

DEVELOPMENT AGREEMENT FOR BRAE VIEW PROJECT

THIS AGREEMENT entered into this ____ day of _____ 2025, by and among the DULUTH ECONOMIC DEVELOPMENT AUTHORITY a public body, corporate and political subdivision, ("DEDA"), and ONE ROOF COMMUNITY HOUSING, a Minnesota nonprofit corporation (referred to as "Developer" or "Grantee"), and BRAE VIEW LLLP, a Minnesota limited liability limited ("Owner").

WHEREAS, Developer, a nonprofit corporation with the mission of providing affordable housing, proposed the Project (described and defined herein) which includes the construction of a mixed use development with 72 senior-designated apartments, all units of which will be available and affordable to individuals earning 60% or less of area median income, all at rental rates determined by the United States Department of Housing and Urban Development, known as the "Brae View Project"; and

WHEREAS, the City of Duluth (the "City") received an allocation of funds under the American Rescue Plan Act of 2021 sec. 9901, Pub. L. 117-2 codified as 42 U.S.C 802 et seq. from the federal government for the purpose of ameliorating the impacts of the COVID-19 pandemic which would include actions to ameliorate the shortage of affordable housing to persons of low and moderate income and issued a request for proposals on November 29, 2021 for multifamily affordable housing projects and the City selected the Developer's proposal for funding; and

WHEREAS, the City transferred \$14,507,890 of its American Rescue Plan Act allocation to DEDA via City Council Resolution 24-0425R with the condition that the funding be used to support "affordable housing projects" and affirming the allocation of up to \$3,857,143 to the Brae View Project; and

WHEREAS, the City made a separate allocation of funding in the amount of \$725,000 in 2021 HOME-ARP Funds to the Project by City Council Resolution 25-0094R; and

WHEREAS, DEDA has determined that this Project is an appropriate use of up to \$3,132,143 of funds transferred by the City and that this transaction furthers its general plan of economic development.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, the parties hereto agree 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. Affordable: shall mean unit rents that are no more than 30% of a household's income that is 80% or less of the area mean household income ("AMI"), as

published annually by the Minnesota Housing Finance Agency as determined by the United States Department of Housing and Urban Development.

- B. Approved by the Director: shall mean the written approval of the DEDA Executive Director (the "Director"), or such person or persons to whom they may delegate such approval authority in writing, in the exercise of their sole discretion, provided that such approval shall not be unreasonably withheld.
- C. Property: shall mean that property in St. Louis County, Minnesota, legally described in the attached **Exhibit A**, under the control of Owner. Owner is the owner of a leasehold interest in the Property pursuant to that certain Ground Lease for a term of ____ years between St. Mary's Medical Center ("Essentia"), as lessor and One Roof Community Housing, as lessee, and assigned to Brae View, LLLP, dated _____ (the "Ground Lease"). Other than common areas, the Property shall explicitly not include any portion of the mixed use development that is not residential or is commercial or associated with non-residential uses. The Director shall have the authority to amend Exhibit A of this Agreement, upon the submission of a common interest community plat by Developer evidencing a legal description consistent with this definition.
- D. Eligible Costs: shall mean those costs of designing and constructing the Project which may be legally funded with DEDA assistance, as set forth in the attached **Exhibit B**, and 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.
- Costs in any amount used for aspects of the Project that are not residential, or are commercial or associated with those non-residential uses, will not be eligible for reimbursement.
- E. Project: shall mean the construction of the residential housing portion of any building or structure in a mixed use development with 72 senior designated affordable apartments in accordance with this Agreement.

F. Plans: shall mean the plans and specifications, as prepared by Developer's architect and submitted to DEDA.

G. Total Project Cost: means the sum of the Eligible Costs described in Exhibit B.

ARTICLE II

Ownership, Title and Control of Property

Developer hereby represents and warrants to DEDA that is the General Partner of Owner. Prior to DEDA's obligations under this Agreement becoming binding on and enforceable against DEDA and as a precondition thereof, Developer shall provide to DEDA evidence that the Owner is the owner of a leasehold interest in the Property and that the Property is subject to no liens or encumbrances of any kind which would prevent or interfere in any way with Developer performing its obligations under this Agreement.

ARTICLE III

Preconditions to Construction of the Project

Prior to the commencement of the construction of the Project, and as a precondition to the commencement thereof, Developer shall have presented the following documentation to DEDA with regard to the Project and shall have received the Director's prior approval thereof in writing as hereinafter required:

A. Construction Plans

Developer's Plans for the Project. All plans shall be in conformance with this Agreement, with the schematic design which shall consist of drawings and other documents illustrating scale and relation to various project components, and with all applicable laws, ordinances, rules, regulations, and requirements. 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. Construction Contract

A copy of an executed contract between Developer and a contractor or contractors necessary to complete the construction of the Project, in accordance with the Plans, and an executed PLA or PLAs with said contractor or contractors for the Project. In addition, the construction contract shall commit the contractor to conform to the requirements of the Community Benefits Program Contract Specifications. The construction contract shall provide that payments for the work thereunder are the sole obligation of Developer.

C. Performance Bonds

A copy of executed performance bonds provided by Developer in connection with construction of the Project, which bonds shall be in the amount of not less than one hundred (100%) percent of the Total Project Cost, written by a bonding company licensed to do business in the State of Minnesota, certified by Developer to be true and correct copies thereof which name DEDA as a beneficiary thereof.

D. Financial Assurance

Evidence of Developer's ability to complete the Project, including copies of lien documents or other financing, including copies of loan commitments and other financing commitments obtained by Developer for the Project, the total of said commitments and any equity contribution commitment by Developer totaling an amount not less than the total contract prices between Developer and the contractor(s) as described in Paragraph B above.

E. Eligible Costs

A list of Eligible Costs, which shall be incorporated as Exhibit B.

F. Survey

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

G. Changes After Initial Approval

Developer shall have a continuing obligation to meet the pre-conditions during the Term of this Agreement. Any changes made to plans, the construction contract or financial assurance by Developer after initial approval of the Director deemed to be material or substantial shall be submitted to them for acceptance in the same manner provided for in Paragraph A-E above.

ARTICLE IV

Construction

A. Construction of Developer Projects

Upon the fulfillment of the Preconditions to Construction provided for in Article III, Developer shall promptly commence construction of the Project in conformance with the Plans. Construction of the Project as herein defined shall be completed and all Eligible Costs incurred no later than October 31, 2026, except as hereinafter set forth in this Agreement. The Director may, in the exercise of their discretion, extend the time for completion of the Project for up to three (3) months. Any extension(s) granted by the Director shall be in writing.

B. Developer to Bear All Costs of Project

Subject to the terms and conditions of this Agreement, Developer specifically guarantees and agrees to bear all costs related to the development, completion and operation of the Project and any modifications thereto.

C. Prevailing Wage

Developer shall cause the laborers, mechanics or apprentice-trainees directly employed in the Project to be paid prevailing wage rates, as that term is defined in Section 2-25 of the Duluth City Code. Payroll for the construction trades must be submitted to the Director on a monthly basis.

D. Progress Reports

Until construction of the Project has been completed, Developer shall make reports in such detail and at such times as may be reasonably requested by DEDA as to the actual progress of construction with respect to the Project. The Developer shall provide regular monthly written reports and oral reports upon request to DEDA to share the progress with the public on the Project until such time as all activities related to this Project are completed.

E. Certificate of Completion

Upon completion by Developer of the construction of the Project and furnishing of written evidence satisfactory to the Director of such completion, and upon written request from Developer, DEDA shall furnish to Developer an appropriate certificate of completion. No such certification shall be issued until the Project has been completed. Such certification by DEDA shall constitute a conclusive determination of satisfaction of construction obligations of Developer undertaken pursuant to this Agreement. Immediately upon issuance of the Certificate of Completion, Developer agrees to record the certificate of completion with the office of the St. Louis County Recorder and/or Registrar of Titles and to pay all costs associated therewith, and provide a certified copy of such recording.

ARTICLE V

Grant to Developer

A. Award

It is hereby agreed between the parties that the funds granted to Grantee under this Agreement shall be used exclusively for the purposes of the development of the Project by the Owner. In consideration of Developer's performance of its obligations under this Agreement, DEDA hereby agrees to reimburse Developer for the cost of the Project in the amount of up to Three Million, One Hundred and Thirty-Two Thousand, One Hundred and Forty-Three Dollars and no/100ths (\$3,132,143.00) or the amount of documented Eligible Costs, whichever is less (the "Grant Funds"), payable from Fund 860-860-8640-5434.

B. Disbursement of Grant

The grant to Developer shall be payable upon Developer submitting an itemized invoice for Eligible Costs, accompanied by evidence that such work has been performed and that the costs therefore have been paid by Developer, together with such other documentation as the Director shall reasonably request. Invoices may be submitted upon completion of Developer's construction obligations. A final reimbursement of up to 10% of an award may be withheld until final completion of

construction evidenced upon (i) the issuance of the Certificate of Completion provided for in Paragraph E of Article IV above; (ii) the issuance of a Certificate of Occupancy by the City of Duluth Building Official; (iii) evidence of an operational permit; and (iv) lien waivers from all contractors constructing the Project. Payment to Grantee will be sent within forty-five (45) days of receipt of such request for reimbursement.

C. Repayment

Prompt repayment of all Grant Funds by Grantee will be required if (i) construction of the Project is not completed as provided in Article VI; or (ii) the Project does not meet the affordability requirements of this Agreement for a period of twenty (20) years, commencing on the date of the issuance of the certificate of completion.

ARTICLE VI

Developer's Operating Covenant

Developer and Owner further covenants and agrees that in its operations and use of the Project and the Property, in accordance with industry standards, it will:

A. Affordability Requirement.

Agrees and commits that during the Term of this Agreement that all 72 apartment units will be affordable to seniors over the age of 55 earning less than 60% of area median income. The Project will provide 15 units available for occupancy and affordable to persons whose household income is at 30% AMI, 32 units available for occupancy and affordable to persons whose household income is at 50% AMI, and 25 units available for occupancy and affordable to persons whose household income is at 60% AMI, for a total of 72 units. Eight (8) units of the 72 units required to be provided will be reserved and made available for occupancy to high priority homeless adults, as such term is defined by Minnesota Housing Finance Agency.

B. Reporting

Submit, at least annually, statements, records, data and information as DEDA may require pertaining to the matters covered by this Agreement. For its convenience, Developer and Owner agree that DEDA has the right to access and inspect all data reported to the City of Duluth for the purpose of determining the affordability requirements of this Agreement.

C. Maintenance

Operate and maintain the Property and Project in a neat, orderly condition; maintain and preserve and keep in good repair, working order and condition said Project; and perform all necessary and proper repairs, renewals and replacements to the Project. The maintenance of the Property and Project 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, landscape maintenance, and all exterior maintenance of the Property and Project. Developer agrees to maintain all apartment units after construction is completed in a clean and habitable manner as set forth in Chapter 29A of the City of Duluth Municipal Code. All apartment units shall remain in compliance with local building and maintenance codes through the Term of this Agreement and all rental licenses shall not lapse.

D. Living Wage

Abide by the requirements of Article VI, Chapter 2 of the Duluth City Code, 1959, as amended, and to require those construction workers directly employed in the construction of the Project to be paid Prevailing Wage Rates, as that term is defined in Section 2-25 of the Duluth City Code.

E. 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.

F. 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 to be qualified to do business in the State of Minnesota.

G. Obey All Laws

Conduct its affairs and carry on its business and operations with respect to the Project in such a manner as to comply with any and all applicable laws of the United States and the State of Minnesota.

H. 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 Property, subject to the right to contest in good faith in accordance with Minnesota law.

I. Performance

If DEDA finds that there has been a failure to comply with this Agreement or Developer or Owner fails to complete construction of this Project by the date provided herein, DEDA may take action to protect its interest, including refusal to disburse additional funds and requiring the return of all or part of the funds already disbursed.

ARTICLE VII

Indemnification By Developer

A. Generally

Developer and Owner, jointly and severally, will to the fullest extent permitted by law, protect, indemnify and save DEDA of and their officers, agents, servants, employees and any person who controls DEDA within the meaning of Securities Act of 1933, harmless from and against all liabilities, losses, damages, costs, expenses, including attorneys' fees and expenses, causes of action, suits, claims demands and judgements of any nature arising from:

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 the construction or installation of the Project on any portion of the Project and 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 by Developer of any provision of this Agreement.
3. Any violation of any contract, agreement or restriction related to the Project which shall have existed at the commencement of the term of this Agreement or shall have been approved by the Developer.
4. Any violation of any law, ordinance, court order or regulation affecting the Project or the Property, or the ownership, occupancy or use thereof.

B. Environmental Indemnification

In addition to the generality of the foregoing above, Developer and Owner, jointly and severally, hereby agree that for itself, its successors and assigns that it will indemnify and save DEDA and their officers, agents, servants and employees and any person who controls the DEDA within the meaning of the Securities Act of 1933 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 created in the Project or the Property after the date of the signing of this Agreement which constitutes a violation of any environmental law or laws with regard to pollutants or hazardous or dangerous substances promulgated by the government of the United States or of the State of Minnesota 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 in the Project or 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 property and that indemnification granted hereby shall include all costs of clean-up, remediation, together with the costs incurred in proceedings before court of law or administrative agency including attorney's 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 may be necessary to meet the requirements of the

aforesaid agencies and any other costs and expenses of any kind whatsoever arising out of such conditions existing in the Project or on the Property.

C. Indemnification Procedures

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

ARTICLE VIII

Insurance During Term of Agreement

Owner 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 Owner's occupancy of or use of the Project or the Property, carried in the name of Owner, any subtenant and DEDA, as their respective interests may appear, as follows:

A. Property Insurance

During construction on the Project, 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. Such insurance shall be provided by Developer as set forth below and shall bear a payee clause in favor of the City and DEDA with loss proceeds under any property policies made payable to the City and 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, DEDA, and the City 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 City and 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.

B. Public Liability Insurance

Developer shall procure and maintain continuously in force Public Liability Insurance written on an "occurrence" basis under Comprehensive 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 City and DEDA shall be named as additional insureds on the Comprehensive 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:

1. Contractors' public liability--premises and operations;
2. Independent contractors' vicarious liability;
3. Personal injury;
4. Owned, non-owned, and hired vehicles;
5. Property of others;
6. Contractual liability covering customary construction contract and subcontract indemnify provisions; and
7. Workers' Compensation coverage in required statutory limits. Policy shall carry an "all states" endorsement.

C. Requirements for All Insurance. All insurance required in this Article VIII shall be taken out and maintained with 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. Certifications. Developer shall provide certificates of insurance evidencing such coverage to DEDA with 30-day's notice of cancellation, non-renewal or material change provisions, such as a reduction in the scope of the coverage or in the coverage amount, included. DEDA does not represent or guarantee that these types or limits of coverage are adequate to protect the Developer's insurance provider's interests and liabilities. If a certificate of insurance is provided, the form of the certificate shall contain an unconditional requirement that the insurer notify DEDA without fail not less than 30 days prior to any cancellation, non-renewal or modification of the policy or coverages evidenced by said certificate and shall further provide that failure to give such notice to DEDA will render any such change or changes in said policy or coverages ineffective as against DEDA.

- E. Reconstruction Obligation and Uninsured Loss. In the event the Project or any portion thereof is destroyed by fire or other casualty, Developer shall forthwith repair, reconstruct, and restore the improvements to substantially the same scale and condition, quality, and value as existed prior to the event causing such damage or destruction, or construct improvements in a manner which is approved by DEDA, such approval which shall not be unreasonably withheld, and to the extent necessary to accomplish such repair, reconstruction, restoration, or construction, Developer shall apply the proceeds of any insurance received by Developer to the payment or reimbursement of the costs thereof. Developer shall, however, complete the repair, reconstruction and restoration of the improvements whether or not the proceeds of any insurance received by Developer are sufficient to pay for such repair, restoration, and reconstruction.
- F. Reconstruction Obligation Contingency. Nothing to the contrary in Paragraph E above, in the event that the Project is substantially or totally destroyed and the parties agree in good faith that under present economic or social conditions the Project is no longer economically viable or does not constitute the highest and best use of the Property, the parties hereby commit to meet and confer in good faith to determine the use of the Property which will be of greatest economic, social and practical use to the Developer and to the City, and use their best efforts to negotiate an amendment of this Agreement to implement that use and to apply the proceeds of any insurance to implementation of that use.

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) and the City of Duluth's Business Subsidy Policy.

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 IV.
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.

B. Business Subsidy.

The business subsidy provided to Developer consists of DEDA grant assistance in an amount up to \$3,132,143.00

C. Need for Subsidy.

Without the assistance to be provided pursuant to this Agreement, the cost of development for the Project is not economically feasible. But for the 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 assistance to be provided pursuant to this Agreement is to construct a Project which will create 72 senior-designated affordable apartments as part of a mixed-use development, 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 job is not a goal of this project. Accordingly, the wage and job goals are set at zero.

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, 2026, 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. Constructed at least seventy-two (72) new senior-designated affordable housing units as part of a mixed income development.

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, 2026, as determined in the sole discretion of DEDA, Developer shall not receive any DEDA grant 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 DEDA grant 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: \$28,303,000 in Minnesota Housing and Finance Agency funding, and \$2,100,000 from a Housing TIF District established by the Housing and Redevelopment Authority of Duluth.

K. Continued Operations Covenant.

Developer agrees to own a leasehold interest and operate the Building and the Project and to not assign, convey, transfer, sell or change its identity, for at least forty (40) years after the Benefit (the "Continued Operations Covenant").

ARTICLE X

Defaults and Remedies Therefore

A. Developer General Defaults and Remedies

1. General Events of Default

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

- a. Failure to pay real estate taxes as and when due and payable.
- b. Developer shall fail to observe or perform any of the terms, conditions, covenants or agreements required to be observed or performed by it or any successor or assigns of Developer pursuant to this Agreement and such failure shall continue for a period of thirty (30) calendar days after DEDA has, pursuant to the provisions of this Agreement, given written notice to Developer of such default or, in the event that such default shall be incapable of cure during said thirty (30) day period, shall have failed to commence to cure said default within thirty (30) days of the date of said notice and to diligently pursue the same to completion.

- c. Developer fails to complete its obligations under Articles III or IV as set forth above on or before October 31, 2026, subject to any extension provided herein.
- d. The making of any arrangement with or for the benefit of Owner's or Developer's creditors involving an assignment to a trustee, receiver or similar fiduciary; or the written admission by the Sponsor that it is bankrupt; or filing by the Developer of a voluntary petition under the Federal Bankruptcy Act; or the filing of an involuntary petition under the Federal Bankruptcy Act against the Developer unless dismissed within sixty (60) days.
- e. Submission by Developer or Owner to DEDA of reports, audits, requests for payment that are untimely, incorrect or incomplete in any material respect.
- f. Ineffective or improper use of funds provided under this Agreement.
- g. Any warranty, representation, or statement made by Developer is untrue or misleading in any material respect.
- h. Default under any loan, extension of credit, security agreement, purchase or sales agreement or any other agreement, in favor of any other creditor or person that may materially affect Developer's property or Developer's ability to make the repayments or respective obligations under this Agreement.
- i.

2. General Remedies

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

- a. Demand immediate and full or partial repayment of the amount granted to Grantee pursuant to this Agreement.
- b. Seek and be entitled to injunctive or declaratory relief as is necessary to prevent Developer's violation of the terms and conditions of this Agreement or to compel Developer's performance of its obligations hereunder.
- c. Seek such other legal or equitable relief as a court of competent jurisdiction may determine is available to DEDA.
- d. Be entitled to reimbursement for its reasonable attorney's fees and costs and otherwise for its costs and disbursements occasioned in successfully enforcing its rights hereunder.
- e. Terminate this Agreement.
- f. Withhold performance or payment.

B. Non-Waiver

The waiver by either party of any default on the part of the other party or the failure of said party to declare default on the part of the other party of any of its obligations pursuant to this Agreement shall not be deemed to be a waiver of any subsequent event of default on the part of the defaulting party of the same or of any other obligation of the defaulting party hereunder. And, to be effective, any waiver of any default by the defaulting party hereunder shall be in writing by the non-defaulting party.

C. Remedies Cumulative

Except as specifically set forth herein, 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 default hereunder.

ARTICLE XI

Force Majeure

Under the terms of this Agreement, neither DEDA nor Developer or Owner shall be considered in default or in breach of any of the terms with respect to the performance to their respective obligations under this Agreement in the event of enforced delay in the performance of its obligations due to unforeseeable causes beyond its control and without its fault or negligence, including but not limited to acts of God, acts of a public enemy, acts of the federal government, acts of another party, fire, floods, epidemics, strikes or embargoes, or for delays of subcontractors due to such causes. In the event of any such delay, any time for completion or delivery under this Agreement shall be extended for the period of any such delay upon written notice from the party seeking the extension to the other party.

ARTICLE XII

Developer's Representations and Warranties

Developer represents and warrants, on behalf of itself and Owner, that as of the date hereof:

- A. Developer is a lawfully constituted nonprofit corporation under the laws of the State of Minnesota, is not in material violation of any provisions of State law and that it has full power and authority to enter into this Agreement and to perform its obligations hereunder.
- B. Owner is a lawfully constituted limited liability limited partnership under the laws of the State of Minnesota, is not in material violation of any provisions of State law and that it has the full power and authority to enter into this Agreement and to perform its obligations hereunder; and Developer unconditionally guarantees Owners performance of such obligations.
- C. Developer and Owner are each fully competent to own a leasehold interest in the Property pursuant to the Ground Lease and to construct the Project thereon under the Ground Lease and all laws, rulings, regulations and ordinances of any governmental authority having jurisdiction.
- D. There are no actions, suits or proceedings pending or, to the knowledge of Developer, threatened against Developer or Owner or any property of Developer or Owner in any court or before any Federal, State or municipal or other governmental agency which, if decided adversely to Developer or Owner could have a material adverse effect upon Developer, Owner or the Property and the

Project, and that neither Developer nor Owner is in default of any order of any court or governmental agency.

- E. 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 occurred.
- F. That it has investigated and has no knowledge that any officer, director, agent or employee of Developer or Owner is directly or indirectly financially interested in this Agreement or in any transactions concluded in connection with this Agreement.
- G. It shall do such things as are necessary to cause any information, document, certificate, statement in writing, or report required under this Agreement delivered to any third party under this Agreement to be true, correct and complete in all material and respects. If necessary Developer agrees to perform any survey work prior to construction and all descriptions and exhibits hereto and definitions herein shall be subject to such revisions as are necessary after completion of any survey.

ARTICLE XIII

Term

The term of this Agreement shall run from the date first above shown and shall continue for forty (40) years from and after the date of issuance of a Certificate of Occupancy by the City of Duluth Building Official for this Project, unless this Agreement is otherwise terminated as herein before provided for. Termination shall not terminate any indemnification provisions or any other provisions 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 XIV

Runs With the Land

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

ARTICLE XV

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

411 West First Street, Room 160
Duluth, MN 55802

In the case of Developer:

ONE ROOF COMMUNITY HOUSING, LLC.

Attn: _____

ARTICLE XVI

Audits

The DEDA and their 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 and Developer's development obligations, including written tenant selection policies and lease documents, and access to the Project and to inspect the Project at reasonable times and with reasonable notice to the Owner, during the Term of this Agreement and for a period of six (6) years following the expiration or earlier termination of this Agreement. Such records of Developer shall be kept and maintained by Developer during the Term of this Agreement and for a period of six (6) years following the expiration or earlier termination of this Agreement.

ARTICLE XVII

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, the City and Developer, Owner and/or a third party.

ARTICLE XVIII

Recordation

Developer agrees that DEDA shall have the right to record, at Developer's cost, this Development Agreement in the office of the St. Louis County Recorder and/or Registrar of Titles. Developer agrees to obtain all required consents and approvals, and give all notices, in connection with the foregoing.

ARTICLE XIX

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 XX

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 XXI

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 XXII

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 XXIII

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.

ARTIVLE XXIV

Joint and Several Liability

Developer and Owner shall be jointly and severally liable for, and unconditionally guarantees to DEDA the performance of, all Developer's obligations under this Agreement.

[Remainder of page left blank intentionally. Signature page follows.]

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

DULUTH ECONOMIC DEVELOPMENT
AUTHORITY

By: _____
Its President

ATTEST:

By: _____
Its Secretary

ONE ROOF COMMUNITY HOUSING

By: _____
Name: _____
Its: _____

BRAE VIEW LLLP
By: One Roof Community Housing
Its: General Partner

By: _____
Name: _____
Its: _____

Drafted by:
Amanda M. Mangan
Assistant City Attorney
Attorney for the Duluth Economic Development Authority
411 West First Street, Room 410
Duluth, MN 55802

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

The foregoing instrument was acknowledged before me this _____ day of _____, 2025, by _____ and _____, the President and Secretary of the Duluth Economic Development Authority, an economic development authority under Minnesota Statutes Chapter 459, on behalf of the authority.

Notary Public

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

The foregoing instrument was acknowledged before me this _____ day of _____, 2025, by _____, the _____ of ONE ROOF COMMUNITY HOUSING, a Minnesota nonprofit corporation, on behalf of the corporation.

Notary Public

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

The foregoing instrument was acknowledged before me this _____ day of _____, 2025, by _____, the _____ of One Roof Community Housing, as General Partner of BRAE VIEW LLLP, a Minnesota limited liability limited partnership, of on behalf of the partnership.

Notary Public

EXHIBIT A
Property Legal Description

Real property in St. Louis County, Minnesota, legally described as:

Tracts A, B, C, D, G, H, I, J, K, L, and M, Registered Land Survey No. ____, St. Louis County, Minnesota.

(PID Nos. _____).

Exhibit B
Eligible Project Costs

General Conditions	\$	1,249,876
Site Work	\$	1,315,556
Concrete and Masonry	\$	1,374,069
Metals	\$	45,652
Carpentry	\$	2,430,770
Thermal and Moisture Protection	\$	1,764,166
Doors and Windows	\$	1,594,933
Finishes	\$	2,548,644
Specialties	\$	272,685
Equipment	\$	186,029
Furnishings	\$	488,283
Conveying Systems	\$	211,500
Mechanical	\$	4,170,035
Electricity	\$	1,375,559
Building Permits	\$	190,459
Overhead and Profit	\$	829,589
Bond	\$	138,827
<hr/>		
Total	\$	20,186,632