indirectly, cause or

give rise to any work disruptions, slowdowns, picketing, stoppages, or any violence or harm to any person or property while performing any work, or activities incidental thereto at the Project. The labor harmony plan should include the company's labor management policies, collective bargaining agreements if any and their expiration dates, past labor relations history, a listing of activities anticipated under this contract that may potentially cause friction with on-site workers, and procedures the company will undertake to eliminate this friction.

The contractor agrees that it shall require every lower-tier subcontractor to provide labor that will work in harmony with all other elements of labor employed in the work, and will include the provisions contained in the paragraph above, in every lower-tier subcontract let for work under this contract.

The requirement to provide labor that can work in harmony with all other elements of labor employed in the work throughout the contract performance is a material element of this contract. Failure by the contractor or any of its lower-tier subcontractors to comply with this requirement shall be deemed a material breach of the contract which will subject the contractor to all rights and remedies the Owner or Project Contractor may have, including without limitation the right to terminate the contract.

ARTICLE XIV **NO DISCRIMINATION**

Section 1. The Contractor and Union agree that they will not discriminate against any employee or applicant for employment because of his or her membership or non-membership in a Union or based upon race, color, religion, sexual preference, gender identification, national origin or age in any manner prohibited by law or regulation.

Section 2. Any complaints regarding application of the provisions of Section 1, should be brought to the immediate attention of the involved Contractor for consideration and resolution.

Section 3. The use of the masculine or feminine gender in this Agreement shall be construed as including all gender identification.

ARTICLE XV **SAVINGS AND SEPARABILITY**

It is not the intention of the parties to violate any laws governing the subject matter of this Agreement. The parties hereto agree that in the event any provisions of the Agreement are finally held or determined to be illegal or void as being in contravention of any applicable law, the remainder of the Agreement shall remain in full force and effect unless the part or parts so found to be void are wholly inseparable from the remaining portions of this Agreement. Further, the Contractor and Union agree that if and when any and all provisions of this Agreement are finally held or determined to be illegal or void by a Court of competent jurisdiction, the parties will promptly enter into negotiations concerning the substance affected by such decision for the purpose of achieving conformity with the requirements of an applicable law and the intent of the parties hereto.

ARTICLE XVI **DURATION OF THE AGREEMENT**

The Project Labor Agreement shall continue in effect for the duration of the Project construction work described in Article II hereof. Construction of any phase, portion, section or segment of the project shall be deemed complete when such phase, portion, section or segment has been turned over to the Owner and has received the final acceptance from the Owner's representative.

Since there are provisions herein for no strikes or lockouts in the event any changes are negotiated and implemented under a Local Area Agreement during the term of this Agreement, the Contractor agrees that, except as specified herein, such changes shall be recognized and shall apply retroactively to the termination date in the particular Local Agreement involved. Each Contractor which has a Local Agreement with a Union at the time that its contract at the project commences shall continue it in effect with each said Union so long as the Contractor remains on the project. In the event any such Local Area Agreement expires, the Contractor shall abide by all of the terms of the expired Local Agreement until agreement is reached on a new Local Agreement, with any changes being subject to the provisions of this Agreement.

The Union agrees that there will be no strikes, work stoppages, sympathy actions, picketing, slowdowns or other disruptive activity affecting the Project by any Union involved in the negotiation of a Local Area Agreement nor shall there be any lockout on this Project affecting the Union during the course of such negotiations.

[The remainder of this page intentionally left blank. Signature page to follow].

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

DULUTH BUILDING AND
CONSTRUCTION TRADES COUNCIL

Click or tap here to enter text.

By: _____

By: _____

Its: _____
(Printed Name/Title)

Its: _____
(Printed Name/Title)

Date: _____

Date: _____

Phone No.: _____

CITY OF DULUTH

By: _____
Mayor

Attest:

City Clerk

Date: _____

City Auditor

City Attorney

**SUBCONTRACTOR'S
AGREEMENT TO BE BOUND
PROJECT LABOR AGREEMENT**

The undersigned EMPLOYER (subcontractor) agrees that it has reviewed a copy of the Project Labor Agreement for the _____ Project located in Duluth, Minnesota, with the Duluth Building & Construction Trades Council and further agrees to become a party to and bound to the foregoing Agreement.

This form is to be completed by subcontractor and submitted to the Project Contractor. Project Contractor shall retain and submit to City of Duluth or Duluth Building & Construction Trades Council upon request.

Attest:

SIGNED FOR THE EMPLOYER:

Dated: _____

Signature

Company Name

Company Address

Phone No., Job Site and/or Office

Fax No.

Signer's Name

Signer's Title

SCHEDULE "A"

For a copy of the current Local Area Collective Bargaining Agreement referenced in Article II, Section 9 of the PLA please contact directly the Local Union representing the craft for the work to be performed (see attached contact list) or contact the Duluth Building & Construction Trades Council.

- A-1 Asbestos Workers Local 49
- A-2 Boilermakers Local 647
- A-3 BAC Local 1 Chapter 3 Duluth and Iron Range
- A-4 Carpenters Local 361
- A-5 Cement Masons/Plasters Local 633
- A-6 Elevator Constructors Local 9
- A-7 IBEW Local 242
- A-8 Iron Workers Local 512
- A-9 Laborers Local 1091
- A-10 Millwrights Local 1348
- A-11 Operating Engineers Local 49
- A-12 Painters & Allied Trades Local 106
- A-13 Plumbers & Fitters Local 11
- A-14 Roofers Local 96
- A-15 Sheet Metal Workers Local 10
- A-16 Sprinkler Fitters Local 669
- A-17 Teamsters Local 346

AFFILIATE UNIONS CONTACT INFORMATION 2022

HEAT AND FROST INSULATORS 49

Dave Cartwright
2002 London Road #210
Duluth, MN 55812
(218) 724-3223 / Fax# 724-1870
dave@insulatorslocal49.org

CARPENTERS LOCAL 361

Jeremy Browen
5238 Miller Trunk Hwy
Hermantown, MN 55811
(218) 724-3297 / Fax# 724-8536
jbrowen@ncsrcc.org

IBEW LOCAL 242

Don Smith, *Secretary*
2002 London Road #111
Duluth, MN 55812
(218) 728-6895
dsmithlcl242@unions-america.com

MILLWRIGHTS & MACHINERY ERECTORS LOCAL 1348

Jason Odella
726 4th Street N
(218) 741-6314 / Fax# 741-6017
jodella@ncsrcc.org

PLUMBERS & FITTERS LOCAL 11

Andrew Campeau, *President*
4402 Airpark Boulevard
Duluth, MN 55811
(218) 727-2199 / Fax# 727-2298
president@duluthbuildingtrades.com

SPRINKLER FITTERS LOCAL 669

Gene Stevens
PO Box 16110
Duluth, MN 55816
(218) 343-0383
gstevenschief@gmail.com

BOILERMAKERS LOCAL 647

Bill Polchow
1007 NW 4th Street, Ste C
Grand Rapids, MN 55744
(218) 326-2522 / Fax# SAME
bpolchow647@outlook.com

CEMENT MASONS LOCAL 633

Michael Syversrud
2002 London Road #112
Duluth, MN 55812
(218) 724-2323 / Fax# 724-2472
mikes@local633.org

IRON WORKERS LOCAL 512

Keith Musolf
3752 Midway Road
Hermantown, MN 55810
(218) 724-5073
keith@iron512.com

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ROOFERS LOCAL 96

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TEAMSTERS LOCAL 346

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BAC LOCAL #1 CHAPTER 3 DULUTH & IRON RANGE

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ELEVATOR CONSTRUCTORS LOCAL 9

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LABORERS LOCAL 1091

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PAINTERS LOCAL 106

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SHEET METAL WORKERS LOCAL 10

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This information is provided by the Duluth Building & Construction Trades Council, 2002 London Road, Duluth, MN 55812; 218-724-6466, president@duluthbuildingtrades.com.

TEMPLATE

Exhibit F
Community Benefits Program

COMMUNITY BENEFITS PROGRAM
CONTRACT SPECIFICATION

The City of Duluth has determined that it is critical to the economic vitality of the city and its citizens that contractors entering into contracts with the city for Covered Projects as defined in City Code commit to assisting in developing a diverse, trained, and skilled workforce needed for the construction of projects. Therefore as a condition of the award of this Contract to the Contractor, Contractor hereby agrees to use its best efforts to implement the Community Benefits Program (the “Program”) as hereinafter set forth in this Specification and to cooperate fully with the City’s Workforce Development Department to so implement the Program. Further Contractor agrees to require any subcontractor of Contractor working on the Covered Project covered by this Specification to so use their best efforts to implement the Program.

CONTRACTOR FURTHER AGREES THAT ITS PERFORMANCE OF ITS OBLIGATIONS AS SET FORTH IN THIS SPECIFICATION MAY BE AN ELEMENT IN DETERMINING WHETHER CONTRACTOR IS A “RESPONSIBLE BIDDER” ON FUTURE CONTRACTS FOR COVERED PROJECTS FOR THE CITY.

I. DEFINITIONS

For the purposes of this Specification, the following terms shall have the meanings hereinafter ascribed to them:

- A. Best Efforts: shall mean such efforts as are reasonable in light of the Contractor’s ability and the means at its disposal.
- B. Best Efforts Plan: shall mean a plan developed and approved between a Contractor and the Workforce Development Department to implement the Contractor’s Best Efforts obligations under this Specification.
- C. Contractor: shall mean the contracting entity entering into the contract of which this Specification is a part and all of its Subcontractors.
- D. Eligible Workers: shall refer to women, people of color, and other individuals who are considered socially disadvantaged, and whose work hours on a covered project shall count toward the Community Benefits Goal outlined in this document. An individual who falls within one or more of the following federally protected classes or who has one or more of the following characteristics shall be considered an Eligible Worker:

Federally protected classes;

- Woman;
- Person of color;
- Has a disability;
- Veteran

Other Eligible Worker Characteristics;

- Is currently homeless;
- Has received public assistance of any kind within the last 12 months;
- Has a criminal record of conviction;
- Is currently in, or has been emancipated from, the public foster care system;

- Is a disadvantaged or at-risk youth, as defined by the Workforce Investment and Opportunity Act (WIOA), between the ages of 18 and 24;
 - Has a household income below 200% of Federal Poverty Level
 - Is otherwise eligible under HUD Section 3.
- E. Program: shall mean the Community Benefits Program as set forth in this Specification.
- F. Project: shall mean the Covered Project as defined by City Code Section 2-25 that is the subject of the contract of which this Specification is a part.
- G. Subcontractors: shall mean all subcontractors of Contractor of whatever tier engaged in on-site work on the Project covered by the contract of which this Specification is a part.
- H. Work Hours: shall mean the total number of hours of work performed on a Project by Eligible Workers, which work is of a type or character commonly performed by members of labor unions which are affiliated with the Duluth Building and Construction Trades Council or similar regional Councils within Minnesota..

II. PROGRAM GOALS

All Contractors entering into contracts for Projects will be required to use their best efforts, as described below, in the performance of those contracts to attain the following Program goals

- A. Eligible Worker - General: For each Project contract entered into in the calendar year set forth below the Contractor shall use its best efforts to cause the following percentage of total hours of work performed with respect to such Project to be Work Hours performed by Eligible Workers:
1. For all contracts entered into in 2019 - 10%
 2. For all contracts entered into in 2020 - 12%
 3. For all contracts entered into in 2021 and thereafter - 15%
- B. Women
- One-half of Work Hours shall be performed by Eligible Workers who are women.

III. CONTRACTOR - BEST EFFORTS

A. Plan

Contractor shall submit a Best Efforts Plan to the Workforce Development Department within Five (5) Days of the issuance of the notification of intent to award. This plan shall outline workforce requirements for the construction of the Project and specify actions that the Contractor will take to achieve the Program Goals set forth in Section II above for the construction of the Project. No Notice to Proceed will be issued by the City for any Project unless the required Best Efforts Plan has been approved by the Workforce Development Department.

The actions outlined in the Best Efforts Plan are intended to create a lasting partnership between the City and the Contractor to help Eligible Workers develop life-long careers and increase the community's capacity to provide the appropriate workforce for future projects. The Best Efforts Plan shall include ongoing efforts lasting beyond Project completion. The Best Efforts Plan may include but shall not be limited to the following commitments by the Contractor:

1. To participate in local job fairs and hiring events, including those at high schools, those organized by CareerForce and other partner organizations, and those organized by area community and technical colleges.
2. To proactively work with the Workforce Development Department and partner organizations it has identified, as well as with unions with which the Contractor has agreements, to sponsor new Eligible Workers into such union's apprenticeship programs.
3. To proactively work with CareerForce, Native American tribes and appropriate community organizations to recruit and retain Eligible Workers.
4. To support and actively participate in local apprenticeship exploration programs and other construction career training opportunities.
5. To actively participate in the Duluth Workforce Development Board's Construction Working Group, and in its various initiatives to expand the involvement of Eligible Workers in our region's construction workforce.
6. To develop and implement efforts to retain and support advancement of Eligible Workers in the Contractor's company.
7. To develop and implement company policies and processes to facilitate reporting and resolution of discrimination, harassment, or bias complaints.
8. To require the Contractor's Subcontractors to join with and cooperate fully with Contractor in the implementation of the Contractor's Best Efforts Plan.
9. To take such other actions that will encourage participation of Eligible Workers in the Construction of Projects, while not adding cost to the Project.
10. To take, and to require its Subcontractors to take appropriate corrective action within a specified time period when notified by the Workforce Development Department that its Program efforts have failed to meet the Best Efforts requirements of the Plan.

B. Reporting

1. **Monthly Reporting:** No later than Ten (10) days following the end of the month in which Work Hours are performed on any Project, the Contractor shall submit a written report(s) to the Workforce Development Department certifying the names and identities of all Eligible Workers performing work on the Project in the prior month, the number of hours of Work Hours performed by each such Eligible Worker and the total number of hours of work performed by all workers working on the Project; the report(s) shall include the same information regarding employees of and work performed by Subcontractors. In determining the identity of Eligible Workers, Contractors and Subcontractors may use then-current lists of Eligible Workers certified by the Workforce Development Department or self-attestation forms signed by Eligible Workers collected by the Contractor or Subcontractor and provided to the Workforce Development Department, or a combination thereof.
2. **Completion Report:** No later than Sixty (60) days following the end of substantial completion of construction on any Project, the Contractor shall submit a written report(s) to the Workforce Development Division certifying the names and identities of all Eligible Workers performing work on the Project from commencement of construction to its completion, the number of hours of Work Hours performed by each such Eligible Worker and the total number of hours of work performed by all workers working on the Project; the

report(s) shall include the same information regarding employees of and work performed by Subcontractors. Eligible Workers shall be certified as provided for in subparagraph 1 of Paragraph B above. In addition, if the Completion Report establishes that the Program Goals have not been met, the Completion Report shall set forth in detail all efforts actually effectuated to implement the Best Efforts Plan and may set forth any explanations or extenuating circumstances for not having met the Program Goals.

IV. CITY-PROGRAM OBLIGATIONS

As they pertain to the implementation of the Program, the City, through its Workforce Development Department, shall:

- A. Work with and assist Contractor and all Subcontractors in developing the Best Efforts Plan for each Project covered by this Specification.
- B. Promptly review and approve the Best Efforts Plan as and when appropriate.
- C. Actively recruit potential Eligible Workers to enter into the building and construction trades and to participate in educational and training programs aimed at making them employable in said trades.
- D. Work with and collaborate with educational institutions, community partners and apprenticeship programs to build accessible pathways into employment in the building and construction trades and assist in resolving barriers which might inhibit the availability of employment in such trades to Disadvantaged Workers.
- E. Receive and review the Monthly Reports referred to in Subparagraph 1 of Paragraph B of Section III above and notify any reporting Contractor or Subcontractor that is not meeting the Best Efforts requirements of the Program of any deficiency and collaborate on identification of steps that such Contractor or Subcontractor can perform to address the deficiency.
- F. Receive and review the Completion Reports referred to in Subparagraph 2 of Paragraph B of Section III above and notify any reporting Contractor or Subcontractor that has not met the Best Efforts requirements of the Program of that deficiency. Document and report any explanations or extenuating circumstances were provided by Contractor or any Subcontractor for not having met the Program Goals.

Exhibit G

Form of Minimum Assessment AgreementG

ST. LOUIS COUNTY MINIMUM ASSESSMENT AGREEMENT -TIF

THIS MINIMUM MARKET ASSESSMENT AGREEMENT (“Agreement”) is entered into as of _____, ___ between the City of _____ (“City”) OR Economic Development Authority, an economic development authority created and existing under Minnesota Statutes Chapter 469 (“_EDA”) and Sofidel America Corp. (the “Developer”), and the County Assessor for St. Louis County, Minnesota (the “Assessor”).

BACKGROUND The Assessor’s Minimum Market Value shall be as specified in this Agreement, regardless of actual market values that may result from incomplete construction or improvements, destruction or diminution by any cause, insured or uninsured, except in the case of acquisition or reacquisition or property by a public entity

- A. City/_EDA and Developer are entering into a development agreement (the “Development Agreement”) for the [re]development of property located in the City of _____, legally described on the attached Exhibit A (the “Property”).
- B. The Development Agreement provides that Developer may construct _____ (the “Project”) on the Property.
- C. The development of the Project will be funded in part through the proceeds _____
_____469.174 through 469.1794, to be issued by _EDA; the debt service on the related note will be paid from tax increments generated by the Project.
- D. The Tax Increment Financing District for the Project has been approved by _EDA and the City.
- E. City and Developer desire to establish certain minimum market values for the Property upon completion of the Project pursuant to Minnesota Statutes, Section 469.177, Subdivision 8.
- F. Developer, City and the Assessor have reviewed the plans and specifications for the Project and reviewed the market value previously assigned to the land upon which the Project is to be constructed.

AGREEMENT

In consideration of the foregoing and other valuable consideration, the parties agree as follows:

1. The minimum market value assessed for the Project “Assessor’s Minimum Market Value”), shall, and from January 2, 202_ be not less than \$111,137,700.
2. During the duration of this Agreement, Assessor shall value the Property under *Minn.*

- Stat. §273.11*, except that the market value assigned shall not be less than the Assessor's Minimum Market Value Established by this Agreement.
3. [The Assessor's Minimum Market Value shall be as specified in this Agreement, regardless of actual market values that may result from incomplete construction or improvements, destruction or diminution by any cause, insured or uninsured, except in the case of acquisition or reacquisition or property by a public entity.]
 4. Developer agrees that, solely with respect to ad valorem taxes arising from the Minimum Market Value (including taxes payable under *Minn. Stat. §272.01 subd. 2*), arising from the Assessor's Minimum Market Value, during the term of this Agreement:
 - a. Developer will not seek administrative or judicial review of (1) the assessment valuation, so long as the assessment valuation does not exceed the Minimum Market Value identified in this agreement, or (2) the classification for assessment purposes, which shall be commercial. [Developer also will not seek administrative or judicial review of the applicability or constitutionality of any tax statute relating to the taxation of real property in the Project determined by any tax official to be applicable to the Project or raise the inapplicability or constitutionality of any such tax statute as a defense in any proceedings, including delinquent tax proceedings; provided, however, that "tax statute" does not include any local ordinance or resolution levying a tax] and
 - b. Developer will not seek any deferral or abatement of the ad valorem taxes arising from the Minimum Market Value, including all taxes payable under *Minn. Stat. §272.01 subd. 2* and penalties or interest payable on all taxes, either presently or prospectively authorized under *Minn. Stat. §469.181*, *Minn. Stat. Ch. 270*, or any other State or Federal law.
 5. The Assessor's Minimum Market Value established pursuant to this Agreement shall terminate and shall be of no further force and effect on the date that is the earlier of: (a) the date that TIF District terminates or is decertified; or (b) the date that the Development Agreement or the RIF note thereunder is terminated by EDA for any reason or (c) the date that the tax increment is no longer paid to _____ EDA; or (d) _____.
 6. EDA shall provide the Assessor written notice no less than 60 days prior to the termination of the TIF District.
 7. Upon its execution, Developer shall promptly record and/or register this Assessment Agreement in the Office of the St. Louis County Recorder and/or the Office of the St. Louis County Registrar of Titles and pay all costs associated therewith. Upon recordation, Developer shall immediately submit to City and to St. Louis County an executed original of this Assessment Agreement showing the date and document numbers of record, or duly certified copies of the filed originals. The parties shall execute and record a termination of this Assessment Agreement upon the Termination Date.

8. The Assessor represents that the Assessor has reviewed the plans and specifications for the Project and the market value previously assigned to the Property, and represents that the Minimum Market Value as set forth in this Agreement is a reasonable estimate.
9. Nothing in this Agreement limits the discretion of the Assessor to assign to the Project a market value in excess of the Minimum Market Value or prohibits Developer from seeking through the exercise of legal or administrative remedies a reduction in such market value for property tax purposes; provided however, that a reduction of such market value shall not be sought below the Minimum Market Value so long as this Agreement remains in effect.
10. This Assessment Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.
11. This Agreement may only be modified by the written consent of all parties.
12. This Assessment Agreement shall be governed by and interpreted pursuant to the laws of the State of Minnesota.
13. In the event any provision of this Assessment Agreement shall be held invalid and unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
14. Each of the parties has authority to enter into this Assessment Agreement and to take all actions required of it, and has taken all actions necessary to authorize the execution and delivery of this Assessment Agreement. This Assessment Agreement may be executed in counterparts, each of which shall constitute an original hereof and all of which shall constitute one and the same instrument.
15. Nothing in this Agreement is intended to modify, nor shall it be construed to modify, the terms of the Development Agreement.

The parties have executed this Assessment Agreement as of the date first stated above.

CERTIFICATION BY COUNTY ASSESSOR

The undersigned, having reviewed certain plans for the Project to be constructed and the market value assigned to the land upon which the Project to be constructed, as described in this Assessment Agreement, hereby states as follows: The undersigned Assessor, being legally responsible for the assessment of the above described property, hereby certifies that the \$111,137,700 market value herein above assigned to the Project is reasonable.

County Assessor for St. Louis County

Notary Public