

## **MEMORANDUM OF UNDERSTANDING**

This MEMORANDUM OF UNDERSTANDING, entered into as of September 29, 2020 (the “Memorandum of Understanding”), is between the HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF RICHFIELD, MINNESOTA, a public body corporate and politic under the laws of the State of Minnesota (the “Authority”), and CPII DEVELOPMENT LLC, a Minnesota limited liability company (the “Developer”).

### **RECITALS**

WHEREAS, the Authority has established the Cedar Avenue Tax Increment Financing District (the “TIF District”), a redevelopment district within the Richfield Redevelopment Project (the “Redevelopment District”) in the City of Richfield, Minnesota (the “City”), pursuant to Minnesota Statutes, Sections 469.174 to 469.1794, as amended, and Laws of Minnesota 2005, Chapter 152, Article 2, Section 25, as amended by Laws of Minnesota 2017, 1<sup>st</sup> Special Session, Chapter 1, Article 6, Section 18, in order to facilitate redevelopment of certain property in the Redevelopment Project and promote the development of affordable housing within the City; and

WHEREAS, the Authority entered into a Contract for Private Development, dated September 17, 2018 (the “Original Agreement”), with NHH Companies, L.L.C. (“NHH”), as assigned by NHH to the Developer pursuant to an Assignment of Contract for Private Development, dated January 15, 2019, and as amended by the First Amendment to Contract for Private Development, dated September 16, 2019 (the “First Amendment,” and together with the Original Agreement, the “Amended Agreement”), between the Authority and the Developer; and

WHEREAS, pursuant to the Amended Agreement, the Developer agreed to acquire property within the TIF District from the Authority (the “Development Property”), which is legally described in Exhibit A to the Original Agreement, and construct a development which will include (i) multifamily housing with approximately 218 units; (ii) a parking ramp with approximately 188 spaces; and (iii) necessary public infrastructure, including streets and utilities (the “Minimum Improvements”); and

WHEREAS, in order to achieve the objectives of the Redevelopment Plan for the Redevelopment Project and make the Minimum Improvements economically feasible for the Developer to construct, the Authority is prepared to convey the 14 parcels that make up the Development Property to the Developer and reimburse the Developer for a portion of the land acquisition costs and certain site improvement costs related to the Minimum Improvements; and

WHEREAS, the Authority and the Developer intend to amend the Amended Agreement and are in the process of negotiating the final terms of such amendments but desire to enter into this Memorandum of Understanding to provide the basic outline of such amendments; and

NOW, THEREFORE, in consideration of the mutual obligations hereunder, the parties agree as follows:

1. The closing date set forth in Section 3.2(g) of the Amended Agreement shall be extended to October 31, 2020.
2. The definition of “Minimum Improvements” in the Amended Agreement shall be revised to increase the housing units to be constructed on the Development Property from 218 units to 237 units.

3. On the date of the closing on the construction financing for the Minimum Improvements, the Developer shall pay \$780,000 to the Authority to pay for the special assessments related to the Development Property and the adjacent properties upon which townhomes will be constructed.

4. The Authority agrees to increase the amount of the Developer's Tax Increment Note to be issued pursuant to Section 3.3 of the Amended Agreement in the amount of \$345,200 and issue a separate Tax Increment Note in the amount of \$590,800 to compensate the Developer for the payment of the special assessments and other capital costs of the Developer. The Tax Increment Note in the amount of \$590,800 will not be issued until the Developer pays the Authority \$780,000 for the special assessments related to the Development Property.

5. The definition of Available Tax Increment in the Amended Agreement shall be revised as follows:

"Available Tax Increment" means, on each February 1 and August 1, the Tax Increment attributable to the Development Property and paid to the Authority by the County in the six (6) months preceding each February 1 and August 1 after deducting therefrom ten percent (10%) of the Tax Increment to be used to reimburse the Authority for administrative expenses and further deducting ten percent (10%) of the Tax Increment to promote redevelopment activities and the development of affordable housing.

[This provision will be further discussed between the Authority and the Developer to provide for the Authority receiving up to 25% of Tax Increment if such increase does not negatively impact the Developer's receipt of Available Tax Increment, subject to mutual agreement between the Authority and the Developer.]

6. Section 4.3 of the Amended Agreement shall be revised to provide for the commencement of construction of the Minimum Improvements on or before June 1, 2021 and be substantially complete with the construction of the Minimum Improvements on or before December 31, 2022.

7. The definition of Minimum Market Value in the Amended Agreement shall be revised to \$42,304,500.

8. The Authority shall remove the Mount Calvary parcels from Tax Increment District 2018-1 (the Townhomes TIF District).

9. The Authority and Cedar Point Investments LLC (owner of the townhome property adjacent to the Development Property) will work cooperatively to record the right of purchase and right of first refusal agreement against the portion of the townhome property for which construction has not commenced or planned to commence within the next 6 months.

10. The Authority shall approve the assignment and assumption of all or a portion of the Amended Agreement by Schafer Richardson, or affiliate entity.

11. The Authority shall agree to provide two Tax Increment Notes under the Amended Agreement, as amended by the terms set forth in this Memorandum of Understanding, in the aggregate principal amount of \$4,896,000.

12. The terms set forth in this Memorandum of Understanding shall be incorporated into a Second Amendment to the Amended Agreement and executed by the Authority and the Developer.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the Authority has caused this Memorandum of Understanding to be duly executed in its name and behalf and the Developer has caused this Memorandum of Understanding to be duly executed in its name and behalf as of the date and year first written above.

**HOUSING            AND            REDEVELOPMENT  
AUTHORITY IN AND FOR THE CITY OF  
RICHFIELD, MINNESOTA**

By \_\_\_\_\_  
Its Chair

By \_\_\_\_\_  
Its Executive Director

THIS INSTRUMENT DRAFTED BY:  
Kennedy & Graven, Chartered (JAE)  
150 South Fifth Street, Suite 700  
Minneapolis, MN 55402-1299

Execution page of the Developer to the Memorandum of Understanding, dated as of the date and year first written above.

**CPII DEVELOPMENT LLC**

By \_\_\_\_\_  
Its \_\_\_\_\_

Section 8 and Section 9 of this Memorandum of Understanding are hereby accepted by Cedar Point Investments LLC.

**CEDAR POINT INVESTMENTS LLC**

By \_\_\_\_\_  
Its \_\_\_\_\_