

**LINO LAKES
ECONOMIC DEVELOPMENT AUTHORITY
MEETING**

Monday, June 13, 2022
Immediately following Regular City Council Meeting
(council meeting begins at 6:30 p.m.)
City Council Chambers

AGENDA

1. Call to Order and Roll Call
2. Consideration of Minutes of May 23, 2022
3. Action Items:
 - A. Public Hearing. Consideration of Resolution No. 22-01 Approving Purchase and Development Agreement with Silver Creek Equity, LLC. , Lots 1-3, Outlot B & C, The Village No. 4
4. Adjourn

EDA MINUTES

DRAFT

1 **DATE** : **May 23, 2022**
2 **TIME STARTED** : **7:37 p.m.**
3 **TIME ENDED** : **8:03 p.m.**
4 **MEMBERS PRESENT** : **EDA Members Rafferty, Stoesz,**
5 **Cavegn, Ruhland**
6 **MEMBERS ABSENT** : **EDA Member Lyden**
7 **OTHERS PRESENT** : **Community Development Director**
8 **Michael Grochala; City Administrator**
9 **Sarah Cotton**

10
11 The meeting was called to order at 7:37 p.m. by EDA President Ruhland

12
13 **CONSIDERATION OF THE MINUTES OF MAY 2, 2022**

14
15 Economic Development Authority (EDA) Member Cavegn moved to approve the
16 minutes of May 2, 2022 as presented. EDA Member Rafferty seconded the motion.
17 Motion carried on a voice vote.

18
19 **DISCUSSION ITEM**

20
21 President Ruhland read a statement explaining the need to close the meeting, as allowed
22 under law, in order to discuss an offer and counter offer for the sale of certain property
23 (Lots 1-3, Block 2 and Outlots B & C, The Village No. 4).

24
25 EDA Member Cavegn moved to close the meeting. EDA Member Rafferty seconded the
26 motion. Motion carried: Yeas, 4; Nays none.

27
28 Upon completion of discussion of the above matter, EDA Member Cavegn moved to
29 open the meeting. EDA Member Rafferty seconded the motion. Motion carried: Yeas,
30 4; Nays none.

31
32 EDA Member Ruhland moved to set the hearing date for sale of the property (June 13,
33 2022, following regular City Council meeting). EDA Member Cavegn seconded the
34 motion. Motion carried: Yeas, 4; Nays none.

35
36 The meeting was recorded and the recording will be maintained in the Office of the City
37 Clerk as required.

38
39 The meeting was adjourned at 8:03 p.m.
40
41
42

**ECONOMIC DEVELOPMENT AUTHORITY
AGENDA ITEM 3A**

STAFF ORIGINATOR: Michael Grochala

MEETING DATE: June 13, 2022

TOPIC: Public Hearing. Consideration of Resolution No. 22-01, Approving Purchase and Sale Agreement with Silver Creek Equity, LLC

VOTE REQUIRED: Simple Majority.

BACKGROUND

In 2010 approximately 20 acres of undeveloped land within the Legacy at Woods Edge development was tax forfeited to the State of Minnesota. In September of 2013 the Economic Development Authority (EDA) obtained, at no cost, the tax forfeit property from the State of Minnesota. The transfer was made to the EDA with the intent that 1) EDA ownership would facilitate development of the site; and 2) that sale proceeds would be applied to the retirement of existing debt service for public improvements associated with the site development.

The EDA has previously sold land to Lino Lakes Assisted living in 2013 and 11 acres to DR Horton – Minnesota in 2015.

Silver Creek Equity, LLC, has made an offer to purchase approximately 6.27 acres of the land consisting of five parcels. The property lies northwest of city hall and is bounded by Town Center Parkway and Village Drive. For consideration is a purchase agreement whereby Silver Creek Equity will purchase the property for \$2,376,154.00. The developer is proposing to construct a market rate age targeted multi-family rental building, two restaurants, and a multi-tenant retail building. The proposed use is generally consistent with the original development master plan. The agreement is subject to a number of conditions.

1. The purchaser will provide earnest money in the amount of \$50,000. \$10,000 is due at time of closing and the remaining deposit of \$40,000 due at completion of the Due Diligence Period.
2. Purchaser has a 120 day “Due Diligence Period” to perform inspections and engineering to determine suitability.
3. Purchaser has 9 months to work through “Entitlements”. Purchase of property is subject to obtaining all final government approvals.
4. Minimum Improvements required include the Housing Building, Retail Building and two Restaurant Buildings.
5. Provides for construction, by Purchaser, of two “Monument” signs at locations approved by City. Advertising space for City facilities at no cost (city responsible for its sign facing costs). Location of signage to be determined by City.
6. Contract requires commencement of site construction within one year of the closing or City has right to repurchase property. Construction on a restaurant or retail building must commence prior to or concurrently with the Housing Building.

EDAC

The Economic Development Advisory Committee discussed the proposal at their June 6, 2022 meeting and was in favor of the sale.

RECOMMENDATION

Staff recommends Approval of Resolution 22-01 Approving a Purchase and Sale Agreement between the Lino Lakes Economic Development Authority and Silver Creek Equities, LLC.

ATTACHMENTS

1. Resolution No. 22-01
2. Draft Purchase and Sale Agreement
3. Property Location Map
4. Concept Map

LINO LAKES ECONOMIC DEVELOPMENT AUTHORITY

RESOLUTION NO. 22-01

RESOLUTION APPROVING A PURCHASE AND DEVELOPMENT AGREEMENT BETWEEN THE LINO LAKES ECONOMIC DEVELOPMENT AUTHORITY AND SILVER CREEK EQUITY, LLC

BE IT RESOLVED By the Board of Commissioners ("Board") of the Lino Lakes Economic Development Authority ("Authority") as follows:

Section 1. Recitals.

1.01. The property described as Lots 1, 2, & 3, Block 2 and Outlot B and Outlot C, The Village No. 4, according to the recorded plat thereof, Anoka County, Minnesota (the "Property") are parcels located with the Legacy at Woods Edge Development.

1.02. Silver Creek Equity, LLC (the "Purchaser") has proposed to acquire the property for residential and commercial development purposes consistent with the intended use of the property.

1.03. The Board has reviewed terms of a proposed Purchase and Development Agreement between the Authority and Purchaser (the "Purchase Agreement"), providing for conveyance by the Authority of the Property to Purchaser and the subsequent development of that Property by Purchaser.

1.04. In accordance with Minnesota Statutes, Section 469.105, subd. 2, the Authority has on this date held a duly noticed public hearing regarding conveyance of the Property to Purchaser.

1.05. The Authority finds that conveyance of the Property to Purchaser in accordance with the Purchase and Sale Agreement is in the best interests of the City and its residents, and that the transaction furthers the Authority's general plan of economic development.

Section 2. Authority Approval; Further Proceedings.

2.01. The Purchase Agreement is hereby in all respects approved, subject to modifications that do not alter the substance of the transaction and that are approved by the President and Executive Director, provided that execution of the documents by such officials shall be conclusive evidence of approval.

2.02. The President and Executive Director are hereby authorized to execute, on behalf of the Authority, the Purchase and Sale Agreement, and any documents referenced therein requiring execution by the Authority or otherwise required to effectuate the transaction described in those documents.

2.03. Authority staff and consultants are authorized and directed to take all actions needed to carry out the transactions describe in this Resolution.

Approved by the Board of Directors of the Lino Lakes Economic Development Authority,
this 13th day of June, 2022.

President, Michael Ruhland

ATTEST:

Executive Director, Sarah Cotton

PURCHASE AND DEVELOPMENT AGREEMENT

THIS PURCHASE AND DEVELOPMENT AGREEMENT (“Agreement”) is made this ____ day of _____, 2022 (“Effective Date”) by and between the LINO LAKES ECONOMIC DEVELOPMENT AUTHORITY, a Minnesota legal entity (the “Seller”) and SILVER CREEK EQUITY, LLC, a Delaware limited liability company, or an affiliate or its assigns (the “Buyer”).

- 1. SUBJECT PROPERTY.** Pursuant to the terms of this Agreement, the Seller intends to sell to the Buyer fee title to the property legally described and depicted in Exhibit A attached hereto in which is attached hereto and incorporated herein (the “Property”).
- 2. OFFER/ACCEPTANCE.** In consideration of the mutual agreements herein contained, the Buyer offers and agrees to purchase and the Seller agrees to sell the Property.
- 3. CONTINGENCIES.** This Agreement is contingent upon the following:
 - A.** The Buyer’s inspection of the Property and environmental testing (if deemed necessary by the Buyer) and the Buyer receiving reports related to all appropriate due diligence, including without limitation conducting soil borings and other site engineering investigations, studies, and tests on the Property, that are satisfactory to the Buyer;
 - B.** The Buyer having obtained all government approvals deemed necessary by the Buyer, including but not limited to planning approvals from the City of Lino Lakes (the “City”);
 - C.** The Buyer having obtained financing for the purchase of the Property and the construction of the Minimum Improvements (as defined herein).
 - D.** The Buyer’s satisfactory review of all easement agreements, maintenance agreements, or any other agreements relating to the Property;
 - E.** The Buyer’s receipt of all documents to be provided by the Seller in accordance with Section 7 of this Agreement;
 - F.** Condition of title being satisfactory to the Buyer following the Buyer’s examination of title as provided in Section 11 of this Agreement;
 - G.** Following the review of the items listed above, the suitability of the Property for development by the Buyer; and
 - H.** The Board of the Seller holding a public hearing and approving the sale of the Property.

The Buyer shall have until 30 days after the Due Diligence Period (as defined herein) to waive or remove the contingencies listed at A and C through G above. The Seller shall have until the Closing Date to remove the

contingency listed in H above. The contingencies listed in A and C through G are solely for the benefit of the Buyer and may be waived by the Buyer. If the contingencies are duly satisfied or waived, then the Buyer and the Seller shall proceed to close the transaction as contemplated herein, subject to the remaining provisions of this Agreement. If, however, one or more of the contingencies is not satisfied, or is not satisfied on time, and is not waived by the Buyer, this Agreement shall thereupon be void, at the option of the Buyer upon written notice from the Buyer, and any Earnest Money (as defined herein), plus any accrued interest, shall be returned to the Buyer. If this Agreement is voided by the Buyer, the Buyer and the Seller shall execute and deliver to each other a termination of this Agreement.

4. PURCHASE PRICE AND MANNER OF PAYMENT.

- A. Purchase Price.** The total purchase price (“Purchase Price”) to be paid by the Buyer for the Property will be Two Million Three Hundred Seventy Six Thousand One Hundred Fifty Four and 00/100 dollars (\$2,376,154.00).
- B. Earnest Money.** Earnest money will be paid in two payments. Ten Thousand and 00/100 dollars (\$10,000) will be paid to the Seller on the Effective Date of this Agreement. An additional Forty Thousand and 00/100 dollars (\$40,000) is payable to the Seller within on the last day of the Due Diligence Period. The Earnest Money shall be deposited with Servion Commercial Title, New Brighton, Minnesota (the “Title Company”). The Earnest Money shall be applied towards payment of the Purchase Price on the Closing Date (as defined below).
- C. Payment on Closing Date.** The Buyer agrees to pay by certified check or by electronic transfer of funds on the Closing Date any remaining balance due according to the terms of this Agreement. Upon payment in full of the Purchase Price by the Buyer, the Seller will deliver to the Buyer the items described in Section 7 of this Agreement.

5. DEADLINES FOLLOWING EXECUTION.

- A. Due Diligence Period.** Commencing on the Effective Date, the Buyer shall have an initial period of 120 days (the “Due Diligence Period”) to review all documents and other materials as requested by the Buyer. The Seller agrees to cooperate with the Buyer and to timely provide the Buyer with all such documents and materials as requested.
- B. Site Plan Review, Entitlements, and Final Platting.** The Buyer shall, no later than nine (9) months from the Effective Date, complete site plan review, complete final platting, and obtain all other governmental entitlements (collectively, the “Entitlements”).

6. CLOSING DATE. The Closing Date shall occur on the earlier of (i) nine months following the Effective Date of this Agreement; and (ii) the date that is 60 days after the date the Buyer obtains final approval of all Entitlements needed for the Minimum Improvements (as defined herein), including but not limited to a planned unit development amendment, a planned unit development final stage plan for each building, and a final plat. A six month exception may be provided but only at the option of the Seller.

7. DOCUMENTS TO BE DELIVERED AT CLOSING. The Seller agrees to deliver the following documents to the Buyer at closing:

- A.** A duly recordable quit claim deed conveying fee simple title to the Property to the Buyer, free and clear of any mortgages, liens or encumbrances other than the recorded easements and matters created by or acceptable to the Buyer, substantially in the form attached hereto as

Exhibit B (the “Deed”), which Deed shall be subject to the conditions subsequent required by Sections 13, 14, and 15 of this Agreement;

- B.** An affidavit from the Seller sufficient to remove any exception in the Buyer’s policy of title insurance for mechanics’ and materialmen’s liens; unsatisfied judgments and bankruptcies against or involving the Seller; unrecorded interests in the Property known to the Seller; and rights of parties in possession;
- C.** An affidavit of the Seller confirming that the Seller is not a foreign person within the meaning of Section 1445 of the Internal Revenue Code of 1986, as amended;
- D.** A completed Minnesota Well Disclosure Certificate, unless the Deed includes the statement “the Seller certifies that the Seller does not know of any wells on the described Property”;
- E.** Any notices, certificates, and affidavits regarding any private sewage systems, underground storage tanks, and environmental conditions as may be required by Minnesota statutes, rules or ordinances;
- F.** Such other documents that the Title Company may reasonably require to consummate the transaction that this Agreement contemplates.

8. REAL ESTATE TAXES AND SPECIAL ASSESSMENTS.

- A.** The Seller shall be responsible for all real estate taxes, including any deferred real estate taxes, penalties or interest, for the years prior to the year in which closing occurs. The Buyer and the Seller shall prorate as of the Closing Date the real estate taxes for the Property that are due and payable in the year of closing.
- B.** The Seller shall pay all special assessments levied against the Property as of the Closing Date, including special assessments certified for payment with the real estate taxes and all deferred assessments. The Buyer shall assume payment of any special assessments that are pending but not levied against the Property as of the Closing Date. The Seller is not aware of any current pending special assessments related to the Property and will give the Buyer notice of any special assessments that may become pending on or before the Closing Date.

9. CONDITION OF PROPERTY. The Property is vacant land. The Buyer acknowledges and agrees that, except as otherwise provided in this Agreement, the Property is being sold in an “as-is,” “where-is” condition and with all faults, without warranty or representation of any kind, express or implied, as to the condition, suitability, or desirability of the Property to be used for any purpose.

10. RIGHT OF ENTRY. As of the Effective Date, the Seller hereby grants to the Buyer, its agents, employees, contractors and invitees, and such other consultants as the Buyer may elect, the right to enter upon the Property for the purpose of examining the environmental conditions of the Property.

In exchange for the right of entry provided by the Seller, the Buyer agrees to:

- A.** Provide the Seller at least forty-eight (48) hours’ notice of the date and time that the Buyer will be on the Property for the purposes described in Section 10;
- B.** Promptly pay, before any lien attaches, all charges for costs incurred in connection with the work permitted under this Section 10 and Section 13.

- C. Provide a copy of all final written test results and reports obtained to the Seller;
- D. Do no unnecessary damage to the Property and restore the Property to substantially the same condition as the condition in which it was found by the Buyer;
- E. Hold the Seller harmless from and indemnify the Seller from any and all claims, damages, judgments or obligations, including the cost of defense of suit, arising out of damage to Property or arising out of injury to anyone incurred or alleged to have been incurred in connection with or as a result of any work done pursuant to this Section 10 and Section 13, or as a result of the Buyer's intentional action or negligence; and
- F. Ensure that its consultants or their contractors or invitees that enter the Property pursuant to this Agreement carry insurance during the time any work is done on the Property in accordance with the following minimum requirements:
 - (1) Workers' Compensation Insurance with limits as provided by statute, with all necessary statutory elections to provide coverage for and/or claims made by any person doing work on the Property;
 - (2) Employer's liability insurance (often included as coverage (b) in the Workers' Compensation policy) with limits of \$100,000; and
 - (3) Comprehensive General Liability Insurance (including coverage for contractual liability, products and completed operations liability, liability arising out of explosion, or underground related incidents) with minimum combined single limits of \$1,000,000 per occurrence.

11. EXAMINATION OF TITLE. The Buyer's examination of title to the Property shall be conducted as follows:

- A. **TITLE EVIDENCE.** Within 30 days after the Effective Date, the Buyer shall, at the Seller's cost, order, and when received provide the Seller with a copy of, a title commitment issued to the Buyer by the Title Company (the "Title Commitment"). Promptly after the Buyer receives the Title Commitment, the Buyer may order, at the Buyer's cost, an ALTA/NSPS survey of the Property prepared by a surveyor registered under the laws of the State of Minnesota and including such optional Table "A" items as the Buyer may require in the Buyer's sole discretion (the "Survey," and together with the Title Commitment, the "Title Evidence").
- B. **BUYER'S OBJECTIONS.** The Buyer shall provide written objections to the Seller (the "Objections") to the form or contents of the Title Evidence or condition of title within 30 days after receipt of the Title Evidence. The Buyer's failure to make Objections within such time period shall constitute waiver of the Objections. The Seller shall have 30 days after receipt of the Objections to cure the Objections, during which period the Closing Date will be postponed, if necessary. The Seller shall use all reasonable efforts to correct any Objections. If the Objections are not cured within such 30-day period, the Buyer will have the option to do any of the following:
 - (1) Terminate this Agreement;
 - (2) Cure the Objections at the Buyer's expense, during which the Closing Date

will be postponed, if necessary; or

(3) Waive the Objections.

12. GOVERNMENTAL APPROVALS, FEES AND CHARGES. The Buyer is responsible for applying for all governmental approvals required for the Minimum Improvements (as defined below). The Seller agrees to cooperate (at no additional cost to the Seller) with the Buyer's efforts to obtain all permits, approvals, and consents, including but not limited to site plan review and final plat approval, necessary for the Buyer's intended use of the Property, including but not limited to the execution of any consents, authority documents, or applications reasonably requested by the Buyer. The Buyer is responsible for and agrees to pay all sanitary sewer trunk, water trunk, stormwater area charges, and Metropolitan Council Environmental Service Availability Charges, Sanitary Sewer Availability Charges, Water Availability Charges and Strom Sewer Connection Charges. The rates for each of these items will be set according to the current rate structure for connection charges, availability charges, and trunk area charges at the time of final plat approval or receipt of a building permit and the fees will be adjusted based upon actual bid costs for road assessments. Park dedication fees or property in lieu of, will be addressed in each final plat of project phases as part of the subdivision agreement with the City, which shall be consistent with this Agreement.

13. CONSTRUCTION OF MINIMUM IMPROVEMENTS. Within one year of purchasing the Property, the Buyer must commence construction on the Property. The Buyer has agreed to development on the Property a four story market rate housing project designed for persons 55 and older seeking active independent living with 100 to 150 units (the "Housing Building"), one approximately 7,500 square foot multi-tenant retail building (the "Retail Building"), and two restaurant buildings of 5,000 square feet or more (the "Restaurant Buildings") on the Property. The Housing Building, the Retail Building, and the Restaurant Buildings are referred to herein as a "Building." In addition, the Buyer shall construct and pay for two monument signs (the "Monument Signs") on the Property at locations approved by the City. The design of the Monument Signs shall be subject to the approval of the City. The Buyer shall provide advertising space on the Monument Signs to the City at no cost. The Buildings and the Monument Signs are collectively referred to herein as the "Minimum Improvements."

The following provisions and covenants govern the Buyer's construction and operation of the Minimum Improvements, which covenants survive delivery of the Deed until terminated as provided in this Agreement.

- A. The Buyer will construct the Minimum Improvements substantially in accordance with the plans and specifications for the Minimum Improvements that the City approves in connection with issuing a building permit for the Minimum Improvements to the Buyer (the "Plans"). Construction of the Minimum Improvements will commence no later than one (1) year from purchasing the Property and shall be completed no later than twenty-four (24) months from purchasing the Property.
- B. The Buyer agrees to commence construction of the Retail Building or a Restaurant Building prior to or concurrently with commencing construction of the Housing Building.
- C. The Buyer will be deemed to have commenced construction of the Minimum Improvements when the Buyer has completed the footings for a Building on the Property, submitted and paid for a full building permit, graded the site, and installed utilities. The Buyer will be deemed to have substantially completed construction of a Building when the City's community development department provides the Buyer with a certificate of occupancy for that Building.

- D.** Within 10 days after the Buyer commences construction of a Building, the Seller will issue to the Buyer a recordable document substantially in the form of Exhibit C, certifying that the Buyer has commenced construction of such Building (the "Certificate of Commencement").
- E.** Promptly after the Buyer substantially completes a Building, the Seller will furnish the Buyer with a certificate of completion for such Building, in substantially the form attached hereto as Exhibit D (the "Certificate of Completion"). Such certification by the Seller shall be (and it shall be so provided in the Deed and in the certification itself) a conclusive determination of satisfaction and termination of the agreements and covenants in this Agreement and in the Deed with respect to the obligations of the Buyer and its successors and assigns, to construct such Building and the dates for completion thereof.
- F.** The Buyer agrees that until the Seller issues the Certificate of Completion for a Building to the Buyer:
- (1)** Except as allowed under Section 16 hereof, the Buyer will not Transfer the Property, or that portion of the Property intended to be occupied by a Building, to a third party without the Seller's written consent, which consent the Seller will not unreasonably withhold, condition or delay. "Transfer" means any total or partial sale, assignment, conveyance, or any trust or power, or transfer in any other mode or form of or with respect to this Agreement or the Property or any part thereof or any interest therein to any person or entity. The term "Transfer" does not include and the Seller's approval is not required for (i) encumbrances made or granted by way of security for the purpose of purchasing the Property and/or obtaining construction, interim or permanent financing necessary to enable the Buyer to construct the Minimum Improvements or any part thereof; (ii) any lease, license, easement or similar arrangement entered into in the ordinary course of the Buyer's business related to the use and operation of the Property; (iii) any Transfer in any form to an affiliate of the Buyer; (iv) Transfer of the Property to a mortgagee of the Property by foreclosure or deed-in-lieu of foreclosure, or a subsequent sale or Transfer by such mortgagee to a third party purchaser, or any sale or transfer thereafter; or (v) a sale or transfer to a bona fide purchaser of the Property at a foreclosure sale, or any sale or transfer thereafter.
 - (3)** If the conditions described in clause (2) above are satisfied then the Transfer will be approved and the Buyer shall be released from its obligations under this Agreement, as to the portion of the Property that is transferred, assigned, or otherwise conveyed. The provisions of this clause (3) apply to all subsequent transferors and transferees.
 - (4)** Notwithstanding any contrary language in this Agreement, upon issuance of a Certificate of Completion by the Seller, the Buyer may Transfer or assign the Building for which the Certificate of Completion was issued and/or the Buyer's rights and obligations under this Agreement with respect to such Building to any third party without the prior written consent of the Seller.

14. REVESTING TITLE IN SELLER UPON FAILURE TO COMMENCE CONSTRUCTION.

In the event that subsequent to conveyance of the Property or any part thereof to the Buyer, the Buyer, subject to Unavoidable Delays (as defined herein), fails to carry out its obligations with respect to commencing construction of the Minimum Improvements on the Property, or a portion of the Property if the Property is

subdivided (the "Default Property") and any such failure is not cured, ended, or remedied within 30 days after written demand from the Seller to the Buyer to do so, or for a longer time period in the event the cure of such failure reasonably requires more than 30 days to complete and the Buyer promptly commences to cure such failure within the 30-day period and, thereafter, diligently pursues the cure to completion, then the Seller shall have the right to re-enter and take possession of the Property. Upon such reentry, the Property that was conveyed by the Deed to the Buyer will be terminated (and re-vested in the Seller), subject to this Section 14. The intent of this provision, together with other provisions of this Agreement, is that the Deed shall contain a condition subsequent, that in the event of any default on the part of the Buyer to commence construction of the Minimum Improvements as described in Section 13 of this Agreement and failure on the part of the Buyer to remedy, end, or abrogate such default within the period and in the manner stated in Sections 13 and 14 of this Agreement, the Seller, at its option, subject to Section 15 of this Agreement, may declare a termination of all the Buyer's title, rights and interests in and to the Default Property in favor of the Seller, and that all such title, rights and interests of the Buyer, and any assigns or successors in interest to said Default Property, shall revert to the Seller, but only if the events stated in this Section have not been cured within the time periods provided above.

Notwithstanding anything to the contrary contained in this Agreement, the Seller shall have no right to re-enter or retake title to and possession of a portion of the Property for which a Certificate of Commencement has been issued by the Seller.

For purposes of this Agreement, the term "Unavoidable Delays" means delays beyond the reasonable control of the Buyer that directly result, among other reasons, from strikes, other labor troubles, prolonged adverse weather or acts of God, fire or other casualty to the Minimum Improvements, litigation commenced by third parties which, by injunction or other similar judicial action, directly results in delays, or acts of any federal, state or local governmental unit (including any Governor Orders, State, Federal or CDC Orders or regulations arising out of the pandemic, but excluding the exercise of the Seller's rights under this Agreement) which directly results in delays. The Seller agrees to enter into a subordination agreement or other written agreement evidencing the subordination of the Seller's reversion right under this Section to any mortgage loan, the proceeds of which are used to purchase the Property or to construct all or any portion of the Minimum Improvements (the "Subordination Agreement"). The Subordination Agreement shall be in form reasonably acceptable to the Seller and the Buyer's lender.

15. RESALE OF REACQUIRED PROPERTY; DISPOSITION OF PROCEEDS. Upon the re-vesting in the Seller of title to and/or possession of the Default Property or any part thereof as provided in Section 15 of this Agreement, the Seller shall, at the time and as a condition of the re-vesting (the "Revesting Date") refund the Purchase Price paid by the Buyer under Section 4 of this Agreement to the Buyer or, if applicable, the portion of the Purchase Price allocable to the respective Default Property, less (a) the Seller's actual third party out-of-pocket costs and expenses that the Seller incurs to consummate the re-vesting of the Default Property; (b) a pro rata share of all taxes, assessments, and water and sewer charges with respect to the Default Property or part thereof that are unpaid as of the Revesting Date; and (c) any payments made or necessary to be made to discharge any encumbrances or liens created by the Buyer and existing on the Default Property or part thereof as of the Revesting Date or to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults or acts of the Buyer, its successors or transferees; and (d) any amounts otherwise owing the Seller by the Buyer or its successor or transferee.

16. CLOSING COSTS AND RELATED ITEMS. The Seller shall be responsible for paying the transfer taxes and state deed tax. The Buyer shall be responsible for paying all recording fees, survey costs, any inspection/testing/examination fees or costs, the costs to examine title, the title insurance commitment cost, and the title insurance premium cost. Both parties shall pay their own legal fees and expenses. All other closing fees charged by the Title Company shall be split equally and paid fifty percent (50%) by the Seller and fifty percent (50%) by the Buyer.

17. INDIVIDUAL SEWAGE TREATMENT SYSTEM DISCLOSURE. The Seller has no knowledge or information regarding the existence, location, or status of any sewage treatment system on or serving the Property.

18. WELL DISCLOSURE. The Seller certifies that the Seller does not know of any wells on the Property.

19. BROKER COMMISSION. Each party represents to the other that it has not used the services of any real estate broker or agent in connection with this Agreement or the transaction contemplated by this Agreement. Each party agrees to indemnify, defend, and hold harmless the other party against and in respect of any obligation or liability based in any way upon agreements, arrangements, or understandings made or claimed to have been made by the party with any third person.

20. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the parties and no other agreement prior to this Agreement or contemporaneous herewith shall be effective except as expressly set forth or incorporated herein.

21. AMENDMENT AND MODIFICATION. No amendment, modification or waiver of any condition, provision or term of this Agreement shall be valid or have any effect unless made in writing, is signed by the Seller and the Buyer, and specifies with particularity the extent and nature of such amendment, modification or waiver. Any waiver by either party of any default by the other party shall not affect or impair any right arising from any previous or subsequent default.

22. BINDING EFFECT. This Agreement binds and benefits the parties and their successors and assigns.

23. NOTICES. All notices and demands given or required to be given by any party hereto to any other party shall be deemed to have been properly given upon deliver if delivered in person, the next business day after being sent by reputable overnight commercial courier (e.g. U.P.S. or Federal Express), upon delivery if sent by e-mail, or three (3) business days after having been deposited in any U.S. Postal Service and sent by registered or certified mail, postage prepaid, addressed as follows (or sent to such other address as any party shall specify to the other party pursuant to the provisions

If to The Seller:
Lino Lakes Economic Development Authority
Michael Grochala
Community Development Director
600 Town Centre Parkway
Lino Lakes, MN 55014
Email: MGrochala@linolakes.us

If to the Buyer:
Silver Creek Equity, LLC
Attn: _____

_____, MN 56301
Email: _____

With a copy to:

In the event either party delivers a notice by email, as set forth above, such party agrees to deposit the originals of the notice in a post office, branch post office, or mail depository maintained by the U.S. Postal Service, postage prepaid and addressed as set forth above. Such deposit in the U.S. Mail shall not affect the deemed delivery of the notice by facsimile or email, provided that the procedures set forth above are fully complied with.

Any party, by notice given as aforesaid, may change the address to which subsequent notices are to be sent to such party. Attorneys for each party are authorized to give notices for each such party.

24. CUMULATIVE RIGHTS. Except as may otherwise be provided herein, no right or remedy herein conferred on or reserved by either party is intended to be exclusive of any other right or remedy provided by law, but such rights and remedies shall be cumulative in and in addition to every other right or remedy given herein or elsewhere or existing at law, equity or by statute.

25. DEFAULT; REMEDIES; SPECIFIC PERFORMANCE. If the Buyer defaults in any of the agreements herein, the Seller may, as the Seller's sole remedies, (a) terminate this Agreement; and (b) retain any Earnest Money paid by the Buyer as liquidated damages, time being of the essence hereof. If the Seller defaults in any of the agreements herein, the Buyer may (1) terminate this Agreement, in which event the Seller will cause the Title Company to refund the Earnest Money to the Buyer; (2) terminate this Agreement and seek actual damages for breach of this Agreement; or (3) seek specific performance of this Agreement; provided that any action for specific performance must be brought within six months after the date of the alleged breach.

26. COUNTERPARTS AND ELECTRONIC SIGNATURES. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument. Signatures to this Agreement and any amendment to it transmitted by electronic mail is valid and effective to bind the party so signing. Each party shall promptly deliver an execution original of this Agreement (and any amendment to it) with its actual signature to the other party, but a failure to do so will not make this Agreement (or any amendment to it) unenforceable.

27. GOVERNING LAW. This contract shall be governed by the laws of the State of Minnesota.

28. SURVIVAL. No terms of this Agreement shall survive the delivery of the Deed, except (a) all representations and warranties; (b) the last sentence of this Section; and (b) Sections 13, 14, 15, and 16 of this Agreement, for the period of time specified in such Sections. Notwithstanding any contrary language in this Agreement, all terms and conditions of this Agreement, as well as those reflected on the Deed, will expire and terminate on the date that is seven years after the date of the Deed.

29. RECORDING; PURPOSE OF RECORDING. This Agreement, or a memorandum of this Agreement in form reasonably acceptable to the parties, shall be filed of record with the County Recorder or the Registrar of Titles of Scott County, Minnesota, as the case may be to provide record notice of the terms of Sections 13, 14, and 15 of this Agreement.

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

IN WITNESS WHEREOF, the parties have executed this Purchase and Development Agreement as of the later of the dates set forth below:

SELLER:

LINO LAKES ECONOMIC DEVELOPMENT
AUTHORITY

By: _____
Its: President

By: Sarah Cotton
Its: Executive Director

STATE OF MINNESOTA)
) SS.
COUNTY OF SCOTT)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by _____, the President of the Lino Lakes Economic Development Authority, Minnesota, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the Authority.

Notary Public

STATE OF MINNESOTA)
) SS.
COUNTY OF SCOTT)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Sarah Cotton, the Executive Director of the Lino Lakes Economic Development Authority, Minnesota, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the Authority.

Notary Public

BUYER:

SILVER CREEK EQUITY, LLC

By:

Its:

STATE OF MINNESOTA)
) SS.
COUNTY OF SCOTT)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022,
by _____, the _____ of Silver Creek Equity , LLC, a Delaware limited liability company,
on behalf of the company.

Notary Public

EXHIBIT A

LEGAL DESCRIPTION AND DEPICTION OF PROPERTY

[attach]

EXHIBIT B

QUIT CLAIM DEED

STATE DEED TAX DUE HEREON: \$ _____

ECRV: _____

Date: _____, 2021

FOR VALUABLE CONSIDERATION, Lino Lakes Economic Development Authority, a body corporate and politic under the laws of the State of Minnesota (“Grantor”), hereby conveys and quitclaims to Silver Creek Equity, LLC, a Delaware limited liability company (“Grantee”), that certain real property located in the City of Lino Lakes, Anoka County, Minnesota, and legally described as:

[insert legal description]

Abstract Property

Check here if part or all of the land is Registered (Torrens) _____

Such conveyance to be together with all hereditaments and appurtenances, subject to easements of record.

SECTION 1.

It is understood and agreed that this Deed is subject to the covenants, conditions, restrictions and provisions of an agreement entered into between the Grantor and Grantee identified as the “Purchase and Development Agreement,” of even date herewith, hereinafter “Agreement.”

The Grantee shall have the right to re-enter and take possession of the Property, or any part thereof, except as permitted by this Agreement until a Certificate of Commencement has been issued for all Buildings, including the Housing Building, Retail Building, and Restaurant Buildings as defined in the Section 13 of the Agreement, making up the Minimum Improvements and such Certificate of Commencement has been recorded for all Buildings.

It is specifically agreed that the Grantee shall promptly begin and diligently prosecute to completion the Minimum Improvements thereon, as provided in the Agreement.

Promptly after commencement of construction on each Building making up part of the Minimum Improvements in accordance with the provisions of the Agreement, the Grantor will furnish the Grantee with an appropriate instrument so certifying. Such certification by the Grantor shall be (and it shall be so provided in the certification itself) a conclusive determination of satisfaction of the terms of the Agreement and of this Deed with respect to that Building and the related obligation of the Grantee, and its successors and assigns, to commence construction of that portion of the Minimum Improvements. Such certification and such determination shall not constitute evidence of compliance with or satisfaction of any obligation of the Grantee to any holder of a mortgage, or any insurer of a mortgage, securing money loaned to finance the purchase of the Property hereby conveyed or the Minimum Improvements, or any part thereof.

All certifications provided for herein shall be in such form as will enable them to be recorded with the County Recorder, or Registrar of Titles, Anoka County, Minnesota. If the Grantor shall refuse or fail

to provide any such certification in accordance with the provisions of the Agreement and this Deed, the Grantor shall, within thirty (30) days after written request by the Grantee, provide the Grantee with a written statement indicating in adequate detail in what respects the Grantee has failed to commence construction of a Building or Buildings making up the Minimum Improvements in accordance with the provisions of the Agreement or is otherwise in default, and what measures or acts it will be necessary, in the opinion of the Grantor, for the Grantee to take or perform in order to obtain such certification.

SECTION 2.

It is further understood and agreed that this Deed is subject to the further covenants, conditions, restrictions and provisions of the Agreement.

Grantor will not Transfer any portion of the Property intended to be occupied by a Building as described in Section 13(F), except as permitted by the Agreement, until a Certificate of Completion has been issued for that Building, such buildings including the Housing Building, Retail Building, and Large Restaurant Buildings as defined in the Section 13 of the Agreement, making up the Minimum Improvements and such Certificate of Completion has been recorded for that Building.

Promptly after completion of construction on each Building making up part of the Minimum Improvements in accordance with the provisions of the Agreement, the Grantor will furnish the Grantee with an appropriate instrument so certifying. Such certification by the Grantor shall be (and it shall be so provided in the certification itself) a conclusive determination of satisfaction of the terms of the Agreement and of this Deed with respect to that Building and the related obligation of the Grantee, and its successors and assigns, to complete construction of that portion of the Minimum Improvements. Such certification and such determination shall not constitute evidence of compliance with or satisfaction of any obligation of the Grantee to any holder of a mortgage, or any insurer of a mortgage, securing money loaned to finance the purchase of the Property hereby conveyed or the Minimum Improvements, or any part thereof.

All certifications provided for herein shall be in such form as will enable them to be recorded with the County Recorder, or Registrar of Titles, Anoka County, Minnesota. If the Grantor shall refuse or fail to provide any such certification in accordance with the provisions of the Agreement and this Deed, the Grantor shall, within thirty (30) days after written request by the Grantee, provide the Grantee with a written statement indicating in adequate detail in what respects the Grantee has failed to complete construction of a Building making up the Minimum Improvements in accordance with the provisions of the Agreement or is otherwise in default, and what measures or acts it will be necessary, in the opinion of the Grantor, for the Grantee to take or perform in order to obtain such certification.

SECTION 3.

The Grantee's rights and interest in the Property are subject to the terms and conditions of Sections 13 and 14 of the Agreement relating to the Grantor's right to re-enter and revest in Grantor title to the Property or any part thereof, and the restriction of Grantee's ability to Transfer any portion of the Property intended to be occupied by a Building, under conditions specified therein, including but not limited to termination of such right and upon issuance of a Certificate of Commencement, and termination of such restriction upon issuance of a Certificate of Completion as defined in the Agreement.

IN WITNESS WHEREOF, the Grantor has caused this Deed to be duly executed in its behalf by its President and Executive Director, this _____ day of _____, 2022.

This instrument was drafted by:

Kennedy & Graven, Chartered
Fifth Street Towers
150 South Fifth Street, Suite 700
Minneapolis, MN 55402
(612) 337-9300 (JAE)

Tax Statements should be sent to:

Silver Creek Equity, LLC.
Attn: _____

EXHIBIT C

FORM OF CERTIFICATE OF COMMENCEMENT

The undersigned hereby certifies that Silver Creek Equity, LLC, a Delaware limited liability company (the “Developer”), has fully satisfied its obligations under Section 13 of the Purchase and Development Agreement, dated _____, 2022 (the “Agreement”), between the Lino Lakes Economic Development Authority and the Developer, with respect to commencing construction of a Building included as part of the Minimum Improvements, defined as the _____ Building in accordance with Section 13 of the Agreement, and that the Developer is released and forever discharged from its obligations with respect to commencing construction such Building included as part of the Minimum Improvements under Section 13 of the Agreement, and the Seller’s right to re-enter and revest title to such building pursuant to Section 14 of the Agreement is hereby terminated.

Dated: _____, 20__.

**LINO LAKES ECONOMIC DEVELOPMENT
AUTHORITY, MINNESOTA**

By _____
Its Executive Director

STATE OF MINNESOTA)
) SS.
COUNTY OF SCOTT)

The foregoing instrument was acknowledged before me this ____ day of _____, 20 __, by _____, the Executive Director of the Lino Lakes Economic Development Authority, Minnesota, a Minnesota public body corporate and politic, on behalf of the Authority.

Notary Public

EXHIBIT D

FORM OF CERTIFICATE OF COMPLETION

The undersigned hereby certifies that Silver Creek Equity, LLC, a limited liability company (the “Developer”), has fully satisfied its obligations under Section 13 of the Purchase and Development Agreement, dated _____, 2022 (the “Agreement”), between the Lino Lakes Economic Development Authority, Minnesota and the Developer, with respect to commencing construction of a building included as part of the Minimum Improvements, defined as the _____ Building in accordance with Section 13 of the Agreement, and that the Developer is released and forever discharged from its obligations with respect to completing construction such Building included as part of the Minimum Improvements under Section 13 of the Agreement, and the Seller’s right to restrict transfer of that portion of the Property under Section 14 of the Agreement is hereby terminated.

Dated: _____, 20__.

**LINO LAKES ECONOMIC DEVELOPMENT
AUTHORITY, MINNESOTA**

By _____
Its Executive Director

STATE OF MINNESOTA)
) SS.
COUNTY OF SCOTT)

The foregoing instrument was acknowledged before me this ____ day of _____, 2__, by _____, the Executive Director of the Lino Lakes Economic Development Authority, Minnesota, a Minnesota public body corporate and politic, on behalf of the Authority.

Notary Public

LINO LAKES MIXED USE

Schematic Development Summary

Total SF:	215,000 SF
Total Finished SF:	172,000 SF
Garage SF:	43,000 SF
Level 1 SF:	43,000 SF
Level 2 SF:	43,000 SF
Level 3 SF:	43,000 SF
Level 4 SF:	43,000 SF

Unit Estimate: **149**
 Total SF/Unit: 1,150 SF/Unit

Total Parking Estimate: **426**
 Garage: 135
 Surface: 243
 Street Parking: 48
 Required Stall Size: 9' x 19'

Required Shared parking: **420**
 -Retail: 40
 -Restaurants: 128
 -Residential: 252

Site Information:
 Site Area (Approx): 6.27 Acres / 273,121 SF
 FAR: 4.32 Acres/188,345SF (68%)
 Impervios Area:

Lot Requirements:
 Building setback from streets:
 Residential Street : 30'
 Collector or Arterial Street: 40'
 Parking lot from Street: 15'
 Building Setback: 30' Rear Yard
 20' Side Yard

Height: Max of 45' + no more than 4' parapet allowed
 Impervious surface coverage area: Shall not exceed 65%

Discussion Points:
 *BPMS were assumed to treat 4.65 acres of impervious surface area, if we are proposing more than 4.65 we would need additional stormwater BPMS
 *Zoning ordinance states minimum livable floor area for each unit shall be 700 sf, + additional 100 sf for each bedroom

Apartment Exterior Amenities
 -Outdoor Grilling/Dining
 -Gas Firepit
 -Shuffleboard
 -Dog Run

Existing trees/plants halftone
 Decorative Landscaping

