

ESCROW AGREEMENT

THIS ESCROW AGREEMENT ("Agreement") is made as of the ____ day of _____ 2015 by and among the CITY OF MINNEAPOLIS, a Minnesota municipal corporation ("City"); THE COUNTY AUDITOR OF HENNEPIN COUNTY, IN HIS MINISTERIAL CAPACITY AS ADMINISTRATOR OF STATE OF MINNESOTA TAX-FORFEITED LANDS, acting through its Resident and Real Estate Services Department ("County"); _____, a Minnesota _____ ("Developer"); and _____, a Minnesota corporation ("Title Company").

RECITALS

- A. City and Developer are parties to that certain redevelopment contract dated _____, 20__ (the "Redevelopment Contract") pursuant to which, the Developer wishes to acquire the Property located at _____ in Minneapolis, Minnesota (the "Property") for the purpose of constructing a [*single family home/ unit Townhome Project*] (the "Project").
- B. The Property is a tax-forfeited property being administered by the County on behalf of the State of Minnesota.
- C. Pursuant to Minnesota Statutes Section 282.01, the City has made a request to acquire the Property from the County to pass through to the Developer using its Housing and Redevelopment Authority powers under Minnesota Statutes §§ 469.001-469.047.
- D. The City intends on using the Developer's funds to acquire the Property from the County.
- E. The County needs to receive payment of the purchase price for the Property in the amount of \$_____ ("Purchase Funds") in order to request a deed of conveyance of the Property from the State of Minnesota and the process to obtain such a deed takes up to four weeks.
- F. The Developer is unwilling to prepay for the Deed to the Property unless it can be assured that it will either receive a deed or its Purchase Funds back if it does not timely receive a deed.
- G. In order to allow the County and Developer the comfort they need in order to have a deed of conveyance of the Property at the point of closing on the Project financing, the parties have agreed that Developer will place the Purchase Funds in escrow with Title Company to be released in accordance with the terms of this Agreement.
- H. Title Company has agreed to hold the Purchase Funds and disburse the same as provided herein.

NOW, THEREFORE, in consideration of the premises and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

AGREEMENT

1. Deposit and Investment of Purchase Funds. Within five (5) calendar days after this Agreement is fully executed, Developer will deposit the Purchase Funds with the Title Company. The Title Company shall deposit the Purchase Funds in a non-risk account and the interest, if any, earned on the Purchase Funds shall be considered Developer income and shall, in all events, be payable to Developer. The Title Company shall notify the County and City when it receives the Purchase Funds.
2. Deposit of State Deed. After receipt of written confirmation from the Title Company that the Purchase Funds have been deposited, the County shall request a deed from the State conveying the Property to the City (the "State Deed") and upon receipt, deposit such with the Title Company.
3. Deposit of City Deed. After receipt of written confirmation from the Title Company that the Purchase Funds have been deposited, the City shall deposit with the Title Company the Deed conveying the Property to the Developer as described in the Redevelopment Contract (the "City Deed").
4. Costs of Escrow. Developer shall pay any costs charged by the Title Company for the escrow arrangements under this Agreement.
5. Disbursement. Upon:
 - (a) Receipt of the Purchase Funds,
 - (b) Receipt of the State Deed,
 - (c) Receipt of the City Deed, and
 - (d) Written instructions from the City that the Developer has satisfied all the conditions precedent to closing as in the Redevelopment Contract,

Title shall:

- (a) Pay over the Purchase Funds to the County,
- (b) Record the State Deed; and
- (c) Record the City Deed.

If Title has not received the items above by _____, 20____, Title shall return the Purchase Funds plus any accrued interest to the Developer, return the State Deed to the County, and return the City Deed to the City.

6. Notices. All notices, requests, demands, elections, offers, acceptances and other communications required or desired to be delivered hereunder shall be in writing and shall be deemed given, effective and received (the "Effective Date of Notice") on the earliest of (a) the date of personal delivery; (b) ten (10) days after deposit in the United States mail, postage prepaid, certified or registered mail, return receipt requested; (c) one

(1) business day after deposit with a national overnight carrier, fees prepaid; or (d) the date of transmission via electronic mail sent to the intended addressee at the address set forth below, provided that a copy of the electronic mail also is sent to the intended addressee by one of the means described in clauses (a) or (c) above; provided, however, that if the notice is sent via electronic mail and the addressee responds via electronic mail, such response shall be deemed to constitute receipt by the addressee, in which case it shall not be necessary to send an original of the electronic mail communication as provided above. All of the communications described in this paragraph shall be addressed to the appropriate party at its address listed below:

If to the City:

City of Minneapolis
Department of Community Planning
And Economic Development
105 Fifth Avenue South, Suite 200
Minneapolis, MN 55401-2534
Attention: Cherie Shoquist
E-mail: cherie.shoquist@minneapolismn.gov

If to the County:

Resident and Real Estate Services Department
Hennepin County Auditor-Treasurer
A-600 Hennepin County Government Center
300 South Sixth Street
Minneapolis, MN 55487
Attention: _____
E-mail: _____

If to the Developer:

Attention: _____
E-mail: _____

If to Title:

Attention: _____
E-mail: _____

Each of the above-listed addresses and notice parties may change its, his or her address and number for notice purposes under this paragraph by delivering to the other addressees a written notice of change of address and number in a manner specified in this paragraph for delivery of notices; provided, however, no such change of address or number shall be effective against another addressee until written notice of such change is actually received by such addressee. Attorneys for either party may give notices and other communications as provided herein for the party such attorney represents.

7. Duties of Title Company. The acceptance by Title Company of its duties under this Agreement is subject to the following terms and conditions, which all parties to this Agreement hereby agree shall govern and control with respect to the rights, duties, liabilities and immunities of the Title Company.
- (a) Title Company is not a party to, and is not bound by, any agreement which may be evidenced by or arise out of the foregoing escrow instructions, other than expressly as set forth herein;
 - (b) Title Company shall be protected in acting upon any written notice, request, waiver, consent, receipt or other paper or document which Title Company in good faith believes to be genuine and what it purports to be; and
 - (c) Title Company shall not be liable for any error of judgment, or for any act done or act taken or admitted by it in good faith, or for any mistake of fact or law, or for anything for which it may do or refrain from doing in connection therewith, except its own or for any mistake of fact or law, except for its own malfeasance, negligence, or willful misconduct, and City, County and Developer agree jointly and severally to defend, indemnify and hold harmless Title Company against and from any claim, judgment, loss, liability, cost or expense resulting from any dispute or litigation arising out of or concerning Title Company's duties or services under this Agreement, other than due to Title Company's malfeasance, negligence or willful misconduct. This indemnity includes, without limitation, disbursements and reasonable attorney fees.
 - (d) At any time after the occurrence of a dispute with respect to this Agreement, so long as the dispute does not concern Title Company's performance under this Agreement, Title Company may, at its option, commence an action in interpleader and in connection therewith remit the same to a court of competent jurisdiction pending resolution of such dispute.
8. Miscellaneous.
- (a) Term. This Agreement shall continue until the date on which all of the Purchase Funds have been distributed as provided in paragraph 5.
 - (b) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which taken together shall constitute one and the same instrument.
 - (c) Amendment. This Agreement may be amended only in writing executed and delivered by all three parties, except that any amendment that does not increase any obligation or liability of Title Company under this Agreement shall be binding if executed and delivered by City, County and Developer only, and not by Title Company.
 - (d) Entire Agreement. This Agreement contains the entire agreement and understanding of the parties with respect to the transactions contemplated hereby.

No prior agreement, either written or oral, shall be construed to change, amend, alter, repeal, or invalidate this Agreement.

- (e) Invalidity. If any term or provision of this Agreement is held to be invalid as applied to any fact or circumstance, it shall be modified to the minimum extent necessary to render it valid and, in any event, shall not affect the validity of any other term or provision or of the same term or provision as applied to any other fact or circumstance.
- (f) Successors Bound. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns, but not to the benefit of any third party.
- (g) Governing Law. This Agreement is made in, and shall be construed and enforced in accordance with, the internal (and not the conflicts) laws of the State of Minnesota.
- (h) No Waiver. No delay or failure (or repeated delays or failures) in exercising any right, power or privilege under this Agreement shall operate as a waiver of the right, power, or privilege (or of any other right, power or privilege). No waiver of a breach of a provision shall constitute a waiver of a breach of any other provision or of a prior or subsequent breach of the same provision. No extension of time of performance of an act or obligation under this Agreement shall constitute an extension of time of performance of any other act or obligation.
- (i) Days. Any reference to "day" or "days" in this Agreement shall, unless the context clearly requires otherwise, mean calendar days. Any time period provided herein which ends on a day which is not a business day shall be deemed to be extended to, and to end on, the next business day succeeding such day.
- (j) This Agreement shall be deemed to have been drafted by all of the parties hereto and shall not, as the result of any ambiguity, be construed against any party by virtue of the drafting thereof.

(Signature pages follow.)

(City's signature page to Escrow Agreement)

IN FURTHERANCE WHEREOF, this Escrow Agreement is hereby executed and delivered as of the date first written above.

CITY:

CITY OF MINNEAPOLIS

By: _____
Kevin Carpenter

Responsible Department Head:

By: _____
D. Craig Taylor, Director CPED

Approved as to form:

Assistant City Attorney

(County's signature page to Escrow Agreement)

COUNTY OF HENNEPIN

By _____
Mark V. Chapin, County Auditor, in his
ministerial capacity as administrator of state of
Minnesota tax-forfeited lands

Date: _____

Approved as to form and execution:

Assistant County Attorney

(Developer's signature page to Escrow Agreement)

DEVELOPER:

By: _____

Its: _____

(Title Company's signature page to Escrow Agreement)

TITLE COMPANY:

By: _____

Name: _____

Title: _____