



## **HERMANTOWN ECONOMIC DEVELOPMENT AUTHORITY**

### **AGENDA**

**Thursday, October 23<sup>rd</sup> 2025 at 5:30 p.m.  
Council Chambers  
Governmental Services Building**

#### **1. ROLL CALL**

#### **2. MINUTES – Approval or correction**

2.1 September 25th, 2025 HEDA Minutes

#### **3. MOTIONS**

#### **4. PUBLIC HEARING**

#### **5. RESOLUTIONS**

- 5.1 2025-11H A RESOLUTION ADOPTING A LENDING POLICY FOR THE CITY OF HERMANTOWN HOUSING TRUST FUND
- 5.2. 2025-12H A RESOLUTION AUTHORIZING A LOAN OF \$100,000 FROM THE CITY OF HERMATNOWN HOUSING TRUST FUND TO RELIABLE PROPERTIES, LLC FOR 4511 LAVAQUE PROJECT AND AUTHORIZING EXECUTION OF A LOAN AGREEMENT
- 5.3 2025-13H A RESOLUTION APPROVING A CONSENT RELATED TO THE DEVELOPMENT CONTRACT BETWEEN THE HERMANTOWN ECONOMIC DEVELOPMENT AUTHORITY, THE CITY OF HERMANTOWN AND KTJ 360, LLC FOR THE PILLARS OF HERMANTOWN SENIOR LIVING PROJECT

#### **6. WORK SESSION**

#### **7. RECESS**

## **CITY OF HERMANTOWN**

### **HERMANTOWN ECONOMIC DEVELOPMENT AUTHORITY**

Thursday, September 25th, 2025 at 5:30 PM Central

Council Chambers, City Hall – Hermantown Governmental Services Building

Mayor Wayne Boucher:	Present
Councilor John Geissler:	Absent
Councilor Andy Hjelle:	Present
Councilor Joe Peterson:	Present
Councilor Brian LeBlanc:	Present
Karen Pionk:	Present
Rob Unzen:	Present

**CITY STAFF:** Chad Ronchetti, Economic Development Director; Mia Thibodeau, HEDA Attorney

#### **1. ROLL CALL**

#### **2. MINUTES**

##### **A. Approve August 28th, 2025 HEDA Minutes**

Motion to approve minutes as presented. This motion, made by LaBlanc and seconded by Pionk, Carried.

Mayor Wayne Boucher:	Yea
Councilor John Geissler:	Absent
Councilor Andy Hjelle:	Yea
Councilor Joe Peterson:	Yea
Councilor Brian LeBlanc:	Yea
Karen Pionk:	Yea
Rob Unzen:	Yea

Yea: 6, Nay: 0, Absent: 1

#### **3. MOTIONS**

#### **4. PUBLIC HEARING**

#### **5. RESOLUTIONS**

#### **6. WORK SESSION**

##### **6.1 Housing Trust Fund Policy Revisit**

Director Ronchetti gave a presentation on the Hermantown Housing Trust Fund (HTF) Policy to the commission. This briefed the commission from the previous meeting, highlighting Hermantown's housing needs and priorities. The Commission discussed

potential terms and policy for the HTF for both rent and for-sale housing. For rent terms the commission discussed setting 50% of units at AMI, and putting a penalty clause to trigger interest payment if that is not met. Equity or capital spend requirements being a 1:1 match with a lien provision. For for-sale terms Commission discussed providing a target AMI of 115% for new homes with 0% interest construction financing for an 18-month loan.

## **6.2 Project Update: Birch Hills Subdivision**

Director Ronchetti briefed the commission on the work that has been done such as design process, looking into construction costs, working with a land broker, and researching taxable value for the Birch Hills Subdivision. Commissioner LeBlanc raised a concern that only 5 units of workforce housing doesn't move the needle and that development affects the current residents of Hermantown. Commissioner Unzen voiced that subsidizing residential growth can benefit Hermantown, but if density in the east isn't focused on, there will be a continued sprawl, which costs money that being you don't generate tax revenue to offset infrastructure costs. The Commission discussed the benefits and concerns that workforce housing and housing developed by the city.

## **6.3 Project Update: Uptown Master Plan**

Director Ronchetti gave a presentation on Uptown survey results and briefed the commission on initial concepts for Uptown Main Street, Town Center, and Town Green. Commissioner Pionk discussed her experience with the Uptown committee and how this will bring more community to Hermantown.

## **7. RECESS**

Motion to recess at 7:06 p.m. This motion, made by Hjelle and seconded by, Pionk Carried.


Mayor Wayne Boucher:	Yea
Councilor John Geissler:	Absent
Councilor Andy Hjelle:	Yea
Councilor Joe Peterson:	Yea
Councilor Brian LeBlanc:	Yea
Karen Pionk:	Yea
Rob Unzen:	Yea

Yea: 6, Nay: 0, Absent: 1

Recorded by:

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Chad Ronchetti, Economic Development Director

<b>HEDA MEETING DATE:</b>		October 23, 2025	
<b>TO:</b>	HEDA Commissioners		
<b>FROM:</b>	Chad Ronchetti, Executive Director		
<b>SUBJECT:</b>	Housing Trust Fund Policy		

☒ **RESOLUTION:** 2025-11H    ☐ **ORDINANCE:**                      ☐ **OTHER:**

## REQUESTED ACTION

Approve Housing Trust Fund Policy

## BACKGROUND

On February 3<sup>rd</sup>, the City Council amended the City Code of Ordinances to add section 280, establishing a Housing Trust Fund (HTF). Because of the alignment of housing development (and the incentivization of) with the Hermantown Economic Development Authority's mission, City Council directed that HEDA administer the fund. HEDA was also given the responsibility of setting the terms and conditions of repayment of loans and/or grants as well as interest rates charged.

HEDA has had several discussions at the August 28<sup>th</sup> and September 25<sup>th</sup> 2025 meeting regarding establishing a policy that guides how HTF funds will be deployed and leveraged in the community. By analyzing a recent area housing study and the housing study conducted for Section 24 (Uptown), it can be deduced that the market is meeting the needs for executive level detached single family and move-up townhomes. Other major demand in the market for entry-level and move-up single family, along with workforce and affordable rentals, are not being met due to elevated construction costs and lot availability.

HEDA determined that the three following housing types be targeted with HTF funds, listed in order of priority:

1. Preservation and Rehabilitation of Existing Workforce Rental Units
2. Provide Zero-Interest Construction Financing, with priority lending provided to local, entrepreneurial developers
3. Land acquisition by HEDA for the purpose of creating workforce housing

The attached HTF Policy reflects these priorities. Because preservation and rehabilitation are often the most cost effective and efficient solutions, that take priority in lending. Zero-Interest construction financing plays an essential role in reducing the cost of higher risk money, in particular for entrepreneurial developers who are local and willing to take more risk to benefit their community. Finally, because there is significant

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benefit in the strategy of assemblage, which often happens prior to market readiness, utilizing funds for HEDA's acquisition of properties will help position Hermantown for investment.

All lending and conveyance will require 50% or units to be 115% AMI or lower..

The creation and preservation of housing, in particular workforce housing, is essential to our city's economic growth. Direct testimony from local employers is that the largest limiting factor to local business' ability to expand is workforce housing. Business' inability to attract workers due to limited housing stock achievable for a workforce with current wages hinders the economic growth climate. Wages that are in line with local cost of living combined with a regional price premium for construction creates a gap between the costs to create and preserve housing, the required rent/sale-price to earn a reasonable rate of return, and what local salaries can afford a competitive disadvantage for our city and region. The further capitalization of the HTF provides funding to close the funding gap for housing projects and helps make our city competitive.

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#### **SOURCE OF FUNDS (if applicable)**

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#### **ATTACHMENTS**

Resolution  
Housing Trust Fund Policy

**Hermantown Economic Development Authority**

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Hermantown Economic Development Authority  
Resolution No. 2025-11H

HEDA Commissioner \_\_\_\_\_ introduced the following resolution and moved its adoption:

**RESOLUTION ADOPTING A LENDING POLICY FOR THE CITY OF  
HERMANTOWN HOUSING TRUST FUND**

WHEREAS, on February 3, 2025, the City amended the Hermantown Code of Ordinances by Ordinance No. 2025-03 to establish a Housing Trust Fund; and

WHEREAS, the City Council directed HEDA to administer the housing trust fund on behalf of the City; and

WHEREAS, HEDA believes that the creation and/or rehabilitation of housing is critical to creating jobs, enhancing tax base, promoting the general welfare of the people of the City; and

WHEREAS, The City of Hermantown has seen demand for lending related to the creation, preservation, and rehabilitation of workforce and attainable housing; and

NOW, THEREFORE, BE IT RESOLVED by the Hermantown Economic Development Authority the Housing Trust Fund Lending Policy for the City of Hermantown Housing Trust Fund is adopted, to guide the provision of loans from the Trust Fund.

The motion for the adoption of the foregoing resolution was duly seconded by HEDA Commissioner \_\_\_\_\_ and, after full discussion thereof and upon a vote being taken thereon, the following HEDA Members voted in favor thereof:

and the following voted against the same:

Whereupon said resolution was declared duly passed and adopted.

Dated this \_\_\_\_\_, 2025.

\_\_\_\_\_  
HEDA Executive Director

**EXHIBIT A**



## **Housing Trust Fund Lending Policy**

The City of Hermantown, Minnesota (the City) established the Housing Trust Fund (HTF) to support the development, rehabilitation, or financing of housing and support housing projects. In 2025, the Housing Trust Fund Ordinance was adopted by City Council. Because the Hermantown Economic Development Authority (HEDA) assumes primary responsibility for development activities within the City, and has adopted the powers of a Housing and Redevelopment Authority (HRA), HEDA was made the administrator of the fund on behalf of the City. The HEDA Executive Director, or designee, will administer and supervise the HTF program and the City's finance department will administer the fund.

The intent of this policy is to establish the City of Hermantown's guidelines for providing housing subsidy utilizing the HTF. Meeting the criteria within this policy does not guarantee a project will be approved, nor does it create any contractual rights on the part of the party requesting assistance. Any uses identified under Minnesota Statutes, Section 462C.16, Subdivision 3 "Authorized expenditures" are covered under this policy.

### **Guiding Principles**

- **First Priority:** Preservation and rehabilitation of existing workforce rental housing with repairs focused on life-safety improvements and other efforts that sustain long-term occupancy for current residents.
- **Second Priority:** Construction financing that supports local entrepreneurial developers in the creation of new housing units.
- **Third Priority:** Land acquisition by HEDA for the purpose of creating workforce housing.
- **Targeted Income Levels:** Funding is limited to projects achieving rents or sale prices for households at or below 115% of the Area Median Income (AMI).

### **Application Process**

- Businesses or developers seeking an HTF subsidy must complete an application for assistance. The specific required documentation may vary depending on the type of subsidy sought and are subject to the program-specific policies.

### **Development or Funding Agreements**


Development and/or funding agreements with housing and development entities are required, with provisions for financial recovery, if appropriate, prior to distribution of funds. A development and/or



funding agreement must be executed prior to distribution of funds. The agreement must also contain provisions for financial recovery of the City's investment, if appropriate, depending on the financial characteristics of the housing program and/or development and the benefits to the community.

#### **General Program Descriptions and Eligible Uses**

- A. First Priority is preservation and rehabilitation of existing workforce rental housing with repairs focused on life-safety improvements and other efforts that sustain long-term occupancy for current residents.
  - a. Per unit funding amounts
    - i. \$50,000 maximum per unit
    - ii. Up to 50% of total rehabilitation costs up to a maximum of \$100,000
  - b. Building owner must contribute a one-to-one match on funds
  - c. Rent restrictions must be in force on 50% of the building units during the term of the loan, and gross rents must not exceed the 115% AMI
  - d. 0-2% interest repaid quarterly over a maximum of 10 years
    - i. A maximum of 8% interest will be charged for loans that violate the rent restrictions.
  - e. Owners must submit documentation regarding gross rent by bedroom size each year
- B. Secondary Priority is low cost construction financing that supports local entrepreneurial developers in the creation of new housing units.
  - a. Funding of for sale, owner-occupied units will fill the documented and established gap between the cost/unit to build and the sale price; up to 20% of the unit's sale price
    - i. Gap financing agreements must include payback of the loan upon permanent financing or 24 months, whichever is sooner
    - ii. Sale price of the new, owner-occupied units must not exceed 115% AMI purchase price.
  - b. Funding for rental units will fill the established gap between the cost/unit to build and the achievable rents with a maximum loan of \$50,000/unit
    - i. Rent restrictions must be in force during the term of the loan, and gross rents must not exceed the 115% AMI
    - ii. 0-2% interest repaid quarterly over a maximum of 10 years
      - 1. A maximum of 8% interest will be charged for loans that violate the rent restrictions.
    - iii. Owners must submit documentation regarding gross rent by bedroom size each year

<b>HEDA MEETING DATE:</b>		October 23, 2025	
<b>TO:</b>	HEDA Commissioners		
<b>FROM:</b>	Chad Ronchetti, Executive Director		
<b>SUBJECT:</b>	Approve Loan Agreement		

☒ **RESOLUTION:** 2025-12H      ☐ **ORDINANCE:**      ☐ **OTHER:**

### REQUESTED ACTION

Approve Loan Agreement for \$100,000 to Reliable Properties, Inc.

### BACKGROUND

On February 3<sup>rd</sup>, the City Council amended the City Code of Ordinances to add section 280, establishing a Housing Trust Fund (HTF). Because of the alignment of housing development (and the incentivization of) with the Hermantown Economic Development Authority’s mission, City Council directed that HEDA administer the fund. HEDA was also given the responsibility of setting the terms and conditions of repayment of loans and/or grants as well as interest rates charged.

HEDA HTF Policy guides loans toward the three following housing types, listed in order of priority:

1. Preservation and Rehabilitation of Existing Workforce Rental Units
2. Provide Zero-Interest Construction Financing, with priority lending provided to local, entrepreneurial developers
3. Land acquisition by HEDA for the purpose of creating workforce housing

Reliable Properties, a local developer and landlords identified structural issues related to existing housing units within their mixed use development at 4511 Lavaque Road. Staff met with the owners of the property and determined that a loan from the HTF would help preserve and rehabilitate existing “naturally affordable” units and would qualify under the new policy. Staff is recommending the lending of \$100,000 to Reliable Properties, Inc to help close the gap in financing between their traditional loan and the work discovered to be necessary to preserve the units.

### SOURCE OF FUNDS (if applicable)

Fund 232 (Housing Trust Fund)

**Hermantown Economic Development Authority**

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## **ATTACHMENTS**

Resolution

Loan Agreement

**Hermantown Economic Development Authority**

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Hermantown Economic Development Authority  
Resolution No. 2025-12H

HEDA Commissioner \_\_\_\_\_ introduced the following resolution and moved its adoption:

**RESOLUTION AUTHORIZING A LOAN AGREEMENT FROM THE HOUSING TRUST FUND AND AUTHORIZING EXECUTION OF LOAN DOCUMENTS**

WHEREAS, on February 3, 2025, the City amended the Hermantown Code of Ordinances by Ordinance No. 2025-03 to establish a Housing Trust Fund; and

WHEREAS, the City Council directed HEDA to administer the Housing Trust Fund (the “Program”) on behalf of the City; and

WHEREAS, HEDA believes that the creation and/or rehabilitation of housing is critical to creating jobs, enhancing tax base, promoting the general welfare of the people of the City; and

WHEREAS, Reliable Properties, LLC (“the Borrower”) has submitted a proposal for improvements to (2) multifamily residential units (the “Units”) to address structural and fire barrier issues located on the property at 4511 Lavaque Road (PID 395-0010-00623) and has requested a loan in the principal amount of \$100,000 (the “Loan”); and

WHEREAS, in connection with the Project, the Borrower has applied to the Program established by the City and administered by HEDA, and HEDA has agreed to make the Loan; and

WHEREAS, the requirements of the Business Subsidy Law, Minnesota Statutes, Section 116J.993 through 116J.995, do not apply pursuant to an exception for housing; and

WHEREAS, HEDA staff has reviewed the proposal and determined that it meets the policy, eligibility, underwriting, and feasibility criteria for loans from the Program; and

WHEREAS, it is necessary and appropriate that HEDA formally authorize the making of the Loan and authorize certain officials to execute and deliver the necessary loan documents on behalf of HEDA; and

NOW, THEREFORE, BE IT RESOLVED by the Hermantown Economic Development Authority as follows;

1. Authorization of Loan. HEDA is hereby authorized to make a loan to the Borrower in the principal amount of up to \$100,000, on the terms and conditions set forth in the final loan agreement and related documents.
2. Approval of Documents. The Executive Director is authorized and directed to negotiate, finalize, execute and deliver, on behalf of HEDA, all documents and instruments required or desirable in connection with the Loan,

The motion for the adoption of the foregoing resolution was duly seconded by HEDA Commissioner



\_\_\_\_\_ and, after full discussion thereof and upon a vote being taken thereon, the following HEDA Members voted in favor thereof:

and the following voted against the same:

Whereupon said resolution was declared duly passed and adopted.

Dated this \_\_\_\_\_, 2025.

\_\_\_\_\_  
HEDA Executive Director

**EXHIBIT A**

**LOAN AGREEMENT  
(HOUSING TRUST FUND – RELIABLE HERMANTOWN PROPERTIES, LLC)**

THIS LOAN AGREEMENT (this "Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, 2025 (the "Effective Date"), between the HERMANTOWN ECONOMIC DEVELOPMENT AUTHORITY, MINNESOTA, a public body, corporate and politic, exercising its housing and redevelopment authority powers as administrator of the Housing Trust Fund (defined below), under the laws of the State of Minnesota (the "Lender" or "HEDA"), and RELIABLE HERMANTOWN PROPERTIES, LLC, a Minnesota limited liability company (the "Borrower").

**RECITALS**

The Borrower has requested that the Lender make a loan to the Borrower in the maximum amount of \$100,000, subject to the terms of this Agreement, for the purpose of financing a portion of the costs of the construction of a project, defined as follows: improvements to (2) multifamily residential units (the "Units") to address structural and fire barrier issues located on the property legally described on **Exhibit A** with a physical address of 4511 Lavaque Road, Hermantown, Minnesota 55811 (PID 395-0010-00623) (the "Project").

A. In connection with the Project, the Borrower has applied to the Housing Trust Fund established by the City of Hermantown (the "City") and administered by HEDA (the "Program"), and HEDA has agreed to make the Loan (defined below) from the Program to Borrower, subject to the terms and conditions of this Agreement.

B. In consideration for the Loan contemplated by this Agreement, the Borrower is executing and delivering to the Lender this Agreement and a Promissory Note of even date herewith, in the form attached hereto as Exhibit A (the "Note").

C. The requirements of the Business Subsidy Law, Minnesota Statutes, Section 116J.993 through 116J.995, do not apply to this Agreement pursuant to an exception for housing.

ACCORDINGLY, to induce the Lender to make the Loan to the Borrower, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The Loan Amount. Subject to and upon the terms and conditions of this Agreement, the Lender agrees to loan to the Borrower the sum of ONE HUNDRED THOUSAND and 00/100ths Dollars (\$100,000.00), or so much thereof as is disbursed to the Borrower in accordance with this Agreement (the "Loan"). The Loan shall be evidenced by the Note. Proceeds of the Loan shall be disbursed in accordance with Section 3 hereof.

2. Repayment of Loan. The Loan shall be repaid with interest as follows:

(a) Interest on the principal balance of the Loan advanced and outstanding from time to time will accrue at a rate of zero percent (0.00%) per annum from the Closing Date (as hereinafter defined) until the Loan is fully repaid in accordance with this Agreement. If an Event of Default as defined in this Agreement occurs, the interest rate on this Note

will be adjusted to a rate equal to 8.00% per annum (the "Default Rate"). Late payments shall be subject to a late fee in the amount of 3.00% of the amount past due.

(b) The principal amount of the Loan shall be paid in equal quarterly installments of \$\_\_\_\_\_ on each January 1, April 1, July 1 and October 1 commencing on January 1, 2026 and continuing through October 1, 2035 (the "Maturity Date"). The entire outstanding principal amount minus any principal prepayments by Borrower, plus any accrued interest and any other unpaid fees and charges due to the Lender shall be paid by the Borrower to the Lender no later than the Maturity Date, or earlier, upon sale of the Property.

(c) The Borrower has the right to prepay the principal of the Note, in whole or in part, at any time.

3. Disbursement of Loan Proceeds.

(a) Loan proceeds in the amount of \$\_\_\_\_\_, shall be paid to the Borrower on \_\_\_\_\_, 202\_\_, or such other date as the parties hereto agree (the "Closing Date"), subject to the following conditions precedent:

(i) the Borrower having executed and delivered or caused the execution and delivery to the Lender, prior to the Closing Date and without expense to the Lender, executed copies of this Agreement and the Note;

(ii) the Borrower having provided evidence satisfactory to the Lender that the Borrower has established a separate accounting system for the exclusive purpose of recording the receipt and expenditure of the Loan proceeds;

(iii) intentionally omitted;

(iv) the Borrower having provided a copy of the executed construction contract(s) evidencing Borrower's obligation to complete the Project;

(v) the Borrower having provided evidence satisfactory to the Lender that the Borrower has obtained adequate financing to complete all activities related to the completion of the Project on the Property; and

(vi) receipt of evidence of Project costs to be paid with Loan proceeds.

(b) Subsequent disbursements of Loan proceeds may be made from time to time, in any amounts, as requested by the Borrower, and agreed to by the City, subject to the following:

(i) the Borrower's continued compliance with the Program, and this Agreement;

(ii) the aggregate amount of all disbursements made does not exceed the maximum allowable principal amount of the Loan; and

(iii) receipt of evidence of Project costs to be paid with Loan proceeds.

4. Representations and Warranties. The Borrower represents and warrants to the Lender:

(a) The Borrower is a limited liability company organized under the laws of the State of Minnesota and is duly authorized and empowered to execute and deliver this Agreement, perform all obligations hereunder, and to borrow money from the Lender.

(b) The execution and delivery of this Agreement, and the performance by the Borrower of its obligations hereunder, do not and will not violate or conflict with any provision of law and do not and will not violate or conflict with, or cause any default or event of default to occur under, any agreement binding upon the Borrower.

(c) This Agreement has in fact been duly executed and delivered by the Borrower and constitutes its lawful and binding obligation, legally enforceable against it.

(d) The Borrower warrants that it shall keep and maintain books, records, and other documents relating directly to the receipt and disbursements of Loan proceeds and that any duly authorized representative of the Lender shall, at all reasonable times, have access to and the right to inspect, copy, audit, and examine all such books, records, and other documents of the Borrower pertaining to the Loan until the completion of all Lender's closeout procedures and the final settlement and conclusion of all issues arising out of this Agreement.

(e) The Borrower warrants that it has fully complied with all applicable local, state and federal laws pertaining to Project and will continue to comply during the Term (as defined herein) of this Agreement. If at any time the Borrower receives notice of noncompliance from any governmental entity, the Borrower agrees to take any necessary action to comply with the local, state or federal law in question.

(f) The Borrower warrants that it will use the proceeds of the Loan made by the Lender solely for the costs of the Project, pursuant to this Agreement, and the Program.

(g) After the date of this Agreement, the Borrower warrants that it will not create, permit to be created, or allow to exist any liens, charges, or encumbrances on the Property prior to the obligation created by this Agreement, except as otherwise authorized in writing by the Lender.

(h) The Borrower will commence construction of the Project no later than June, 2025 and will be substantially completed by June, 2027.

(i) The Borrower shall own and operate the Project, including leasing of the Units, during the Term of this Agreement.

(j) During the Term of this Agreement, the Borrower shall not: (i) lease the Units to persons with income greater than 80% of the greater of state or area median income as determined annually by the United States Department of Housing and Urban

Development, or (ii) charge rent for each of the Units in an amount greater than 80% of the greater of state or area median income as determined annually by the United States Department of Housing and Urban Development.

(k) During the Term of this Agreement, the Borrower shall comply with and assist HEDA in complying with the requirements imposed by Minnesota Housing for Statewide Affordable Housing Aid (SAHA) for the Project, including providing such information to HEDA as may be requested for annual SAHA reporting.

5. Covenants. The Borrower covenants that it shall be obligated to fulfill the requirements, and adhere to the terms of the Program, as may be established by HEDA or City from time to time, and those terms as are contained within this Agreement.

6. Limitations. Notwithstanding the provisions of Sections 1 through 3 herein, the HEDA shall have no obligation to the Borrower, under this Agreement, to make the Loan to the Borrower, if HEDA, at the time of an advance of the Loan is to be made, is entitled under this Agreement to exercise any of the remedies set forth herein as a result of an Event of Default which has not been cured.

7. Event of Default by the Borrower. The following shall be Events of Default under this Agreement:

(a) the Borrower fails to pay any principal or interest on the Loan, or other fees or charges, when due;

(b) any representation or warranty made by the Borrower herein or in any document, instrument, or certificate given in connection with this Agreement, the Note, or the Project, is false when made;

(c) the Borrower fails to pay its debts as they become due, makes an assignment for the benefit of its creditors, admits in writing its inability to pay its debts as they become due, files a petition under any chapter of the Federal Bankruptcy Code or any similar law, state or federal, now or hereafter existing, becomes "insolvent" as that term is generally defined under the Federal Bankruptcy Code, files an answer admitting insolvency or inability to pay its debts as they become due in any involuntary bankruptcy case commenced against it, or fails to obtain a dismissal of such case within sixty (60) days after its commencement or convert the case from one chapter of the Federal Bankruptcy Code to another chapter, or be the subject of an order for relief in such bankruptcy case, or be adjudged a bankrupt or insolvent, or has a custodian, trustee, or receiver appointed for, or has any court take jurisdiction of its property, or any part thereof, in any proceeding for the purpose of reorganization, arrangement, dissolution, or liquidation, and such custodian, trustee, or receiver is not discharged, or such jurisdiction is not relinquished, vacated, or stayed within sixty (60) days of the appointment;

(d) a garnishment summons or writ of attachment is issued against or served upon the Lender for the attachment of any property of the Borrower in the Lender's possession or any indebtedness owing to the Borrower, unless appropriate papers are filed

by the Borrower contesting the same within thirty (30) days after the date of such service or such shorter period of time as may be reasonable in the circumstances;

(e) any breach or failure of the Borrower to perform any other term, covenant or condition of this Agreement not specifically described as an Event of Default in this Agreement and such breach or failure continues for a period of thirty (30) days after the Lender has given written notice to the Borrower specifying such default or breach, unless the Lender agrees in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the Lender will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Borrower within the applicable period and is being diligently pursued until the Default is corrected, but no such extension shall be given for an Event of Default that can be cured by the payment of money (i.e., payment of taxes, insurance premiums, or other amounts required to be paid hereunder); and

(f) any breach by the Borrower of any other agreement between the Borrower and the HEDA or the City.

8. The Lender's Remedies upon the Borrower's Default. Upon an Event of Default by the Borrower and after provision by the Lender of written notice, the Lender shall have the right to exercise any or all of the following remedies (and any other rights and remedies available to it):

(a) declare the principal amount of the Loan and interest at the Default Rate to be immediately due and payable in full upon providing written notice to the Borrower;

(b) suspend its performance under this Agreement; and

(c) take any action provided for at law to enforce compliance by the Borrower with the terms of this Agreement and the Note.

9. The Lender's Costs of Enforcement of Agreement. If an Event of Default has occurred as provided herein, then upon demand by the Lender, the Borrower shall pay or reimburse the Lender for all expenses, including all attorneys' fees and expenses incurred by the Lender in connection with the enforcement of this Agreement or the Note, or in connection with the protection or enforcement of the interests and collateral security of the Lender in any litigation or bankruptcy or insolvency proceeding or in any action or proceeding relating in any way to the transactions contemplated by this Agreement.

10. Indemnification.

(a) The Borrower shall and does hereby agree to protect, defend, indemnify, and hold the Lender, and its officers, agents, and employees, harmless of and from any and all liability, loss, or damage that it may incur under or by reason of this Agreement, the Note, and of and from any and all claims and demands whatsoever that may be asserted against the Lender by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained herein.

(b) Should the Lender, or its officers, agents, or employees, incur any such liability or be required to defend against any claims or demands, or should a judgment be entered against the Lender, the amount thereof, including costs, expenses, and attorney's fees, the same shall be reimbursed by the Borrower to the Lender immediately upon demand, and upon the failure of the Borrower to do so, the Lender may declare the Loan immediately due and payable.

(c) This indemnification and hold harmless provision shall survive the execution, delivery, and performance of this Agreement. The Borrower waives notice of the acceptance of this Agreement by the Lender.

(d) Nothing in this Agreement shall constitute a waiver of or limitation on any immunity from or limitation on liability to which the Borrower is entitled under law.

#### 11. Miscellaneous.

(a) Waiver. The performance or observance of any promise or condition set forth in this Agreement may be waived, amended, or modified only by a writing signed by the Borrower and the Lender. No delay in the exercise of any power, right, or remedy operates as a waiver thereof, nor shall any single or partial exercise of any other power, right, or remedy.

(b) Assignment. This Agreement shall be binding upon the Borrower and its successors and assigns and shall inure to the benefit of the Lender and its successors and assigns. All rights and powers specifically conferred upon the Lender may be transferred or delegated by the Lender to any of its successors and assigns. The Borrower's rights and obligations under this Agreement may be assigned only when such assignment is approved in writing by the Lender.

(c) Governing Law. This Agreement is made and shall be governed in all respects by the laws of the State of Minnesota. Any disputes, controversies, or claims arising out of this Agreement shall be heard in the state or federal courts of Minnesota, and all parties to this Agreement waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

(d) Severability. If any provision or application of this Agreement is held unlawful or unenforceable in any respect, such illegality or unenforceability shall not affect other provisions or applications that can be given effect, and this Agreement shall be construed as if the unlawful or unenforceable provision or application had never been contained herein or prescribed hereby.

(e) Notice. All notices required hereunder shall be given by depositing in the U.S. mail, postage prepaid, first class mail, return receipt requested, to the following addresses (or such other addresses as either party may notify the other):



To the Lender: Hermantown Economic Development Authority  
Attention: Executive Director  
5105 Maple Grove Road  
Hermantown, MN 55811

To the Borrower: Reliable Hermantown Properties, LLC  
Attention: Manager  
5115 Miller Trunk Highway  
Hermantown, MN 55811

(f) Termination. The term of this Agreement (the "Term") shall commence on the date first written above, and shall terminate at the latter of (i) the repayment of the Loan in full, including all accrued interest and any fees owed to the Lender, by the Borrower, whether on the Maturity Date or earlier due to prepayment or the acceleration of the Loan resulting from an Event of Default, or (ii) 10 years from the date first written above.

(g) Entire Agreement. This Agreement, together with any Exhibits hereto, which are incorporated herein by reference, constitutes the complete and exclusive statement of all mutual understandings between the parties with respect to this Agreement, superseding all prior or contemporaneous proposals, communications, and understandings, whether oral or written, concerning the Loan.

(h) Headings. The headings appearing at the beginning of the several sections contained in this Agreement have been inserted for identification and reference purposes only and shall not be used in the construction and interpretation of this Agreement.

IN WITNESS WHEREOF, this Loan Agreement has been duly executed and delivered by the proper officers of the Lender thereunto duly authorized on the day and year first written above.

HERMANTOWN ECONOMIC  
DEVELOPMENT AUTHORITY, as  
Administrator of the Housing Trust Fund of the  
City of Hermantown, Minnesota

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

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

This Loan Agreement has been duly executed and delivered by the Borrower on the day and year first written above.

RELIABLE HERMANTOWN PROPERTIES,  
LLC

By \_\_\_\_\_  
Kyle Wojtysiak  
Its Manager

EXHIBIT A  
LEGAL DESCRIPTION

## EXHIBIT B

### PROMISSORY NOTE

Date: \_\_\_\_\_, 2025

\$100,000.00

Reliable Hermantown Properties, LLC, a Minnesota limited liability company (the "Maker" or the "Borrower"), for value received, hereby promises to pay to the Hermantown, Economic Development Authority, a public body, corporate and politic and political subdivision exercising its housing and redevelopment authority powers as administrator of the Housing Trust Fund under the laws of the State of Minnesota (the "Lender," and any assigns are collectively referred to herein as the "Holder"), at its designated principal office or such other place as the Holder may designate in writing, the principal sum of ONE HUNDRED THOUSAND and 00/100ths Dollars (\$100,000.00) or so much thereof as may be advanced under this Promissory Note (the "Note"), with interest as hereinafter provided, in any coin or currency that at the time or times of payment is legal tender for the payment of private debts in the United States of America. All capitalized terms not otherwise defined herein, shall have the meaning prescribed to them in and by that certain Loan Agreement, by and between the Borrower and the Holder, dated as of \_\_\_\_\_, 2025 (the "Loan Agreement"). This Note is given pursuant to the Loan Agreement. The principal of and interest on this Note are payable as follows:

1. Interest on the principal balance of the Note advanced and outstanding from time to time will accrue at a rate of zero percent (0.00%) per annum from the date hereof until the Note is fully repaid or forgiven in accordance with the Loan Agreement and this Note. The default rate on this Note shall be 8.00% per annum.

2. Principal on this Note shall be paid in equal quarterly installments of \$ \_\_\_\_\_ on each January 1, April 1, July 1 and October 1 commencing on January 1, 2026 and continuing through October 1, 2035 (the "Maturity Date"). The entire outstanding principal amount minus any principal prepayments by Borrower, plus any accrued interest and any other unpaid fees and charges due to the Lender shall be paid by the Borrower to the Lender no later than the Maturity Date, or earlier, upon sale of the Property (as defined in the Loan Agreement).

3. The Borrower has the right to prepay the principal of this Note, in whole or in part, at any time.

4. If the Loan Agreement is found to be invalid for whatever reason, such invalidity shall constitute an Event of Default hereunder; provided that an Event of Default resulting from invalidity of the Loan Agreement shall not result in default interest charged on this Note. All of the agreements, conditions, covenants, provisions, and stipulations contained in the Loan Agreement, or any other instrument securing this Note are hereby made a part of this Note to the same extent and with the same force and effect as if they were fully set forth herein. It is agreed that time is of the essence regarding this Note. If an Event of Default occurs under the Loan Agreement or any other instrument securing this Note, then the Holder of this Note may at its right and option, without notice, declare immediately due and payable the principal balance of this Note

and interest accrued thereon, together with reasonable attorney's fees and expenses incurred by the Holder of this Note in collecting or enforcing payment hereof, whether by lawsuit or otherwise, and all other sums due hereunder or any instrument securing this Note. The Maker of this Note agrees that the Holder of this Note may, without notice to and without affecting the liability of the Maker, accept additional or substitute security for this Note, or release any security or any party liable for this Note or extend or renew this Note.

5. The remedies of the Holder of this Note as provided herein, and in the Loan Agreement, or any other instrument securing this Note, shall be cumulative and concurrent and may be pursued singly, successively, or together, and, at the sole discretion of the Holder of this Note, may be exercised as often as occasion therefor shall occur; and the failure to exercise any such right or remedy shall in no event be construed as a waiver or release thereof.

6. The Holder of this Note shall not be deemed, by any act of omission or commission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by the Holder and then only to the extent specifically set forth in the writing. A waiver with reference to one event shall not be construed as continuing or as a bar to or waiver of any right or remedy as to a subsequent event. This Note may not be amended, modified, or changed except only by an instrument in writing signed by the party against whom enforcement of any such amendment, modifications, or change is sought.

7. If any term of this Note, or the application thereof to any person or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of this Note, or the application of such term to persons or circumstances other than those to which it is invalid or unenforceable shall not be affected thereby, and each term of this Note shall be valid and enforceable to the fullest extent permitted by law.

8. It is intended that this Note is made with reference to and shall be construed as a Minnesota contract and is governed by the laws thereof. Any disputes, controversies, or claims arising out of this Note shall be heard in the state or federal courts of Minnesota, and all parties to this Note waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

9. The performance or observance of any promise or condition set forth in this Note may be waived, amended, or modified only by a writing signed by the Maker and the Holder. No delay in the exercise of any power, right, or remedy operates as a waiver thereof, nor shall any single or partial exercise of any other power, right, or remedy.


IT IS HEREBY CERTIFIED AND RECITED that all conditions, acts, and things required to exist, happen, and be performed precedent to or in the issuance of this Note do exist, have happened, and have been performed in regular and due form as required by law.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the Maker has caused this Note to be duly executed as of the date and year first written above.

RELIABLE HERMANTOWN PROPERTIES,  
LLC

By \_\_\_\_\_  
Kyle Wojtysiak  
Its Manager

<b>HEDA MEETING DATE:</b>		October 23, 2025	
<b>TO:</b>	HEDA Commissioners		
<b>FROM:</b>	Chad Ronchetti, Executive Director		
<b>SUBJECT:</b>	Approve Consent		

☒ **RESOLUTION:** 2025-13H    ☐ **ORDINANCE:**                      ☐ **OTHER:**

---

### REQUESTED ACTION

Approve Consent for related documentation for the Pillars of Hermantown senior housing project

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### BACKGROUND

Previously, the City and HEDA entered into several documents including a development agreement and business subsidy agreement. The Council also approved several consents and assignments related to this project on July 27<sup>th</sup>, 2022.

The development documents and agreements may get recorded and/or used on their end for financing. These consents and assignments ensure that the documentation matches their organizational structure.

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### SOURCE OF FUNDS (if applicable)

N/A

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### ATTACHMENTS

Resolution  
Consent Related To Development Contract  
Development Contract  
First Amendment To Business Subsidy Agreement  
First Amendment To Development Agreement

**Hermantown Economic Development Authority**

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**HEDA's mission is to intentionally lead economic growth, creating a vibrant and prosperous community.**

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Hermantown Economic Development Authority  
Resolution No. 2025-13H

HEDA Commissioner \_\_\_\_\_ introduced the following resolution and moved its adoption:

**RESOLUTION APPROVING A CONSENT RELATED TO THE DEVELOPMENT CONTRACT BETWEEN THE HERMANTOWN ECONOMIC DEVELOPMENT AUTHORITY, THE CITY OF HERMANTOWN AND KTJ 360, LLC FOR THE PILLARS OF HERMANTOWN SENIOR LIVING PROJECT**

WHEREAS, the Pillars of Hermantown LLC (“Developer”) is the owner of certain real estate described on Exhibit A attached hereto (“Property”); and

WHEREAS, KTJ 360, LLC (“Original Developer”) has constructed a 105-unit senior living project (“Project”) on the Property; and

WHEREAS, Colliers Fund LLC (“Lender”) is providing funds pursuant to a Construction Loan Agreement (“Loan”) to Developer which is evidenced by a Promissory and a Mortgage (collectively “Loan Documents”) to finance the Project; and

WHEREAS, Original Developer, the City of Hermantown (“City”), the Hermantown Economic Development Authority (“HEDA”) entered in a Development Contract (“Development Contract”) dated July 8, 2022 and recorded on July 11, 2022 with the St. Louis County Recorder of St. Louis County, Minnesota as Document No. 01447162; and

WHEREAS, the Development Contract requires that Original Developer provide security to City and HEDA to guarantee that the Project will be contracted pursuant to the terms of the Stormwater Certificate and the Development Contract; and

WHEREAS, Article Five of the Development Contract requires that Original Developer provide a consent to the City and HEDA of the related to any matters affecting the ownership of the Property, entity control of Original Developer and for the purpose of obtaining financing; and

WHEREAS, Original Developer has requested that City and HEDA consent to the sale of the Property to Developer, the assignment of Development Contract to Developer, the grant of the Loan Documents, the collateral assignment of the Development Contract; and that Lender may, but is not obligated to, complete some or all of the performance of conditions under the Development Contract; and

WHEREAS, a proposed Consent Related to Development Contract is attached hereto as Exhibit B; and

WHEREAS, the City Council has reviewed the Consent Related to Development Contract and hereby believe that it is in the best interests of the City of Hermantown that the Consent Related to Development Contract be approved.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hermantown as follows:

1. The Consent Related to Development Contract substantially in the form of the one attached hereto as Exhibit B is hereby approved.

The motion for the adoption of the foregoing resolution was duly seconded by HEDA Commissioner \_\_\_\_\_ and, after full discussion thereof and upon a vote being taken thereon, the following

HEDA Members voted in favor thereof:

and the following voted against the same:

Whereupon said resolution was declared duly passed and adopted.

Dated this\_\_\_\_\_, 2025.

---

HEDA Executive Director

**EXHIBIT A**  
**LEGAL DESCRIPTION**

Real property in the City of Hermantown, County of St. Louis, State of Minnesota, described as follows:

Parcel 1:

The South Half of the West Half of the Southwest Quarter of the Southwest Quarter (S 1/2 of W 1/2 of SW 1/4 of SW 1/4), Section Fourteen (14), Township Fifty (50), Range Fifteen (15), St. Louis County, Minnesota.

(Abstract Property)

Parcel 2:

Non-exclusive access and utility easements as set forth in the Easement Agreement dated September 23, 2020, recorded October 09, 2020, as Document No. 01392559.

## **CONSENT RELATED TO DEVELOPMENT CONTRACT**

THIS CONSENT RELATED TO DEVELOPMENT CONTRACT (this “Agreement”) is made and entered into effective as of \_\_\_\_\_, 2025, by and among PILLARS OF HERMANTOWN LLC, a Delaware limited liability company (“Borrower” or “Developer”), KTJ 360, LLC, a Minnesota limited liability company (“Original Developer”), COLLIERS FUNDING LLC, a Delaware limited liability company (the “Lender”), the CITY OF HERMANTOWN, a Minnesota municipal corporation (“City”), and the HERMANTOWN ECONOMIC DEVELOPMENT AUTHORITY, an economic development authority created under Chapter 469 of the Minnesota Statutes (“HEDA”).

### **PRELIMINARY STATEMENT OF FACT:**

A. Borrower owns fee simple title to certain real property described in Exhibit A attached hereto (“Premises”). Borrower proposes to construct on the Premises certain improvements related to the amendment and restatement of the Loan, as hereinafter defined (collectively with the Premises, the “Project”).

B. Pursuant to an Amended and Restated Construction Loan Agreement dated of even date herewith between Borrower and Lender (as may be amended, amended and restated, or otherwise modified from time to time, the “Loan Agreement”), Lender is making a construction loan to Borrower in an amount not to exceed \$36,841,074.00 to finance the Project (“Loan”).

C. The Loan is evidenced by an Amended and Restated Promissory Note dated of even date herewith executed and delivered by Borrower to Lender in the maximum principal sum of Thirty-Six Million Eight Hundred Forty-One Thousand Seventy-Four and no/100 dollars (\$36,841,074.00) (as may be amended, amended and restated, or otherwise modified from time to time, the “Note”).

D. In order to secure the repayment of the Loan, Borrower is, among other things, executing and delivering to the Lender its Amended and Restated Mortgage and Security Agreement and Fixture Financing Statement of even date herewith mortgaging to Lender the Project and granting to Lender a security interest in the Project (as may be amended, amended and restated, or otherwise modified from time to time, the “Mortgage”) and an Amended and Restated Assignment of Rents and Leases (“Assignment of Rents”).

E. The Loan Agreement, the Note, the Mortgage and the other loan documents and security agreements executed and delivered by the Borrower in connection with the Loan are herein collectively referred to as the “Loan Documents.”

F. The Original Developer and the City entered into that certain Development Agreement dated May 5, 2020, as supplemented by that Development Contract dated July 8, 2022, as amended by a First Amendment to Development Agreement between the City, HEDA and Developer dated September 15, 2025 (collectively, the “Development Contract”), a true and correct copy of each are attached hereto as Exhibit B. The Original Developer has assigned its rights and obligations under the Development Contract to the Borrower.

G. Agreement does not relieve the assignor, KTJ 360, of any of its obligations under the Development Contract to the city or HEDA

H. Under the Development Contract, the Original Developer agreed to make certain improvements to the Premises including the Stormwater Improvements and Infrastructure Improvements (as defined in the Development Contract) and certain private development elements (as set forth in the Development Contract).

I. The Development Contract requires that Borrower provide security to the City in the form of (i) a deposit of 125% of the cost of construction of the Infrastructure Improvements, as defined in the Development Contract; (ii) 125% of the cost of construction of the Stormwater Improvements, as defined in the Development Contract; and (iii) a \$50,000.00 escrow with the city for the private development contracts, among other things ("Development Contract Deposit").

J. As security for the Loan, the Borrower, among other things, has collaterally assigned its right, title and interest in the Development Contract and the Development Contract Deposit to the Lender.

K. The Original Developer and the Borrower have requested that the City and HEDA: (a) consent to the assignment of the Development Contract to the Borrower; (b) consent to the granting of the Mortgage and Assignment of Rents to the Lender and the enforcement of the Lender's remedies thereunder; (c) consent to the collateral assignment of the Development Contract and the Development Contract Deposit to the Lender; and (e) acknowledge that the Lender may but is not obligated to complete some or all of the performance obligations under the Development Contract. The City is willing to do so subject to the terms and conditions stated herein.

NOW, THEREFORE, for value received, the Borrower, the Original Developer, the Lender, the City and HEDA agree as follows:

1.

CONSENTS OF CITY AND HEDA

1.1 The City and HEDA (a) consent to the refinance of the Premises by the Borrower, (b) consent to the assignment of the Development Contract to the Borrower, (c) consent to the granting of the Mortgage and Assignment of Rents to the Lender and the enforcement of the Lender's remedies thereunder, (d) consent to the collateral assignment of the Development Contract and the Development Contract Deposit to the Lender, and (e) acknowledge that the Lender may but is not obligated to complete some or all of the performance obligations under the Development Contract.

2.

LENDER RIGHT TO PERFORM  
ORIGINAL DEVELOPER/BORROWER OBLIGATIONS

2.1 The City agrees and acknowledges that the Lender may but is not obligated to perform some or all of the obligations of the Original Developer as assigned to the Borrower. Nothing herein shall obligate the Lender to perform any such obligations and Lender's

performance of some of such obligations shall not be deemed to create an obligation to perform any additional obligation of the Original Developer or the Borrower as assigned to the Lender. The City agrees that, in the event that the Lender elects to enforce its rights with respect to the collateral assignment, the Lender, without the consent or participation of the Borrower, may provide proof and documentation required for the release of any portion of the "Security" as provided in Sections 3.2, 3.3, and 8.4 of the Development Contract and upon delivery of such proof, any such portion of the Security that is otherwise payable to the Borrower as assignee of the Original Developer shall be paid to the Lender. The City agrees that any notice that the City is required to provide to the Original Developer and/or the Borrower shall also be provided to the Lender at the same time that such notice is provided to the Original Developer and/or the Borrower.

### 3.

#### MISCELLANEOUS PROVISIONS

3.1 This Agreement embodies and constitutes the entire understanding among the parties with respect to the transactions provided herein. Neither this Agreement nor any provision hereof may be waived, amended or terminated except by an instrument signed by the party against whom the enforcement of such waiver, amendment or termination is sought, and then only to the extent set forth in such instrument.

3.2 Whenever in this Agreement one of the parties hereto is named or referred to, the heirs, legal representatives, successors and assigns of such parties shall be included and all covenants and agreements contained in this Agreement by or on behalf of the Borrower or by or on behalf of the Lender shall bind and inure to the benefit of their respective heirs, legal representatives, successors and assigns, whether so expressed or not.

3.3 Neither this Agreement nor any provision hereof may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

3.4 Any notices and other communications permitted or required by the provisions of this Agreement (except for telephonic notices expressly permitted) shall be in writing and shall be deemed to have been properly given or served by depositing the same with the United States Postal Service, or any official successor thereto, designated as Certified Mail, Return Receipt Requested, bearing adequate postage, or deposited with a reputable private courier or overnight delivery service, and addressed as hereinafter provided. Each such notice shall be effective three (3) days after being deposited or delivered as aforesaid. The time period within which a response to any such notice must be given, however, shall commence to run from the date of receipt of the notice by the addressee thereof. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice sent. By giving to the other party hereto at least ten (10) days' notice thereof, either party hereto shall have the right from time to time to change its address and shall have the right to specify as its address any other address within the United States of America.

Each notice to Lender shall be addressed as follows:

Colliers Funding LLC  
90 South Seventh Street, Suite 4300  
Minneapolis, Minnesota 55402  
Attention: Vice President - Loan Servicing

With a copy to:

Fox Rothschild LLP  
City Center  
  
33 South Sixth Street, Suite 3600  
Minneapolis, Minnesota 55402  
Attention: Tyler K. Olson

Each notice to Borrower or Original Developer shall be addressed as follows:

Pillars of Hermantown LLC  
c/o Oppidan Senior Living  
400 Water Street, Suite 200  
Excelsior, Minnesota 55331  
Attention: David Scott

Each notice to the City shall be addressed as follows:

City of Hermantown  
5105 Maple Grove Road  
Hermantown, Minnesota 55811  
Attention: John Mulder, City Administrator

Each notice to HEDA shall be addressed as follows:

Hermantown Economic Development Authority  
5105 Maple Grove Road  
Hermantown, Minnesota 55811  
Attention: John Mulder, City Administrator

3.5 Regardless of the place of execution of this instrument, the parties to this instrument have contracted for Minnesota law to govern this instrument and it is agreed that this instrument is made pursuant to and shall be construed and governed by the laws of the State of Minnesota without regard to the principles of conflicts of law.

3.6 Each party to this Agreement submits and consents to personal jurisdiction of the courts of the State of Minnesota and courts of the United States of America sitting in such state for the enforcement of this instrument and waives any and all personal rights under the laws of any state or the United States of America to object to jurisdiction in the State of Minnesota. Litigation

may be commenced in any state court of general jurisdiction for the State of Minnesota or the United States District Court located in that state.

3.7 This instrument may be executed in any number of counterparts with the same effect as if all parties hereto had signed the same document. All such counterparts shall be construed together and shall constitute one instrument, but in making proof hereof it shall only be necessary to produce one such counterpart. The signatures to this instrument may be executed on separate pages and when attached to this instrument shall constitute one complete document.

3.8 THE PARTIES TO THIS INSTRUMENT WAIVE TRIAL BY JURY IN ANY JUDICIAL PROCEEDING TO WHICH ANY PARTIES TO THIS INSTRUMENT ARE INVOLVED DIRECTLY OR INDIRECTLY AND ANY MATTER IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS INSTRUMENT OR THE RELATIONSHIP ESTABLISHED HEREUNDER, AND WHETHER ARISING OR ASSERTED BEFORE OR AFTER THE DATE OF THIS INSTRUMENT.

[Signature pages follow]



IN WITNESS WHEREOF, this Agreement was executed as of the date first above-written.

**PILLARS OF HERMANTOWN LLC,**  
a Delaware limited liability company

By: KTJ 360, LLC,  
a Minnesota limited liability company  
Its: Manager

By: \_\_\_\_\_  
David Scott  
Its: Vice President

**KTJ 360, LLC,**  
a Minnesota limited liability company

By: \_\_\_\_\_

David Scott

Its: Authorized Signatory

**COLLIERS FUNDING LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: Chris Morrissey  
Its: Senior Vice President

**CITY OF HERMANTOWN,**  
a Minnesota municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: Mayor

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: City Clerk

**HERMANTOWN ECONOMIC  
DEVELOPMENT AUTHORITY,**  
an economic development authority created under  
Chapter 469 of the Minnesota Statutes

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**EXHIBIT A**

**LEGAL DESCRIPTION**

Real property in the City of Hermantown, County of St. Louis, State of Minnesota, described as follows:

Parcel 1:

The South Half of the West Half of the Southwest Quarter of the Southwest Quarter (S 1/2 of W 1/2 of SW 1/4 of SW 1/4), Section Fourteen (14), Township Fifty (50), Range Fifteen (15), St. Louis County, Minnesota.

(Abstract Property)

Parcel 2:

Non-exclusive access and utility easements as set forth in the Easement Agreement dated September 23, 2020, recorded October 09, 2020, as Document No. 01392559.

**EXHIBIT B**  
**DEVELOPMENT CONTRACT**

(See attached)

15511\000005\1EA449702.DOC

Exhibit B

175332551.3  
175332551

**DEVELOPMENT CONTRACT****BY AND AMONG****KTJ 360, LLC****AND****CITY OF HERMANTOWN****AND****HERMANTOWN ECONOMIC DEVELOPMENT AUTHORITY**

Dated as of the 8<sup>th</sup> day of July, 2022

This document was drafted by:

Steven C. Overom  
Overom Law, PLLC  
802 Garfield Avenue, Suite 101  
Duluth, Minnesota 55802  
(218) 625-8460



## DEVELOPMENT CONTRACT

THIS DEVELOPMENT CONTRACT ("Agreement"), made on or as of the 8th day of July, 2022, by and among the City of Hermantown ("City"), the **Hermantown Economic Development Authority ("HEDA")** and **KTJ 360, LLC**, a Minnesota limited liability company ("Developer"), is in response to the following situation:

A. Developer desires to construct a 105-unit senior citizen housing complex and related improvements which will provide housing for senior citizens ("Project").

B. City desires that a water extension ("Water Improvements") constructed as part of the Project be dedicated as part of the City's water system.

C. City desires that Developer construct the Water Improvements and Infrastructure Improvements and perform the Environmental Mitigation in connection with the construction of the Project.

D. City also desires that Developer provides City with an easement for a trail access on Developer's Property ("Trail Easement").

E. Developer is willing to construct the Water Improvements as provided in this Agreement and provide City with the Trail Easement.

F. HEDA is willing to reimburse Developer for a portion of the cost of the Water Improvements, Infrastructure Improvements and Environmental Mitigation Costs as provided for in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

### ARTICLE I DEFINITIONS

Unless the context requires otherwise, when used in this Agreement the terms and phrases listed in this Article shall have the following meanings:

1.1 "2020 Development Agreement" means the Development Agreement dated May 5, 2020 between Developer and the City that was recorded on June 8, 2020 with the St. Louis County Recorder as Document No. 01381803.

1.2 "Approval" or "Endorsed" shall, if City, mean the appropriate approval at the appropriate level of government which shall not be unreasonably withheld or, if by Developer, the approval by a representative of Developer, which shall not be unreasonably withheld.

1.3 “Approved City Plans and Specifications” means the plans and specifications for the Water Improvements that have been approved in writing by the City Engineer.

1.4 “Approved Drawings” means the drawings Developer submitted to City for the Project that were approved by the Planning Commission of the City in connection with the zoning approvals for the PUD for the Project.

1.5 “As-Built Plans” means the as-built plans (record drawings) on paper and electronically in auto-cad format for the work for which as-built plans are required.

1.6 “Assessment Agreement” means the agreement in the form of the one attached hereto as Exhibit 1.5.

1.7 “Available City Tax Abatement” means the tax abatement approved by the City that is payable to HEDA pursuant to the City Abatement Resolution. The Available City Tax Abatement includes all of the real estate taxes on the Land that are legally able to be abated by City pursuant to City Abatement Resolution.

1.8 “Business Subsidy Agreement” means that certain Business Subsidy Agreement between City, HEDA and Developer in the form of the one attached hereto as Exhibit 1.7.

1.9 “City” shall mean the City of Hermantown with its administrative offices being located at 5105 Maple Grove Road, Hermantown, Minnesota 55811.

1.10 “City Abatement Resolution” means the Resolution No. 2022-80 approved by the City Council on June 8, 2022 establishing and approving the abatement that is payable by HEDA to Developer under the HEDA PAYG Note.

1.11 “City Engineer” shall mean the person or firm from time to time designated by the City as its City Engineer. At this time, the City Engineer is David Bolf of Northland Consulting Engineers L.L.P.

1.12 “Community Development Director” shall mean the Community Development Director of the City of Hermantown, who at this time is Eric Johnson.

1.13 “Development Land” or “Land” means the real property described in Exhibit 1.12 attached hereto.

1.14 “Environmental Mitigation” means the work described on Exhibit 1.13 attached hereto.

1.15 “Environmental Mitigation Costs” means the items described in Exhibit 1.13 attached hereto. Exhibit 1.13 will be completed and attached to this Development Contract before the start of construction.

1.16 “HEDA PAYG Note” means the pay-as-you-go note to be provided by HEDA to Developer pursuant to and subject to the terms of this Agreement as more fully described in herein.

1.17 “Infrastructure Improvements” means the engineering and construction costs for the internal roads, parking areas, stormwater retention systems and internal utilities for the Project.

1.18 “Project Administrator” means the City Administrator of City of Hermantown.

1.19 “State” means the State of Minnesota.

1.20 “Stormwater Certificate” means the Stormwater Certificate to be issued to Developer by the Community Development Director.

1.21 “Stormwater System” means the entire stormwater control and disposal system for the Project.

1.22 “Term” means the duration of this Agreement as provided in Article XXIV of this Agreement.

1.23 “TAF Eligible Costs” means the engineering costs and construction costs for the Water Improvements, Infrastructure Improvements and Environmental Mitigation Costs.

1.24 “Trail Easement” means the easement for the City Trail described in Section 2.14.

1.25 “TAF Payments” means any payments made under the HEDA PAYG Note.

1.26 “Water Improvements” means the extensions to the City water system as shown on Exhibit 1.25 attached hereto.

1.27 “Zoning Approvals” means the planned unit development (“PUD”) that was approved by the City with respect to the Project.

1.28 “Water Improvements Easement” shall mean the easement required to be provided to City by Developer pursuant to Section 3.2 hereof.

## **ARTICLE II**

### **REPRESENTATIONS AND WARRANTIES AND COVENANTS**

Developer represents and warrants, covenants and agrees that:

2.1 If a building permit is applied for and issued to Developer for the Project, Developer will construct at Developer’s cost in accordance with the terms of this Agreement the Approved Drawings and Approved City Plans and Specifications and all applicable local, state and federal laws and regulations.

2.2 Developer has received no notice or communication from any local, state or federal official that the activities of Developer pursuant to this Agreement may be or will be in violation of any environmental law or regulation regarding the Land. Developer is aware of no facts, the existence of which would cause it to be in violation of any local, state or federal environmental law, regulation or review procedure regarding the Land.

2.3 Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with or results in a breach of, the terms, conditions or provisions or any restriction or any evidences of indebtedness, agreement or instrument of whatever nature to which Developer is now a party or by which it is bound, or constitutes a default under any of the foregoing.

2.4 Developer is a limited liability company, duly organized and in good standing under the laws of the State of Minnesota, is not in violation of any provisions of its articles of incorporation or bylaws, is duly qualified as a domestic corporation and authorized to transact business within the State, has power to enter into this Agreement and has duly authorized the execution, delivery, and performance of this Agreement by any required proper action of its members.

2.5 City, through any authorized representatives, shall have the right at all reasonable times after reasonable notice to inspect, audit, examine and copy any pertinent books and records of Developer and compliance with the specific requirements of this Agreement, the Business Subsidy Agreement or applicable State law.

2.6 Developer will promptly pay or cause to be paid all real estate taxes and assessments at any time levied upon or against it or the Project.

2.7 Developer agrees to comply with the terms of the Stormwater Certificate issued by the City for the Project.

2.8 Developer agrees that the terms and provisions of any National Pollutant Discharge Elimination System Permit issued by the Minnesota Pollution Control Agency for the Project are hereby incorporated into this Agreement and deemed to be terms and provisions and conditions running in favor of the City.

2.9 As a condition of the issuance of the building permit for the Project, Developer shall provide the City and HEDA with security in the amount of Two Hundred Seventy-five Thousand and No/100 Dollars (\$275,000.00) ("Security") to guarantee that the Project will be constructed pursuant to the Stormwater Certificate and this Agreement. The Security shall be in form and substance reasonably acceptable to the HEDA Attorney, City and HEDA. The Security shall be maintained until released by the City and HEDA as provided upon satisfaction of the requirements of the Stormwater Certificate.

2.10 Prior to the issuance of a building permit for the Project, Developer will provide the Community Development Director and the Project Administrator or his/her designee with an

operation and maintenance plan for the Stormwater System that includes regular sweeping and cleaning of the parking lot, flushing of storm drains, etc. and perform the activities under such plan.

2.11 Developer and its successors and assigns must at its cost and expense, maintain and repair the Stormwater System so that it continues to perform its designed storm water functions. Developer and its successors and assigns shall keep records for up to six years, or as required under applicable law, of inspection, maintenance and monitoring of the Stormwater System and provide such records to the City within thirty (30) days after receipt of written notice. In the event that Developer or its successors and assigns fails to repair and/or maintain the Stormwater System in accordance with applicable codes, regulations, laws, and statutes, then in that event, the City may, following sixty (60) days prior written notice to all of the then owners of the Land, perform the required repairs or maintenance work on the Stormwater System and charge the reasonable costs of such work to the Land in accordance with the provisions of Minnesota Statutes Section 429.021, subd. 1(2) and the special assessment procedures of Chapter 429 of Minnesota Statutes. In the event of an uncured default for which the City elects to perform the required repairs and maintenance work on the Stormwater System, the City shall do so strictly in accordance with all laws, rules and regulations applicable to Developer, the Project, and the Land, including without limitation, all applicable stormwater regulations.

2.12 Developer shall retain the ownership of the entire Stormwater System and shall be responsible for the repair and maintenance of the entire Stormwater System. City shall not be responsible for the maintenance and repair of any part of the Stormwater System, including without limitation any ponds or outlet structures located on the Land. Developer hereby grants a permanent license to City for access to any portion of Stormwater System for the purposes of City performing testing and monitoring of the Stormwater System and performing maintenance and repairs permitted to be made by City under Section 2.11 hereof.

2.13 After completion of the Water Improvements, Developer shall provide the City, HEDA and City Engineer As-Built Plans for the Water Improvements, the Stormwater System and all utility service lines on the Land. City will not release the Security provided to it under Section 2.9 hereof until the As-Built Plans have been provided to City as required by this Section 2.13.

2.14 Developer shall execute and deliver an easement for a trail over the part of the Land as shown on Exhibit 2.14 attached hereto. ("Trail Easement") City will prepare the legal description for the Trail Easement.

2.15 Developer shall complete the construction of the Project by January 2, 2024. The construction of the Project shall be deemed completed upon the issuance of a Certificate of Occupancy for the Project pursuant to Section 13.2 hereof.

### **ARTICLE III**

#### **CONSTRUCTION PLANS**

3.1 Approved Drawings. Developer has submitted plans for the construction of the Project as part of an application to City's Planning and Zoning Commission for the Zoning Approvals. The plans for the Project, as approved by the City shall constitute the Approved Drawings for purposes of this Agreement and any requirements relating to City's approval. If Developer desires to make any material change in the Approved Drawings, Developer shall submit the proposed change to City officials through the regular process and approval by them will constitute City approval.

3.2 Construction of Water Improvements.

3.2.1 Developer shall prepare plans and specifications for the Water Improvements and shall submit them to the City for approval, which approval shall not be unreasonably withheld and shall be deemed granted if the City fails to respond in writing with specific revisions within ten (10) days after receipt of the plans and specifications. The plans and specifications shall include a survey drawing and legal description showing a twenty foot (20') easement for the Water Improvements ("Water Improvements Easement"). Developer will execute and deliver the Water Improvements Easement in recordable form to City. Developer shall construct the Water Improvements at Developers cost and expense.

3.2.2 The Public Works Director or City Engineer may inspect the installation of the Water Improvements at any time the Public Works Director or City Engineer deems reasonably necessary. The Public Works Director or City Engineer will review all the Developer's material testing results. In addition, the Public Works Director or City Engineer will oversee the bacteria test, hydrostatic test and continuity test of the Water Improvements. Upon completion of the Water Improvements in accordance with the Approved City Plans and Specifications, the Public Works Director or City Engineer will direct the City in writing to take ownership of the Water Improvements. If the Water Improvements have not been constructed in conformance with the Approved City Plans and Specifications, the Public Works Director or City Engineer will provide formal written notice to the Developer of the need for repair or replacement before the City assumes ownership of the Water Improvements.

### **ARTICLE IV**

#### **TAXES**

City does not make any representation whatsoever with respect to the amount of real estate taxes payable by Developer from and after the date hereof or with respect to the classification of the Project for real estate tax purposes.



## **ARTICLE V**

### **ASSIGNMENT AND TRANSFER**

5.1. Representation as to Development. Developer represents and agrees that its undertakings pursuant to the Agreement, are, and will be, for the purpose of development of the Project on the Land and not for speculation in land holding. Developer further recognizes that, in view of (i) the importance of the development of the Project to the general welfare of the community; and (ii) the fact that any act or transaction involving or resulting in a change in the identity of the parties in control of Developer is of particular concern to the community and City (iii) that City is entering into the Agreement with Developer, and, in so doing, is willing to accept and rely on Developer for the faithful performance of all undertakings and covenants hereby by Developer to be performed, that the provisions of this Article V are being included in this Agreement.

5.2 Prohibition Against Transfer of Property and Assignment of Agreement. For the foregoing reasons, Developer represents and agrees that, prior to the completion of the construction of the Project:

5.2.1 Except for the granting of easements necessary for the Project and except as permitted by this Section 5.2.1 or 5.2.2, and except only by way of security for, and only for, the purpose of obtaining financing necessary to enable Developer, to perform the obligations with respect to constructing the Project or any other purpose authorized by the Agreement, Developer (except as so authorized) has not made or created, and that it will not make or create, or suffer to be made or created, any total or partial sale, assignment, conveyance or lease, or any trust or power, or transfer in any other mode or form of, or with respect to, the Agreement or the Land or any part thereof or any interest therein, or any contract or agreement to do any of the same without the prior written approval of City, which approval will not be unreasonably withheld. Notwithstanding anything to the contrary set forth in this Agreement, a transfer to (a) a related entity under control of Developer or an affiliate of Developer or (b) an entity that acquires all or substantially all of the assets of Developer, shall not be in violation hereof or require the consent of the City or compliance with Section 5.2.2, but such a transfer shall be noticed to City in advance of its occurrence.

5.2.2 City shall be entitled to require, except as otherwise provided in the Agreement, as conditions to any approval for a transfer that requires the City's consent, the following:

5.2.2.1 Any proposed transferee shall have the qualifications and financial capability, as reasonably determined by City, necessary and adequate to fulfill the obligations undertaken in the Agreement by Developer (or, in the event the transfer is of or relates to part of the Land, such obligations to the extent that they relate to such part).

5.2.2.2 Any proposed transferee, by instrument in writing reasonably satisfactory to City and in form recordable in the land records, shall, for itself and its successors and assigns, and expressly for the benefit of City expressly assume all of the obligations of Developer under the Agreement and agree to be subject to all the conditions and restrictions to which

Developer is subject (or, in the event the transfer is of or relates to part of the Land, such obligations, conditions and restrictions to the extent that they relate to such part).

## **ARTICLE VI** **CITY COVENANTS AND OBLIGATIONS**

6.1 Within thirty (30) days after the completion of the construction of the Project, and Developer satisfies the requirements of Section 10.7 hereof, the City shall provide Developer with the HEDA PAYG Note. The principal amount of the HEDA PAYG Note shall be equal to the lesser of (i) Six Hundred Thousand and No/100 Dollars (\$600,000.00) or (ii) the TAF Eligible Costs.

6.2 Notwithstanding anything to the contrary contained herein, the duration limit for the Available City Tax Abatement will be seven (7) years for taxes payable in 2024 through 2030.

## **ARTICLE VII** **NO CLAIMS**

Developer represents and warrants to City that neither Developer nor any agent, subcontractor or any other party affiliated with Developer has any existing claims or causes of action against City in connection with this Agreement or the construction of the Project.

## **ARTICLE VIII** **FEES**

Developer shall, prior to the delivery of a building permit for the Project, pay the following fees to the City:

8.1 Park dedication fees in the amount of Fifty-seven Thousand Seven Hundred Fifty and No/100 Dollars (\$57,750.00).

8.2 WLSSD Capacity Availability Fee ("CAF") in the amount of Sixty-two Thousand Nine Hundred Eighty and No/100 Dollars (\$62,980.00), which amount City acknowledges has been paid. The CAF is determined by and payable to the Western Lake Superior Sanitary District but the check is delivered to City.

8.3 Building Permit – Eighty-six Thousand Two Hundred Thirty-five and 39/100 Dollars (\$86,235.39), which amount City acknowledges has been paid.

8.4 Water Extension – Forty-eight Thousand Five Hundred Forty-one and 58/100 Dollars (\$48,541.58) for crossing Maple Grove Road to the Site.

8.5 The Security required by Section 2.9 related to the Stormwater Improvements.



8.6 Water Connection Fee, Commercial Building – One Thousand Five Hundred Seventeen and 25/100 Dollars (\$1,517.25), plus a Fifty and No/100 Dollars (\$50.00) permit fee, which amount City acknowledges has been paid.

8.7 Sanitary Sewer Connection Fee, Commercial Building – Two Thousand Two Hundred and No/100 Dollars (\$2,200.00), plus Fifty and No/100 Dollars (\$50.00) per toilet/urinal, plus Fifty and No/100 Dollars (\$50.00) permit fee, which amount City acknowledges has been paid.

8.8 Water Connection Fee for additional meters (i.e. sprinkler system).

8.9 Storm Water Certificate Application Fees.

8.10 Sign Permit Fees.

8.11 Sanitary Sewer Trunkline Connection fee in the amount of 50% of the WLSSD CAF fee.

8.12 All fees, including HEDA Costs, incurred in connection with that certain Inducement Agreement entered into by Developer dated March 23, 2022.

#### **ARTICLE IX** **NO APPROVAL OR ISSUANCE OF OTHER PERMITS**

Except for the approvals provided herein, nothing herein shall be construed as a permit or approval by City or an agreement by City to issue or provide any permit or approval to Developer with respect to the construction of the Project. Without limiting the generality of the foregoing, Developer acknowledges and agrees that even if it satisfies all of the requirements imposed on it under this Agreement that the retail store that is part of the Project may not be opened unless and until all other required permits are obtained by Developer from all relevant governmental agencies.

#### **ARTICLES X** **TAX ABATEMENT PAYMENTS**

10.1 **Background.** Developer did not request any financial assistance from HEDA for the Project until Developer withdrew its building permit application and determined to not pursue the development of the Project. At that time, City and HEDA made inquiry if HEDA or City could assist the Developer to allow the Project to proceed.

10.2 **Public Interest.** City and HEDA believe that the construction of the Project will be in the public interest as it will result in increase the tax base of City and the Project will promote the development of a 105-unit senior citizen housing complex which will provide life cycle housing in the City which will also provide or incentivize other residential housing sales

and development, provide an increase in the real estate tax base, provide needed infrastructure improvements, construction of the Water Improvements and the grant of an easement for the City trail system.

10.3 Tax Abatement. HEDA has agreed to provide tax abatement to Developer to reimburse Developer for TAF Eligible Costs. HEDA has agreed to provide tax abatement financing assistance within the limits and subject to the provisions of this Agreement. The HEDA tax abatement financing assistance shall be considered partial assistance or partial reimbursement for the TAF Eligible Costs.

10.4 Sufficient Fund Financing. Developer represents that the tax abatement financial assistance provided by HEDA hereunder, together with the funds to be contributed to the Project by Developer and bank financing, will be sufficient to pay the cost of constructing and operating the Project.

10.5 No Representative of City or HEDA is Interested in this Agreement. Neither Developer, HEDA nor the City has any knowledge that a Council person, Council member or other member, official, or employee of City or HEDA is directly or indirectly financially interested in this Agreement or in any transactions concluded in connection with this Agreement or in any transactions concluded in connection with this Agreement. No member, official or employee of City or HEDA shall be personally liable to Developer, or any successor in interest, in the event of any default or breach by City or HEDA or for any amount which may become due to Developer or its successor, or on any obligations under the terms of this Agreement.

10.6 Developer to File Correct and Complete Information. Developer shall reasonably cooperate with the City and HEDA to cause any information, document, certificate, statement in writing, or report required under this Agreement and/or otherwise delivered to City or HEDA, or to third parties, under this Agreement, to be true, correct and complete in all material respects.

10.7 Condition to First Payment by HEDA. HEDA's obligation to Developer to execute and deliver the HEDA PAYG Note in the principal amount of Six Hundred Thousand and No/100 Dollars (\$600,000.00) to Developer shall be subject to the delivery to HEDA of the following:

10.7.1 A certificate of Developer's Engineer to the effect that the construction of the Water Improvements have been completed in material conformance with the Approved City Plans and Specifications;

10.7.2 The Water Improvements Easement in recordable form has been provided to the City; and

10.7.3 The City Engineer has directed City to take ownership of the Water Improvements pursuant to Section 3.2.2.

10.7.4 A certificate from Developer as to the actual costs, including, without limitation, construction costs, engineering costs, incurred by Developer to construct the Water

Improvements, Infrastructure Improvements and Environmental Mitigation Costs and a certificate from Developer's Engineer that such costs are directly related to performing the construction of the Water Improvements, Infrastructure Costs and Environmental Mitigation Costs ("TAF Eligible Costs").

10.7.5 Developer has entered into the Business Subsidy Agreement.

10.7.6 A temporary or final Certificate of Occupancy has been issued for Project.

10.7.7 City confirms that current real estate taxes on the Land have been paid.

10.7.8 The Trail Easement in recordable form has been provided to the City.

10.7.9 The operations and maintenance plan for the Stormwater Improvements have been provided pursuant to Section 2.10.

10.7.10 Developer has entered into the Assessment Agreement.

10.8 Requirements for Subsequent Payments by HEDA. HEDA's obligation to pay any subsequent installment of Payments under the HEDA PAYG Note is subject to the terms of the HEDA PAYG Note.

10.9 Restoration of Improvements. In the events the Project or any portion thereof is destroyed by fire or other casualty, Developer shall forthwith repair, reconstruct and restore to substantially the same condition as existed prior to the event causing damage or destruction. Developer shall apply the proceeds of any insurance received by Developer to the payment or reimbursement of the costs thereof. Developer shall, however, complete such repair, reconstruction and restoration of the Project whether or not the proceeds, if any, of any insurance received by Developer are sufficient to pay for such repair, restoration or reconstruction.

10.10 Representations and Obligations of City.

10.10.1 City Tax Abatement. City adopted the City Abatement Resolution to allow the Available City Tax Abatement to be paid to HEDA so HEDA may make payments on the HEDA PAYG Note.

10.10.2 HEDA PAYG Note. Upon receipt by the City of all documents listed in Section 10.7 of this Agreement, Developer shall be entitled to receive the payments under the HEDA PAYG Note, subject to the terms thereof. The HEDA PAYG Note shall be pay-as-you-go and the payments due for any given year shall be payable only to the extent of the Available City Tax Abatement for such year; said payments not paid when due on the HEDA PAYG Note will be deferred and paid to Developer to the extent of the Available City Tax Abatement for subsequent years. No payment shall be made after the taxes payable in 2030.

Subject to the terms of Section 10.7 and this Section 10.10.2, HEDA shall pay on or before August 1 and February 1 of each year beginning in the first year that abatement is

available, all of the then Available City Tax Abatement as the payments on the HEDA PAYG Note. The obligations of HEDA to make such payments shall be set forth in the HEDA PAYG Note in the form attached hereto as Exhibit 10.10.2. No interest shall accrue or be payable on the HEDA PAYG Note.

No asset or revenue of City or HEDA shall be available to make payments on the HEDA PAYG Note other than the Available City Tax Abatement. Developer hereby acknowledges, declares and covenants that payments on the HEDA PAYG Note are revenue obligations solely payable from Available City Tax Abatement, if any and are not a general obligation of the State or City or HEDA and neither the full faith and credit, assets, or taxing power of the State or City or HEDA is pledged for the payments on the HEDA PAYG Note. Developer acknowledges, understands and agrees that the Available City Tax Abatement may not be sufficient to allow the HEDA PAYG Note to be paid in full to Developer. Developer understands that any unpaid amount of the HEDA PAYG Note at the end of the Term will never be paid to Developer by HEDA.

Developer understands and acknowledges that neither City nor HEDA makes any representations or warranties regarding the amount of Available City Tax Abatement that will be generated by the Project or it will be sufficient to pay all or any of the amounts due to Developer under this Agreement. City and HEDA and their officers, agents and employees make no representation or warranty as to the amount or sufficiency of the Available City Tax Abatement.

**10.11 Right to Collect Delinquent Taxes.** Developer understands that the payments on the HEDA PAYG Note are derived from real estate taxes on the Land, which taxes must be promptly and timely paid. To that end, Developer agrees, for itself, its successors and assigns, in addition to the obligation pursuant to statute to pay real estate taxes, that it is also obligated by reason of this Agreement to pay before delinquency all real estate taxes assessed against the Land and the Project. Developer acknowledges that this obligation creates a contractual right on behalf of City and/or HEDA to sue Developer or its successors and assigns to collect delinquent real estate taxes and any penalty or interest thereon and to pay over the same as a tax payment to the County Auditor. In any such suit, City and/or HEDA shall also be entitled to recover its costs, expenses and reasonable attorney fees.

**10.12 Review of Taxes.** Developer agrees that prior to the end of the Term it will not cause a reduction in the real property taxes paid in respect of the Land, Project through willful destruction of the Project or any part thereof. Developer also agrees that it will not, prior to the end of the Term, seek exemption from property tax for the Land, Project or any portion thereof or transfer or permit the transfer of the Land, Project to any entity that is exempt from real property taxes and state law, or apply for a deferral of property tax on the Land pursuant to any law. Notwithstanding anything contained herein, Developer shall retain, subject to the provisions of the Assessment Agreement, the Constitutional and statutory right to contest property tax valuation with respect to the Land and Project, pursuant to Chapter 278 of the Minnesota Statutes or its succeeding replacement statutes. Developer must commit, however, in advance of commencing such proceedings, to keep all taxes current while the proceedings are pending. The provisions of this Section 10.12 are to be read as supplementary to and not in replacement of the provisions of the Assessment Agreement.

**ARTICLE XI**  
**LIMITATION OF PUBLIC UNDERTAKING**

It is hereby understood and agreed that the public undertakings and the public expenditures are limited to those undertakings and expressly set forth in this Agreement.

**ARTICLE XII**  
**CONNECTION FEES**

Developer shall make application to City for connections to the water system and sewer system on the standard forms for water and sewer connections and shall pay the then connection fees and permit fees to City, subject to the terms of this Agreement. The City hereby acknowledges that Developer has paid all such connection and permit fees.

**ARTICLE XIII**  
**COMMENCEMENT OF CONSTRUCTION AND  
 CERTIFICATE OF OCCUPANCY CONDITIONS**

13.1 Commencement of Construction. Prior to the commencement of construction of the Project, the following conditions must be satisfied:

13.1.1 This Agreement must be executed and delivered to the City and HEDA by Developer.

13.1.2 The Security required by Section 2.9 has been provided to the City.

13.1.3 The provisions of Article VIII are satisfied.

13.1.4 All requirements for the issuance of a building permit under the City Building Code are satisfied.

13.1.5 No uncured event of default exists with respect to the terms of this Agreement which materially relates to the health and safety of the occupants or users of the Project.

13.1.6 Developer has entered into the Business Subsidy Agreement.

13.1.7 Developer has entered into the Assessment Agreement.

13.1.8 This Agreement and the Zoning Approval have been recorded with the appropriate land title recording office.

13.2 Prior to the issuance of a Temporary or Final Certificate of Occupancy for the Project, the following must be satisfied:

13.2.1 The conditions of the Zoning Approvals have been satisfied.

13.2.2 Developer is not on default under this Agreement past the expiration of all applicable cure periods.

13.2.3 Developer has satisfied all other obligations of Developer under this Agreement to be satisfied by Developer on or before such date.

13.2.4 The Water Improvements have been completed in accordance with this Agreement and As-Built Plans for the Water Improvements and other Improvements and have been provided to City as required herein.

13.2.5 The provisions of Section 2.10 (operation and maintenance plan) for the Stormwater System are satisfied.

13.2.6 The Trail Easement has been executed and delivered to City by Developer.

13.2.7 The Water Improvements Easement has been executed by Developer and delivered to City by Developer.

#### **ARTICLE XIV** **COMPLIANCE WITH ROAD REQUIREMENTS**

Developer agrees to comply at its sole cost and expense with all requirements imposed on the Project by any government entity for signage, dust control and/or cleaning of Stebner Road and Maple Grove Road prior to the City's acceptance of the Water Improvements.

#### **ARTICLE XV** **NOTICES**

All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed sent by U.S. Certified Mail to the following name and address:

<b>Developer:</b>	KTJ 360, LLC 400 Water Street Suite 200 Excelsior, MN 55331 Attn: David Scott Ph: (952) 294-1255 Email: dave@oppidan.com
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With an additional  
copy to:

Kathleen Ritter  
400 Water Street  
Suite 200  
Excelsior, MN 55331  
Ph: (952) 294-0353  
Email: kathleen@oppidan.com

**City:**

City of Hermantown  
5105 Maple Grove Road  
Hermantown, MN 55811  
Attn: John Mulder, City Administrator  
Ph: (218) 729-3600  
Email: jmulder@hermantownmn.com

**HEDA:**

Hermantown Economic Development Authority  
5105 Maple Grove Road  
Hermantown, MN 55811  
Attn: John Mulder, Executive Director  
Ph: (218) 729-3600  
Email: jmulder@hermantownmn.com

#### **ARTICLE XVI** **BINDING EFFECT**

This Agreement shall inure to the benefit of and shall be binding upon City, HEDA and Developer and their respective successors and assigns. It is intended and agreed that such agreements and covenants shall be covenants running with the Land and that they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in the Agreement itself, be, to the fullest extent permitted by law and equity, binding for the benefit of City and HEDA and enforceable by City and HEDA against Developer and successors and assigns. City and/or HEDA will record this Agreement with the appropriate land title recording office.

#### **ARTICLE XVII** **AMENDMENTS, CHANGES AND MODIFICATIONS**

Neither this Agreement nor any other document to which Developer is a party, or which is made for the benefit of City and HEDA, relating to the transactions contemplated hereunder may be effectively amended, changed, modified, altered or terminated, nor may any provision be waived hereunder, except upon the written approval of City and HEDA or except as otherwise expressly set forth herein.



**ARTICLE XVIII**  
**SEVERABILITY**

In the event any provisions of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**ARTICLE XIX**  
**LIMITATION ON CITY LIABILITY**

No agreements or provisions contained in this Agreement nor any agreement, covenant or undertaking by City or HEDA contained in any document executed by City or HEDA in connection with this Agreement and the transactions contemplated herein or therein, shall give rise to any charge against its general credit or taxing powers.

**ARTICLE XX**  
**LAWS GOVERNING**

This Agreement shall be interpreted in accordance with and governed by the laws of the State.

**ARTICLE XXI**  
**HEADINGS**

The titles of articles and sections herein are for convenience only and are not a part of this Agreement.

**ARTICLE XXII**  
**DEFAULT**

If Developer fails to perform its obligations hereunder and such failure continues after sixty (60) days written notice of such default is given to Developer by City or HEDA, then, in that event, City and/or HEDA may take any one or more of the following actions:

22.1 Suspend its performance under this Agreement until it receives adequate assurances from Developer that Developer will cure the default and continue its performance under this Agreement.

22.2 Take whatever action, at law or in equity, which may appear necessary or desirable to City and/or HEDA to collect any payments due it hereunder including reasonable attorney's fees incurred in connection with such actions or under this Agreement, or to enforce performance and observance of any obligation, agreement or covenant of Developer under this Agreement.



Notwithstanding the foregoing, if Developer's failure to perform its obligations hereunder reasonably requires more than sixty (60) days to cure, such failure shall not constitute a default provided that the curing of such failure is promptly commenced upon receipt by Developer of the notice of the failure, and with due diligence is thereafter continuously prosecuted to completion and is completed within a reasonable period of time, and provided that Developer keeps City informed of its progress in curing the failure.

#### **ARTICLE XXIII** **COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

#### **ARTICLE XXIV** **TERM**

This Agreement shall terminate on the earlier of (i) February 1, 2031; (ii) the latest date on which the Available City Tax Abatement may be received by City under the City Abatement Resolution; or (iii) the date that the Available City Tax Abatement may not be provided under the City Abatement Resolution under the laws of the Minnesota as currently enacted or as such laws are amended from time to time (future law changes may not grandfather the ability of HEDA to make Payments to Developer and may limit HEDA's ability to make Payments to Developer) and any remaining Payments will be deemed forgiven and waived and shall not be accrued or otherwise due in the future.

#### **ARTICLE XXV** **FORCE MAJEURE**

All obligations of Developer hereunder shall be extended by events of "Force Majeure." The term "Force Majeure" means any delays that are the direct result of strikes, other labor troubles, war, terrorist acts, natural disasters, adverse weather conditions, fire or other casualty, 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 that results in delays and delays described in any force majeure provision that is contained in Developer's construction contract for any such work, the effect of such provision which is to extend the time allowed the contractor under such construction contract to complete the work, or any other event not within the reasonable control of Developer.

**ARTICLE XXVI**  
**PRIOR DEVELOPMENT AGREEMENT**

The terms and provisions of this Development Contract are to be read as supplementary to the terms of the 2020 Development Agreement , provided that if there are any inconsistent provisions between the 2020 Development Agreement and this Development Contract, the terms and provisions of this Development Contract shall govern. Without limiting the foregoing, the provisions of Section 4.1.8, 4.1.10, 6.1.8, 6.1.9, 6.3, 6.4.4. and 6.4.5 and Article VII of the 2020 Development Agreement remain applicable; the blank in Section 13.1.9 of the 2020 Development Agreement is filled in with Ninety-six Thousand Nine Hundred Ninety-seven and No/100 Dollars (\$96,997.00) and the second blank is filled in with January 2, 2024; and the first blank in Section 13.1.11 of the 2020 Development Agreement is filled in with Two Hundred Seventy-five Thousand and No/100 Dollars (\$275,000.00) and the second blank is filled in with January 2, 2024.

**[SIGNATURES APPEAR ON NEXT PAGE]**

IN WITNESS WHEREOF, the City has caused this Agreement to be executed by its duly authorized representatives as of the date first above written.

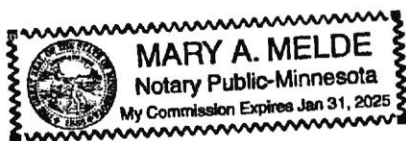
City of Hermantown

By Wayne Boucher  
Its Mayor

And By Jackie Dolentz  
Its City Clerk

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

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of June, 202, by Wayne Boucher and Jackie Dolentz, the Mayor and City Clerk, respectively, of the City of Hermantown on behalf of the City of Hermantown.



Mary A. Melde  
Notary Public

[SIGNATURES CONTINUE ON NEXT PAGE]

IN WITNESS WHEREOF, the Hermantown Economic Development Authority has caused this Agreement to be duly executed in its name and behalf on or as of the date first above written.

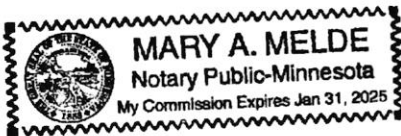
**Hermantown Economic Development Authority**

By Wayne Boucher  
Its President

And By Glenn Nelson  
Its Secretary

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

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of June, 2022, by Wayne Boucher and Glenn Nelson, the President and Secretary, respectively, of Hermantown Economic Development Authority on behalf of Hermantown Economic Development Authority.



Mary A. Melde  
Notary Public

[SIGNATURES CONTINUE ON NEXT PAGE]

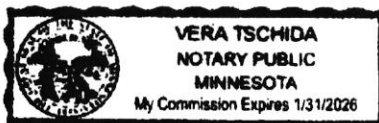
IN WITNESS WHEREOF, Developer has caused this Agreement to be executed by its duly authorized representatives as of the date first above written.

KTJ 360, LLC

By [Signature]  
Its Vice President

STATE OF MINNESOTA                    )  
  ) ss.  
COUNTY OF Hennepin                )

The foregoing instrument was acknowledged before me this 16 day of June, 2022, by David Scott, the Vice President, of KTJ 360, LLC on behalf of KTJ 360, LLC, a Minnesota limited liability company.



[Signature]  
Notary Public

[END OF SIGNATURES]

**EXHIBIT OUTLINE**

<b><u>Exhibit 1.5</u></b>	Assessment Agreement
<b><u>Exhibit 1.7</u></b>	Business Subsidy Agreement
<b><u>Exhibit 1.12</u></b>	“Development Land” or “Land”
<b><u>Exhibit 1.13</u></b>	Environmental Mitigation Costs
<b><u>Exhibit 1.25</u></b>	Water Improvements
<b><u>Exhibit 2.14</u></b>	Trail Easement
<b><u>Exhibit 10.10.2</u></b>	HEDA PAYG Note

**EXHIBIT OUTLINE**

<b><u>Exhibit 1.5</u></b>	Assessment Agreement
<b><u>Exhibit 1.7</u></b>	Business Subsidy Agreement
<b><u>Exhibit 1.12</u></b>	“Development Land” or “Land”
<b><u>Exhibit 1.13</u></b>	Environmental Mitigation Costs
<b><u>Exhibit 1.25</u></b>	Water Improvements
<b><u>Exhibit 2.14</u></b>	Trail Easement
<b><u>Exhibit 10.10.2</u></b>	HEDA PAYG Note

**EXHIBIT 1.5**  
**Assessment Agreement**

**ASSESSMENT AGREEMENT**

**BY AND BETWEEN**

**KTJ 360, LLC**

**AND**

**CITY OF HERMANTOWN**

**Dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 2022**

This document was drafted by:

Steven C. Overom  
Overom Law, PLLC  
802 Garfield Avenue, Suite 101  
Duluth, Minnesota 55802  
(218) 625-8460



## ASSESSMENT AGREEMENT

THIS ASSESSMENT AGREEMENT, dated as of the \_\_\_\_ day of \_\_\_\_\_, 2022 by and between the **City of Hermantown** ("City") and **KTJ 360, LLC**, a Minnesota limited liability company (the "Developer"), and certified by the County Assessor for St. Louis County, Minnesota (the "Assessor") is in response to the following situation:

A. City, Hermantown Economic Development Authority ("HEDA") and Developer have entered into a certain Development Contract, dated as of \_\_\_\_\_, 2022 (the "Development Contract"), regarding certain real property located in the City of Hermantown, St. Louis County, Minnesota (the "Property"), which property is legally described on the Exhibit A attached to and made a part of this Assessment Agreement. Defined terms not otherwise defined herein shall be defined as set forth in the Development Contract.

B. The Development Contract provides that Developer will construct a 105-unit senior citizen housing complex and improvements (the "Project") on the Property.

C. City and Developer desire to establish certain minimum market values for the Property upon completion of the Project pursuant to Minnesota Statutes, Section 469.177, Subdivision 8.

D. Developer, City, and the Assessor have reviewed the plans for the Project.

NOW, THEREFORE, the parties to this Assessment Agreement, in consideration of the promises, covenants and agreements herein, do hereby agree as follows:

1. Effective as of January 2 of the year following the year that the Project is completed and continuing on each January 2 through the term of this Assessment Agreement, the minimum market value which shall be assigned to and assessed for the Project for purposes of real estate property taxation shall be not less than \$14,800,000.00 (the "Minimum Market Value").

2. The term of this Assessment Agreement shall expire and the Minimum Market Value herein established shall be of no further force and effect shall terminate upon the earlier of (i) the termination of the Development Contract or (ii) the date that the HEDA PAYG Note is paid in full (the "Termination Date").

3. This Assessment Agreement is contingent upon the continuing payment to Developer of the amounts payable under the HEDA PAYG Note unless the non-payment to Developer was due to Developer not paying taxes when due.

4. This Assessment Agreement shall be promptly recorded by City, with the County Recorder and/or the Registrar of Titles (as applicable) of St. Louis County, Minnesota, and shall be filed against the Property. The parties shall execute and record a termination of this Assessment Agreement upon the Termination Date.

5. Neither any preamble nor any provision of this Assessment Agreement is intended to modify the terms of this Assessment Agreement.

6. This Assessment Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties, shall be governed by and interpreted pursuant to Minnesota law, and may be executed in counterparts, each of which shall constitute an original hereof and all of which shall constitute one and the same instrument.

7. Nothing herein shall be deemed to waive Developer's right to contest that portion of any actual value assignment made by the Assessor in excess of the Minimum Actual Value established herein. In no event, however, shall Developer seek to reduce the actual value assigned below the Minimum Market Value established herein during the term of this Assessment Agreement.

8. This Assessment Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

9. Each of the parties has authority to enter into this Assessment Agreement and to take all actions required of it, and has taken all actions necessary to authorize the execution and delivery of this Assessment Agreement.

10. In the event any provision of this Assessment Agreement shall be held invalid and unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

11. The parties hereto agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements, amendments and modifications hereto, and such further instruments as may reasonably be required for correcting any inadequate, or incorrect, or amended description of the Property or the Project or for carrying out the expressed intention of this Assessment Agreement, including, without limitation, any further instruments required to delete from the description of the Property such part or parts as may be included within a separate assessment agreement.

12. This Assessment Agreement may not be amended nor any of its terms modified except by a writing authorized and executed by all parties hereto.

13. This Assessment Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the City has caused this Agreement to be executed by its duly authorized representatives as of the date first above written.

**City of Hermantown**

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

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

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

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_ and \_\_\_\_\_, the Mayor and City Clerk, respectively, of the City of Hermantown on behalf of the City of Hermantown.

\_\_\_\_\_  
Notary Public

[SIGNATURES CONTINUE ON NEXT PAGE]

IN WITNESS WHEREOF, Developer has caused this Agreement to be executed by its duly authorized representatives as of the date first above written.

**KTJ 360, LLC**

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

STATE OF MINNESOTA            )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me on \_\_\_\_\_, 2022, by \_\_\_\_\_, the \_\_\_\_\_ of KTJ 360, LLC, a Minnesota limited liability company, on behalf of said company.

\_\_\_\_\_  
Notary Public

[END OF SIGNATURES]

### CERTIFICATION BY COUNTY ASSESSOR

The undersigned, having reviewed certain plans for the Project to be constructed and the market value assigned to the land upon which the Project to be constructed, as described in this Assessment Agreement, hereby states as follows: The undersigned Assessor, being legally responsible for the assessment of the above-described property, hereby certifies that the \$14,800,000.00 market value hereinabove assigned to the Project is reasonable.

\_\_\_\_\_  
County Assessor for St. Louis County

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

This instrument was acknowledged before me on \_\_\_\_\_, 2022, by \_\_\_\_\_, the County Assessor of St. Louis County.

\_\_\_\_\_  
Notary Public

**EXHIBIT A**

Legal Description

South Half of the West Half of Southwest Quarter of Southwest Quarter (S 1/2 of W 1/2 of SW 1/4 of SW 1/4) Section 14, Township 50 North Range 15.

This is Abstract property.

**EXHIBIT 1.7**  
**Business Subsidy Agreement**

**BUSINESS SUBSIDY AGREEMENT**

**BY AND AMONG**

**HERMANTOWN ECONOMIC DEVELOPMENT AUTHORITY**

**AND**

**CITY OF HERMANTOWN**

**(COLLECTIVELY "GRANTOR")**

**AND**

**KTJ 360, LLC**

**("RECIPIENT")**

**Approved: \_\_\_\_\_, 2022**

This document was drafted by:

Steven C. Overom  
Overom Law, PLLC  
802 Garfield Avenue, Suite 101  
Duluth, Minnesota 55802  
(218) 625-8460

## BUSINESS SUBSIDY AGREEMENT

THIS BUSINESS SUBSIDY AGREEMENT made effective this \_\_\_\_ day of \_\_\_\_\_, 2022 by and among **Hermantown Economic Development Authority**, an economic development authority created under Chapter 469 of the Minnesota Statutes ("HEDA") and the **City of Hermantown** (the "City"), a Minnesota statutory city (HEDA and City which are also hereinafter collectively referred to as the "Grantor") with both having addresses at 5105 Maple Grove Road, Hermantown, Minnesota 55811 and **KTJ 360, LLC**, a Minnesota limited liability company, ("Recipient") having its principal offices at 400 Water Street, Suite 200, Excelsior, MN 55331 is in response to the following situation:

A. HEDA, as Grantor, has the authority pursuant to Minnesota Statutes, sections 469.124 through 469.133, inclusive, as amended to carry out development projects that provide a public benefit to the City.

B. City, as Grantor, has the authority, pursuant to Minnesota Statutes §§412.211 and 412.221, Subd. 6, Subd. 7 and Subd. 11 and §412.321 to carry out projects that provide a public benefit to the City.

C. Grantor, when providing financial assistance to projects that provide a public benefit to the City and to the State, is subject to the requirements of Minnesota Statutes, Sections 116J.993 to 116J.995, inclusive, as amended, ("Business Subsidy Act") and is defined therein as a Grantor.

D. Even though the assistance for housing that is provided to Recipient pursuant to this Business Subsidy Agreement is exempt from the Business Subsidy Act is Grantor desires to utilize the criteria in its Business Subsidy Policy ("Grantor's Business Subsidy Policy") to guide it in providing Business Subsidy to Recipient.

E. Grantor is required under Grantor's Business Subsidy Policy to hold a hearing regarding the subsidy proposed to be provided by this Agreement and then enter into this subsidy agreement to set forth the terms and conditions of the Business Subsidy (the "Business Subsidy Agreement").

F. The City Council of City ("City Council") and the Commissioners of HEDA ("Commissioners") held a joint public hearing on June 8, 2022 to consider this Agreement.

G. The City Council approved this Agreement on June 8, 2022 and the Commissioners approved this Agreement on June 8, 2022.

H. Recipient proposes to construct a 105-unit senior citizen housing complex (the "Project") on property located in the City.

I. Recipient is required by Grantor's Business Subsidy Policy to set forth in this Business Subsidy Agreement its goals that will result from receipt of the Business Subsidy.

J. Grantor finds the Project will promote the development of a 105-unit senior citizen housing complex which will provide life cycle housing in the City which will also provide or



incentivize other residential housing sales and development, provide an increase in the real estate tax base, provide needed infrastructure improvements and the grant of an easement for the City trail system.

NOW, THEREFORE, in consideration of the premises and mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

## **THE AGREEMENT**

### Section 1. Definitions.

“Agreement” or “Subsidy Agreement” means this Business Subsidy Agreement.

“Benefit Date” means the date the Recipient receives the Business Subsidy. For improvements to property, the benefit date refers to the earliest date of either (i) when the improvements are finished for the entire project, or (ii) when a business occupies the property. For purchase or lease of equipment, the benefit date refers to when the Recipient puts the equipment into service.

“Business Subsidy” means the tax abatement financing assistance provided by Grantor to the Recipient.

“Business Subsidy Act” means Minnesota Statutes, sections 116J.993 to 116J.995, inclusive, as hereinafter amended.

“City”, referred to under the Business Subsidy Act means the City of Hermantown.

“Development Contract” means that certain Development Contract between Recipient and Grantor with respect to the development of the Project and the payment of Grantor of amounts advanced by Recipient to pay for the Infrastructure Improvements. Any terms defined in the Development Contract shall have the meanings set forth in the Development Contract unless the context clearly requires otherwise.

“Easement” means an easement on the Property for the City trail system.

“Grantor” means HEDA and the City.

“HEDA PAYG Note” means the HEDA PAYG Note means the Note by Grantor to Recipient to pay for costs incurred by the Recipient under the terms of the Development Contract.

“Infrastructure Improvements” means the improvements to the City water system and the installation of sidewalks, road and utilities serving the Project, environmental mitigation and stormwater control.

“Property” means the real estate legally described on Exhibit A attached hereto.

“Project” means a 105-unit senior citizen housing complex.

“Recipient” means KTJ 360, LLC, a Minnesota limited liability company.

“State” means the State of Minnesota.

## Section 2. Subsidy Agreement Requirements.

2.1 Grantor and Recipient recognize and agree that the financial benefit of the HEDA PAYG Note is defined as a Business Subsidy under Grantor’s Business Subsidy Policy and is subject to the provisions thereof.

2.2 The Business Subsidy will be generated from tax abatement approved by the City with respect to the Project. Tax abatement for the Project will continue for up to seven (7) years for taxes payable in 2024 through 2030 or until the HEDA PAYG Note is satisfied, whichever is sooner. The Business Subsidy may not exceed Six Hundred Thousand and No/100 Dollars (600,000.00).

2.3 The public purposes of the Business Subsidy with respect to the Project is to promote the development of a 105-unit senior citizen complex which will provide housing for individuals and to provide an increase in the real estate tax basis. Grantor finds the Project will promote the development of a 105-unit senior citizen housing complex which will provide life cycle housing in the City which will also provide or incentivize other residential housing sales and development, provide an increase in the real estate tax base, and provide needed infrastructure improvements and the include the grant of an easement for the City trail system.

2.4 The goal of the Business Subsidy is to the cause the Project and Infrastructure Improvements to be constructed and the Easement granted.

2.5 If the goals described in Section 2.4 are not met, the Recipient must make the payment described in Section 3 hereof.

2.6 Recipient has demonstrated to the satisfaction of HEDA and City that it is adequately financed and the Project and Infrastructure Improvements will be completed in a timely fashion.

2.7 The Recipient agrees that it will continue operations at the Project in the City of Hermantown for at least five (5) years after the Benefit Date.

2.8 The Recipient has not previously received a Business Subsidy from Grantor and it has not failed to meet the terms of any business subsidy agreement as defined in the Business Subsidy Act and Recipient is eligible to receive a Business Subsidy under Grantor’s Business Subsidy Policy.

## Section 3. Remedies.

If Recipient fails to meet the goals described in Section 2.4, then upon written notice delivered by Grantor to Recipient, Recipient must pay Grantor: (a) its “pro rata share” of the amount of any Business Subsidy; plus (b) interest on such principal amount of the Business Subsidy at the implicit price deflator rate for government consumption expenditures and gross investment for local and state governments prepared by the Bureau of Economic Analysis of the United States

Department of Commerce for the 12-month period ending March 31 of the previous year, accrued from the Benefit Date to the date of payment. The term "pro rata share" means if the failure relates to maintenance of the business in accordance with Section 2.7, 60 less the number of months of operation (where any month in which the business is in operation for at least 15 days constitutes a month of operation), commencing on the Benefit Date and ending on the date the business ceases operation as determined by the HEDA, divided by 60.

In addition to the remedies described in this Section and any other remedy available to the Grantor for failure to meet the goals stated in Section 2.4, Recipient agrees and understands that it may not receive a Business Subsidy from the Grantor or any other grantor for a period of five years from the date of the failure or until Recipient satisfies its repayment obligation under this Section, whichever occurs first.

#### Section 4. Reports.

Recipient must submit to HEDA and City a written report with respect to the Business Subsidy goals and results on the form attached hereto, by March 1 of each year, commencing March 1, 2024 and continuing until the later of (i) the date the goals stated Section 2.4 are met; or (ii) March 1, 2031; or (iii) if the goals are not met, the date the Business Subsidy is repaid in accordance with Section 3.

HEDA and City will provide information to Recipient regarding the required forms. If Recipient fails to timely file any report required under this Section, HEDA and City will mail the Recipient a warning within one week after the required filing date. If, after fourteen (14) days of the postmarked date of the warning, the Recipient fails to provide a report, the Recipient must pay to the Grantor a penalty of One Hundred and No/100 Dollars (\$100.00) per month for each month that the report is delinquent.

A failure by HEDA and/or City to provide such reports or warnings hereunder shall not affect HEDA's and City's rights under this Business Subsidy Agreement, the Agreement or any applicable law, rule or regulation.

#### Section 5. Attorney Fees.

If Grantor employs attorneys or incurs other expenses for the collection of payments due or for the enforcement or observance of any obligation or agreement on the part of Recipient under this Agreement or the Agreement, the Recipient agrees that it will, within 10 days of written demand by the HEDA or City, pay the reasonable fees of such attorneys and any other expenses so incurred by Grantor.

Section 6. Project Compliance Information. Recipient shall provide to Grantor any information reasonably requested or needed by Grantor to monitor Project implementation for compliance with Minnesota law and its guidelines.

Section 7. Nondiscrimination. The provisions of Minnesota Statutes, Section 181.59, which relate to civil rights and discrimination, shall be considered a part of this Agreement as though wholly set forth herein and the Recipient shall comply with each such provision throughout the term

of this Agreement.

Section 8. Miscellaneous.

8.1 Choice of Law and Venue. This Agreement is made and shall be governed in all respects by the laws of the State. Any disputes, controversies, or claims arising out of this Agreement shall be heard in the state or federal courts of the State, venued in St. Louis County, Minnesota if in State Court and all parties to this Agreement waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

8.2 Severability. Wherever possible, each provision of this Agreement and each related document shall be interpreted so that it is valid under applicable law. If any provision of this Agreement or any related document is to any extent found invalid by a court or other governmental entity of competent jurisdiction, that provision shall be ineffective only to the extent of such invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement or any other related document.

8.3 Notice. All notices required hereunder shall be given by depositing in the U.S. mail, postage prepaid, certified mail, return receipt requested, to the following addresses (or such other addresses as either party may notify the other):

To HEDA: Hermantown Economic Development Authority  
5105 Maple Grove Road  
Hermantown, MN 55811  
Attn: John Mulder, Executive Director

To City: City of Hermantown  
5105 Maple Grove Road  
Hermantown, MN 55811  
Attn: John Mulder, City Administrator  
Ph: (218) 729-3600  
Email: jmulder@hermantownmn.com

To Recipient: KTJ 360, LLC  
400 Water Street  
Suite 200  
Excelsior, MN 55331  
Attn: Ryan Grover  
Ph: (612) 810-9481  
Email: ryan@oppidan.com

8.4 Entire Agreement. This Agreement, is made pursuant to and as part of the Agreement. The Agreement, this Agreement and all other documents and agreements executed pursuant to the Agreement constitute the complete and exclusive statement of all mutual understandings between the parties with respect to the Project, superseding all prior or contemporaneous proposals, communications, and understandings, whether oral or written, pertaining to the subject matter of this Agreement.

8.5 Headings. The headings appearing at the beginning of the several sections contained in this Agreement have been inserted for identification and reference purposes only and shall not be used in the construction and interpretation of this Agreement.

8.6 Conflict of Interests; Representatives Not Individually Liable. No officer, employee or contractor of Grantor may acquire any financial interest, direct or indirect, in this Agreement, or in any contract related to the Project. No officer, agent, or employee of the Grantor shall be personally liable to the Recipient or any successor in interest in the event of any default or breach by Grantor or for any amount that may become due to Recipient or on any obligation or term of this Agreement.

8.7 Effect on Other Agreements. Nothing in this Agreement shall be construed to modify any term of any other agreement to which Grantor and Recipient are parties.

8.8 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

8.9 Agreement. Grantor shall have no obligations to provide a Business Subsidy to Recipient unless and until the Agreement has been entered into by the parties.

8.10 No Waiver. No remedy conferred upon or reserved to Grantor is intended to be inclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Business Subsidy Agreement, the Agreement or now or hereafter existing at law or in equity or by statute. Further no decision by Grantor to exercise any remedy or give it hereunder, under the Agreement or by statute shall constitute a waiver of any rights afforded Grantor upon any subsequent or continuing default, action or non-action by Recipient.

8.11 No Parent Corporation. There is no parent corporation of the Recipient.

8.12 Job Goals. The creation of jobs was not determined to be a goal of the Business Subsidy so there are no job goals within this Agreement.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the City has caused this Agreement to be executed by its duly authorized representatives as of the date first above written.

**City of Hermantown**

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

And By \_\_\_\_\_  
Its City Clerk

**[SIGNATURES CONTINUE ON NEXT PAGE]**

**IN WITNESS WHEREOF**, the Hermantown Economic Development Authority has caused this Agreement to be duly executed in its name and behalf on or as of the date first above written.

**Hermantown Economic Development Authority**

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

And By \_\_\_\_\_  
Its Secretary

**[SIGNATURES CONTINUE ON NEXT PAGE]**

IN WITNESS WHEREOF, Recipient has caused this Agreement to be executed by its duly authorized representatives as of the date first above written.

**KTJ 360, LLC**

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

**[END OF SIGNATURES]**



**City of Hermantown**

5105 Maple Grove Road  
Hermantown, MN 55811  
Phone: 218-729-3600  
Fax: 218-729-3620

# City of Hermantown

## Business Assistance Recipient Report

**Section 1: Recipient Information**

1.1. Name of business or organization receiving subsidy or financial assistance: _____	1.2. Address where business subsidy or financial assistance will be used Street address: _____ City, State, Zip Code: _____
1.3. Does the recipient have a parent corporation? (Mark one.)  <input type="checkbox"/> Yes (Indicate name and address of parent corporation below. If more than one, indicate ultimate owner.) <span style="float: right;"><input type="checkbox"/> No</span>  Name of parent corporation: _____ Street address: _____ City, State, Zip Code: _____	
1.4. Industry of recipient's facility (Mark one.):  <div style="display: flex; flex-wrap: wrap;"> <div style="width: 50%;"><input type="checkbox"/> Manufacturing</div> <div style="width: 50%;"><input type="checkbox"/> Services</div> <div style="width: 50%;"><input type="checkbox"/> Finance, Insurance, Real Estate</div> <div style="width: 50%;"><input type="checkbox"/> Retail Trade</div> <div style="width: 50%;"><input type="checkbox"/> Wholesale Trade</div> <div style="width: 50%;"><input type="checkbox"/> Construction</div> <div style="width: 50%;"><input type="checkbox"/> Other (please specify): _____</div> </div>	
1.5. Did the recipient relocate as a result of signing this agreement? (Mark one.)  <input type="checkbox"/> Yes (Indicate city and state of previous address and reason recipient did not complete this project at that address.)  <div style="margin-left: 40px;"> <ul style="list-style-type: none"> <li>City/State of previous address:</li> <li>Reason project not completed at previous address:</li> <li>Indicate total number of employees who ceased to be employed by recipient when the recipient relocated to become eligible for the business subsidy. #</li> </ul> </div> <input type="checkbox"/> No (Go to Question 1.6.)	
1.6. What would recipient have done without business subsidy or financial assistance? (Mark one): <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <input type="checkbox"/> Remain at previous location, but not expand  <input type="checkbox"/> Relocate to different Minnesota location  <input type="checkbox"/> Other: _____         </div> <div style="width: 48%;"> <input type="checkbox"/> Remain at previous location but expand at the location  <input type="checkbox"/> Relocated outside Minnesota         </div> </div>	
1.6.1. Was the project a result of eminent domain? <span style="margin-left: 20px;"><input type="checkbox"/> Yes</span> <span style="margin-left: 20px;"><input type="checkbox"/> No</span>	

**Section 2: Goals and Public Purpose Identified in the Agreement**

2.1. Minn. Stat. §116J.994 requires that business subsidy and financial assistance agreements state a public purpose. Which of the following public purposes were stated in the agreement? (Mark all that apply.)	
<input type="checkbox"/> Enhancing economic diversity <input type="checkbox"/> Creating high-quality job growth <input type="checkbox"/> Job retention <input type="checkbox"/> Stabilizing the community	<input type="checkbox"/> Increasing tax base (cannot be only purpose) <input type="checkbox"/> Other (please specify): _____

2.2. Indicate whether the agreement included the following types of goals, and whether the recipient had attained those goals at the time of this report. (Fill in the boxes and attainment date(s) for each goal.)

	Goals established?	Target attainment dates (month & year)	All goals attained?
A) Specific wage and job goals to be attained within 2 years	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No
B) Other job-creation and/or retention goals	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No
C) Other wage goals	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No
D) Goals other than wage and job goals	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No

2.5. Has the recipient achieved all goals (see Question 2.1 and 2.2) and fulfilled all obligations stipulated in the agreement (Mark one.)

☐ Yes

☐ No

### Section 3: Agreement Information

3.1. Total dollar value of business subsidy or financial assistance

Please separate value by type in Questions 3.5 and 3.6.):

\_\_\_\_\_

3.2. Date agreement signed (In addition to the agreement date, indicate any dates the agreement was amended.): \_\_\_\_\_

3.3. Benefit date (Indicate the date the recipient receives the business subsidy. If the subsidy involves physical equipment, then the benefit date is the date the equipment is placed into service. If the business subsidy involves property improvements, the benefit date is when the improvements are finished or when the business occupies the property): \_\_\_\_\_

3.4. Does the agreement provide a business subsidy or one of the four types of financial assistance (see Question 3.6) required to be reported? (Mark one.)

☐ business subsidy

☐ financial assistance

3.5. If the agreement provided a business subsidy, please indicate the type(s) and total dollar value for each type.

☐ not applicable, agreement provided financial assistance

- ☐ loan (only principal) \$ \_\_\_\_\_  
☐ grant (i.e., forgivable loan) \$ \_\_\_\_\_  
☐ tax abatement \$ \_\_\_\_\_  
☐ TIF or other tax reduction or deferral\* \$ \_\_\_\_\_  
☐ guarantee or payment \$ \_\_\_\_\_  
☐ contribution of property or infrastructure \$ \_\_\_\_\_  
☐ preferential use of governmental facilities \$ \_\_\_\_\_  
☐ land contribution \$ \_\_\_\_\_  
☐ other (Specify subsidy type.): \_\_\_\_\_ \$ \_\_\_\_\_

3.6. If the assistance was one of the four types of financial assistance, please indicate the type(s).

☐ not applicable, agreement provided a business subsidy

- ☐ assistance for property by contaminants \$ \_\_\_\_\_  
☐ assistance for renovating building stock or bringing it up to code, and assistance provided for designated historic preservation districts, when 50 percent or less of total cost \$ \_\_\_\_\_  
☐ assistance for pollution control or abatement \$ \_\_\_\_\_  
☐ assistance for a TIF soils condition district \$ \_\_\_\_\_

<p>3.7. If the assistance included tax increment financing, please indicate the type of TIF district. <i>(Mark one.)</i></p> <p><input type="checkbox"/> not applicable, assistance was not in the form of TIF</p> <p><input type="checkbox"/> redevelopment</p> <p><input type="checkbox"/> renewal and renovation</p> <p><input type="checkbox"/> soils condition</p> <p><input type="checkbox"/> economic development</p> <p><input type="checkbox"/> mined underground space</p> <p><input type="checkbox"/> hazardous substance subdistrict</p> <p>3.7A. If assistance included JOBZ benefits, please indicate type of assistance. <i>(Mark all that apply and please also submit the JOBZ MBAF form.)</i></p> <p><input type="checkbox"/> JOBZ   <input type="checkbox"/> JOBZ AgZone   <input type="checkbox"/> Biozone</p>	<p>3.8. Are any other grantors providing a business subsidy or financial assistance to the same project? <i>(Mark one.)</i></p> <p><input type="checkbox"/> Yes <i>(Specify each grantor and the value of their assistance below; attach an additional sheet if necessary.)</i></p> <p>Grantor: _____ Value (\$): _____</p> <p>Grantor: _____ Value (\$): _____</p> <p><input type="checkbox"/> No</p>

Recipient Name:

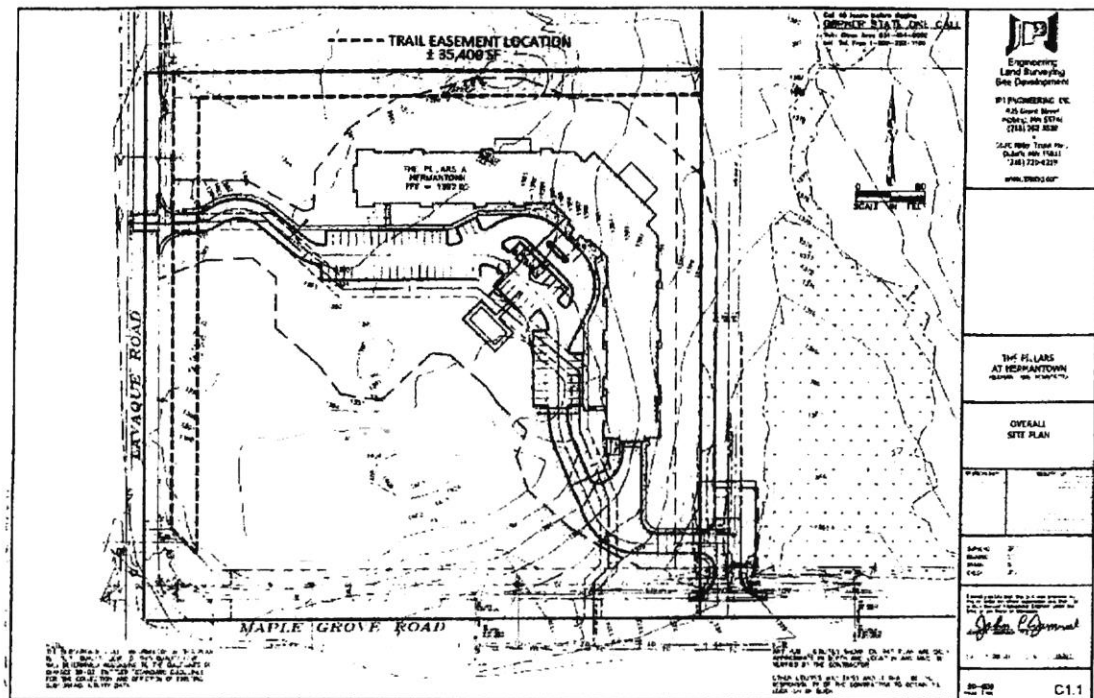
\_\_\_\_\_

Authorized Officer

\_\_\_\_\_



**EXHIBIT 2.14**  
**Trail Easement**



**EXHIBIT 1.12**  
**Development Land**

South Half of the West Half of Southwest Quarter of Southwest Quarter (S 1/2 of W 1/2 of SW 1/4 of SW 1/4) Section 14, Township 50 North Range 15.

This is Abstract property.

**EXHIBIT 1.13**  
**Environmental Mitigation Costs**

**Environmental Costs (Not currently in GC scope)**

Braun - Phase II Report + Testing: \$35,000

Braun - MPCA CCP/RAP Submittal + Vapor Mit. Design + Associated Testing and Closeout:  
\$57,760

Projected Cost for Vapor Mitigation System Installed: \$150,000

**Total: \$242,760**

**EXHIBIT 10.10.2**  
**HEDA PAYG Note**

UNITED STATE OF AMERICA  
 STATE OF MINNESOTA  
 ST. LOUIS COUNTY  
 CITY OF HERMANTOWN

No. HEDA 2022-1

\$600,000.00

TAX ABATEMENT PAY-AS-YOU-GO REVENUE NOTE  
 SERIES 2022  
 (HEDA PAYG NOTE)

Interest RateDate of Original Issue

0.00%

\_\_\_\_\_, 2022

The **Hermantown Economic Development Authority** ("HEDA"), for value received, certifies that it is indebted and hereby promises to pay to **KTJ 360, LLC**, or registered assigns (the "Owner"), the principal sum of Six Hundred Thousand and No/100 Dollars (\$600,000.00) without interest.

1. Payments. Principal payments will be paid on August 1, 2024, and each February 1 and August 1 thereafter to and including February 1, 2031 ("Payment Dates"), in the amounts and solely from the sources set forth in Section 3 herein. Payments will be applied solely to principal because there is no interest payable on this HEDA PAYG Note. The Payments will be equal to all Available City Tax Abatement on any Payment Date. Payments are payable by mail to the address of the Owner or any other address as the Owner may designate upon thirty (30) days written notice to HEDA. Payments on this HEDA PAYG Note are payable in any coin or currency of the United States of America which, on the Payment Date, is legal tender for the payment of public and private debts.

2. Interest. There is no interest due or payable on this HEDA PAYG Note.

3. Available City Tax Abatement. Payments on this HEDA PAYG Note are payable on each Payment Date in the amount of and solely payable from the Available City Tax Abatement as defined in that certain Development Contract between Owner, HEDA and City dated \_\_\_\_\_, 2022 (the "Development Contract"). HEDA will have no obligation to make payments on this HEDA PAYG Note on any Payment Date from any source other than Available City Tax Abatement, and the failure of HEDA to pay the entire amount on this HEDA PAYG Note on any Payment Date will not constitute a default hereunder as long as HEDA makes payment hereon to the extent of the Available City Tax Abatement as set forth herein.

4. Optional Prepayment. The amount payable under this HEDA PAYG Note is prepayable in whole or in part at any time by HEDA without premium or penalty. No partial



prepayment will affect the amount or timing of any other regular payment otherwise required to be made under this HEDA PAYG Note.

5. Nature of Obligation. This HEDA PAYG Note is in the total principal amount of \$600,000.00 and is issued in reliance on the City Abatement Resolution No. 2022-80 and approved by the Hermantown City Council on June 8, 2022 pursuant to and in full conformity with the Constitution and laws of the State of Minnesota, including Minnesota Statutes, Sections 469.1812 through 469.1815 inclusive. This HEDA PAYG Note is a limited obligation of HEDA which is payable solely from Available City Tax Abatement. This HEDA PAYG Note will not be deemed to constitute a general obligation of the State of Minnesota or any political subdivision thereof, including, without limitation, the City or HEDA. Neither the State of Minnesota, nor any political subdivision thereof will be obligated to make payments on this HEDA PAYG Note except out of the Available City Tax Abatement, and neither the full faith and credit nor the taxing power of the State of Minnesota or any political subdivision thereof is pledged to make payments on this HEDA PAYG Note or other costs incident hereto.

6. Estimated Available City Tax Abatement. Any estimates of the Available City Tax Abatement prepared by HEDA or City or its financial advisors in connection with the Development Contract are for the benefit of HEDA or City, and are not intended as representations on which the Owner may rely. HEDA MAKES NO REPRESENTATION OR WARRANTY THAT THE AVAILABLE CITY TAX ABATEMENT WILL BE SUFFICIENT TO PAY THE PRINCIPAL AMOUNT OF THIS HEDA PAYG NOTE. HEDA HAS NO OBLIGATION TO PAY ANY PRINCIPAL HEREON THAT IS NOT PAID FROM AVAILABLE CITY TAX ABATEMENT.

7. Registration and Transfer. This HEDA PAYG Note is issued only as a fully registered note without coupons. This HEDA PAYG Note is transferable upon the books of HEDA kept for that purpose at the principal office of the Finance Director of the City, by the Owner hereof in person or by the Owner's attorney duly authorized in writing, upon surrender of this PAYG Note together with a written instrument of transfer reasonably satisfactory to HEDA, duly executed by the Owner. Upon the transfer or exchange and the payment by the Owner of any tax, fee, or governmental charge required to be paid by HEDA, including Minnesota Statutes, Sections 469.1812 through 469.1815 inclusive, with respect to the transfer or exchange, there will be issued in the name of the transferee a new HEDA PAYG Note of the same aggregate principal amount, bearing no interest and maturing on the same dates. This HEDA PAYG Note will not be transferred to any person other than an affiliate, or other related entity, of the Owner unless HEDA has been provided with an investment letter or a certificate of the transferor, in a form reasonably satisfactory to HEDA, that the transfer is exempt from registration and prospectus delivery requirements of federal and applicable state securities laws.

8. Subject to Terms of Agreement. This HEDA PAYG Note is subject to the terms and provisions of the Development Contract. If there is any inconsistency between the terms and provisions of this HEDA PAYG Note and the terms and provisions of the Development Contract, the terms and provisions of the Development Contract shall govern. All capitalized terms when used herein shall have the meaning given them in the Development Contract, unless the context clearly requires otherwise.

9. Revenue Nature Payments. The Payments shall be pay-as-you-go and the Payments shall be payable only to the extent of the Available City Tax Abatement. Any Payments not paid

when due will be deemed deferred and paid when there is sufficient Available City Tax Abatement to make such Payments. No Payment shall be made after the earlier of (i) February 1, 2031; (ii) the latest date on which the Available City Tax Abatement may be received by City under the City Abatement Resolution; or (iii) the date that the Available City Tax Abatement may not be provided under the City Abatement Resolution under the laws of the Minnesota as currently enacted or as such laws are amended from time to time (future law changes may not grandfather the ability of HEDA to make Payments to Owner and may limit HEDA's ability to make Payments to Owner) and any remaining Payments will be deemed forgiven and waived and shall not be accrued or otherwise due in the future.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions, and things required by the Constitution and laws of the State of Minnesota to be done, to exist, to happen, and to be performed in order to make this HEDA PAYG Note a valid and binding limited obligation of HEDA according to its terms, have been done, do exist, have happened, and have been performed in due form, time and manner as so required.

IN WITNESS WHEREOF, the Commissioners of the HEDA have caused this HEDA PAYG Note to be executed with the manual signatures of its President and Secretary, all as of the Date of Original Issue specified above.

**HERMANTOWN ECONOMIC DEVELOPMENT AUTHORITY**

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

And by \_\_\_\_\_  
Its Secretary

Office of the County Recorder  
St. Louis County, Minnesota  
Recorded on 07/11/2022  
At 12:59PM

Document No. 01447162

Wendy Levitt  
County Recorder

By A Johnson Deputy  
AFR 10148946

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Auditor

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Recording Fee: \$46.00  
Well Certificate Fee: \$0.00

This page has been added by the St. Louis County Recorder/Registrar of Titles to add the recording information to the attached document.

Notes:

## **EXHIBIT B**

**BUSINESS SUBSIDY AGREEMENT**  
**BY AND AMONG**  
**HERMANTOWN ECONOMIC DEVELOPMENT AUTHORITY**  
**AND**  
**CITY OF HERMANTOWN**  
**(COLLECTIVELY “GRANTOR”)**  
**AND**  
**KTJ 360, LLC**  
**(“RECIPIENT”)**

Approved: June 8<sup>th</sup>, 2022

This document was drafted by:

Steven C. Overom  
Overom Law, PLLC  
802 Garfield Avenue, Suite 101  
Duluth, Minnesota 55802  
(218) 625-8460

## BUSINESS SUBSIDY AGREEMENT

THIS BUSINESS SUBSIDY AGREEMENT made effective this 8<sup>th</sup> day of June, 2022 by and among **Hermantown Economic Development Authority**, an economic development authority created under Chapter 469 of the Minnesota Statutes (“HEDA”) and the **City of Hermantown** (the “City”), a Minnesota statutory city (HEDA and City which are also hereinafter collectively referred to as the “Grantor”) with both having addresses at 5105 Maple Grove Road, Hermantown, Minnesota 55811 and **KTJ 360, LLC**, a Minnesota limited liability company, (“Recipient”) having its principal offices at 400 Water Street, Suite 200, Excelsior, MN 55331 is in response to the following situation:

A. HEDA, as Grantor, has the authority pursuant to Minnesota Statutes, sections 469.124 through 469.133, inclusive, as amended to carry out development projects that provide a public benefit to the City.

B. City, as Grantor, has the authority, pursuant to Minnesota Statutes §§412.211 and 412.221, Subd. 6, Subd. 7 and Subd. 11 and §412.321 to carry out projects that provide a public benefit to the City.

C. Grantor, when providing financial assistance to projects that provide a public benefit to the City and to the State, is subject to the requirements of Minnesota Statutes, Sections 116J.993 to 116J.995, inclusive, as amended, (“Business Subsidy Act”) and is defined therein as a Grantor.

D. Even though the assistance for housing that is provided to Recipient pursuant to this Business Subsidy Agreement is exempt from the Business Subsidy Act is Grantor desires to utilize the criteria in its Business Subsidy Policy (“Grantor’s Business Subsidy Policy”) to guide it in providing Business Subsidy to Recipient.

E. Grantor is required under Grantor’s Business Subsidy Policy to hold a hearing regarding the subsidy proposed to be provided by this Agreement and then enter into this subsidy agreement to set forth the terms and conditions of the Business Subsidy (the “Business Subsidy Agreement”).

F. The City Council of City (“City Council”) and the Commissioners of HEDA (“Commissioners”) held a joint public hearing on June 8, 2022 to consider this Agreement.

G. The City Council approved this Agreement on June 8, 2022 and the Commissioners approved this Agreement on June 8, 2022.

H. Recipient proposes to construct a 105-unit senior citizen housing complex (the “Project”) on property located in the City.

I. Recipient is required by Grantor’s Business Subsidy Policy to set forth in this Business Subsidy Agreement its goals that will result from receipt of the Business Subsidy.

J. Grantor finds the Project will promote the development of a 105-unit senior citizen housing complex which will provide life cycle housing in the City which will also provide or incentivize other residential housing sales and development, provide an increase in the real estate tax

base, provide needed infrastructure improvements and the grant of an easement for the City trail system.

NOW, THEREFORE, in consideration of the premises and mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

## **THE AGREEMENT**

### Section 1. Definitions.

“Agreement” or “Subsidy Agreement” means this Business Subsidy Agreement.

“Benefit Date” means the date the Recipient receives the Business Subsidy. For improvements to property, the benefit date refers to the earliest date of either (i) when the improvements are finished for the entire project, or (ii) when a business occupies the property. For purchase or lease of equipment, the benefit date refers to when the Recipient puts the equipment into service.

“Business Subsidy” means the tax abatement financing assistance provided by Grantor to the Recipient.

“Business Subsidy Act” means Minnesota Statutes, sections 116J.993 to 116J.995, inclusive, as hereinafter amended.

“City”, referred to under the Business Subsidy Act means the City of Hermantown.

“Development Contract” means that certain Development Contract between Recipient and Grantor with respect to the development of the Project and the payment of Grantor of amounts advanced by Recipient to pay for the Infrastructure Improvements. Any terms defined in the Development Contract shall have the meanings set forth in the Development Contract unless the context clearly requires otherwise.

“Easement” means an easement on the Property for the City trail system.

“Grantor” means HEDA and the City.

“HEDA PAYG Note” means the HEDA PAYG Note means the Note by Grantor to Recipient to pay for costs incurred by the Recipient under the terms of the Development Contract.

“Infrastructure Improvements” means the improvements to the City water system and the installation of sidewalks, road and utilities serving the Project, environmental mitigation and stormwater control.

“Property” means the real estate legally described on Exhibit A attached hereto.

“Project” means a 105-unit senior citizen housing complex.

“Recipient” means KTJ 360, LLC, a Minnesota limited liability company.



“State” means the State of Minnesota.

Section 2. Subsidy Agreement Requirements.

2.1 Grantor and Recipient recognize and agree that the financial benefit of the HEDA PAYG Note is defined as a Business Subsidy under Grantor’s Business Subsidy Policy and is subject to the provisions thereof.

2.2 The Business Subsidy will be generated from tax abatement approved by the City with respect to the Project. Tax abatement for the Project will continue for up to seven (7) years for taxes payable in 2024 through 2030 or until the HEDA PAYG Note is satisfied, whichever is sooner. The Business Subsidy may not exceed Six Hundred Thousand and No/100 Dollars (600,000.00).

2.3 The public purposes of the Business Subsidy with respect to the Project is to promote the development of a 105-unit senior citizen complex which will provide housing for individuals and to provide an increase in the real estate tax basis. Grantor finds the Project will promote the development of a 105-unit senior citizen housing complex which will provide life cycle housing in the City which will also provide or incentivize other residential housing sales and development, provide an increase in the real estate tax base, and provide needed infrastructure improvements and the include the grant of an easement for the City trail system.

2.4 The goal of the Business Subsidy is to the cause the Project and Infrastructure Improvements to be constructed and the Easement granted.

2.5 If the goals described in Section 2.4 are not met, the Recipient must make the payment described in Section 3 hereof.

2.6 Recipient has demonstrated to the satisfaction of HEDA and City that it is adequately financed and the Project and Infrastructure Improvements will be completed in a timely fashion.

2.7 The Recipient agrees that it will continue operations at the Project in the City of Hermantown for at least five (5) years after the Benefit Date.

2.8 The Recipient has not previously received a Business Subsidy from Grantor and it has not failed to meet the terms of any business subsidy agreement as defined in the Business Subsidy Act and Recipient is eligible to receive a Business Subsidy under Grantor’s Business Subsidy Policy.

Section 3. Remedies.

If Recipient fails to meet the goals described in Section 2.4, then upon written notice delivered by Grantor to Recipient, Recipient must pay Grantor: (a) its “pro rata share” of the amount of any Business Subsidy; plus (b) interest on such principal amount of the Business Subsidy at the implicit price deflator rate for government consumption expenditures and gross investment for local and state governments prepared by the Bureau of Economic Analysis of the United States Department of Commerce for the 12-month period ending March 31 of the previous year, accrued from the Benefit Date to the date of payment. The term “pro rata share” means if the failure relates to maintenance of the business in accordance with Section 2.7, 60 less the number of months of



operation (where any month in which the business is in operation for at least 15 days constitutes a month of operation), commencing on the Benefit Date and ending on the date the business ceases operation as determined by the HEDA, divided by 60.

In addition to the remedies described in this Section and any other remedy available to the Grantor for failure to meet the goals stated in Section 2.4, Recipient agrees and understands that it may not receive a Business Subsidy from the Grantor or any other grantor for a period of five years from the date of the failure or until Recipient satisfies its repayment obligation under this Section, whichever occurs first.

#### Section 4. Reports.

Recipient must submit to HEDA and City a written report with respect to the Business Subsidy goals and results on the form attached hereto, by March 1 of each year, commencing March 1, 2024 and continuing until the later of (i) the date the goals stated Section 2.4 are met; or (ii) March 1, 2031; or (iii) if the goals are not met, the date the Business Subsidy is repaid in accordance with Section 3.

HEDA and City will provide information to Recipient regarding the required forms. If Recipient fails to timely file any report required under this Section, HEDA and City will mail the Recipient a warning within one week after the required filing date. If, after fourteen (14) days of the postmarked date of the warning, the Recipient fails to provide a report, the Recipient must pay to the Grantor a penalty of One Hundred and No/100 Dollars (\$100.00) per month for each month that the report is delinquent.

A failure by HEDA and/or City to provide such reports or warnings hereunder shall not affect HEDA's and City's rights under this Business Subsidy Agreement, the Agreement or any applicable law, rule or regulation.

#### Section 5. Attorney Fees.

If Grantor employs attorneys or incurs other expenses for the collection of payments due or for the enforcement or observance of any obligation or agreement on the part of Recipient under this Agreement or the Agreement, the Recipient agrees that it will, within 10 days of written demand by the HEDA or City, pay the reasonable fees of such attorneys and any other expenses so incurred by Grantor.

Section 6. Project Compliance Information. Recipient shall provide to Grantor any information reasonably requested or needed by Grantor to monitor Project implementation for compliance with Minnesota law and its guidelines.

Section 7. Nondiscrimination. The provisions of Minnesota Statutes, Section 181.59, which relate to civil rights and discrimination, shall be considered a part of this Agreement as though wholly set forth herein and the Recipient shall comply with each such provision throughout the term of this Agreement.

Section 8.      Miscellaneous.

8.1 Choice of Law and Venue. This Agreement is made and shall be governed in all respects by the laws of the State. Any disputes, controversies, or claims arising out of this Agreement shall be heard in the state or federal courts of the State, venued in St. Louis County, Minnesota if in State Court and all parties to this Agreement waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

8.2 Severability. Wherever possible, each provision of this Agreement and each related document shall be interpreted so that it is valid under applicable law. If any provision of this Agreement or any related document is to any extent found invalid by a court or other governmental entity of competent jurisdiction, that provision shall be ineffective only to the extent of such invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement or any other related document.

8.3 Notice. All notices required hereunder shall be given by depositing in the U.S. mail, postage prepaid, certified mail, return receipt requested, to the following addresses (or such other addresses as either party may notify the other):

To HEDA: Hermantown Economic Development Authority  
5105 Maple Grove Road  
Hermantown, MN 55811  
Attn: John Mulder, Executive Director

To City: City of Hermantown  
5105 Maple Grove Road  
Hermantown, MN 55811  
Attn: John Mulder, City Administrator  
Ph: (218) 729-3600  
Email: [jmulder@hermantownmn.com](mailto:jmulder@hermantownmn.com)

To Recipient: KTJ 360, LLC  
400 Water Street  
Suite 200  
Excelsior, MN 55331  
Attn: Ryan Grover  
Ph: (612) 810-9481  
Email: ryan@oppidan.com

8.4 Entire Agreement. This Agreement, is made pursuant to and as part of the Agreement. The Agreement, this Agreement and all other documents and agreements executed pursuant to the Agreement constitute the complete and exclusive statement of all mutual understandings between the parties with respect to the Project, superseding all prior or contemporaneous proposals, communications, and understandings, whether oral or written, pertaining to the subject matter of this Agreement.

8.5 Headings. The headings appearing at the beginning of the several sections contained in this Agreement have been inserted for identification and reference purposes only and shall not be used in the construction and interpretation of this Agreement.

8.6 Conflict of Interests; Representatives Not Individually Liable. No officer, employee or contractor of Grantor may acquire any financial interest, direct or indirect, in this Agreement, or in any contract related to the Project. No officer, agent, or employee of the Grantor shall be personally liable to the Recipient or any successor in interest in the event of any default or breach by Grantor or for any amount that may become due to Recipient or on any obligation or term of this Agreement.

8.7 Effect on Other Agreements. Nothing in this Agreement shall be construed to modify any term of any other agreement to which Grantor and Recipient are parties.

8.8 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

8.9 Agreement. Grantor shall have no obligations to provide a Business Subsidy to Recipient unless and until the Agreement has been entered into by the parties.

8.10 No Waiver. No remedy conferred upon or reserved to Grantor is intended to be inclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Business Subsidy Agreement, the Agreement or now or hereafter existing at law or in equity or by statute. Further no decision by Grantor to exercise any remedy or give it hereunder, under the Agreement or by statute shall constitute a waiver of any rights afforded Grantor upon any subsequent or continuing default, action or non-action by Recipient.

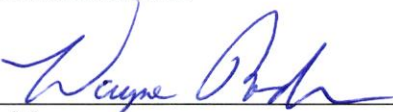
8.11 No Parent Corporation. There is no parent corporation of the Recipient.

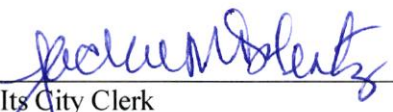
8.12 Job Goals. The creation of jobs was not determined to be a goal of the Business Subsidy so there are no job goals within this Agreement.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the City has caused this Agreement to be executed by its duly authorized representatives as of the date first above written.

**City of Hermantown**

By   
Its Mayor


And By   
Its City Clerk

[SIGNATURES CONTINUE ON NEXT PAGE]

**IN WITNESS WHEREOF**, the Hermantown Economic Development Authority has caused this Agreement to be duly executed in its name and behalf on or as of the date first above written.

**Hermantown Economic Development Authority**


By   
Its President

And By   
Its Secretary

**[SIGNATURES CONTINUE ON NEXT PAGE]**

IN WITNESS WHEREOF, Recipient has caused this Agreement to be executed by its duly authorized representatives as of the date first above written.

**KTJ 360, LLC**

By   
Its Vice President

**[END OF SIGNATURES]**

**City of Hermantown**  
 5105 Maple Grove Road  
 Hermantown, MN 55811  
 Phone: 218-729-3600  
 Fax: 218-729-3620

# City of Hermantown Business Assistance Recipient Report

## Section 1: Recipient Information

1.1. Name of business or organization receiving subsidy or financial assistance: _____	1.2. Address where business subsidy or financial assistance will be used Street address: _____ City, State, Zip Code: _____
1.3. Does the recipient have a parent corporation? (Mark one.)  <input type="checkbox"/> Yes (Indicate name and address of parent corporation below. If more than one, indicate ultimate owner.) <input type="checkbox"/> No  Name of parent corporation: _____ Street address: _____ City, State, Zip Code: _____	
1.4. Industry of recipient's facility (Mark one.):  <input type="checkbox"/> Manufacturing <input type="checkbox"/> Services <input type="checkbox"/> Finance, Insurance, Real Estate <input type="checkbox"/> Retail Trade <input type="checkbox"/> Wholesale Trade <input type="checkbox"/> Construction <input type="checkbox"/> Other (please specify): _____	
1.5. Did the recipient relocate as a result of signing this agreement? (Mark one.)  <input type="checkbox"/> Yes (Indicate city and state of previous address and reason recipient did not complete this project at that address.)  <ul style="list-style-type: none"> <li>• City/State of previous address:</li> <li>• Reason project not completed at previous address:</li> <li>• Indicate total number of employees who ceased to be employed by recipient when the recipient relocated to become eligible for the business subsidy. #</li> </ul> <input type="checkbox"/> No (Go to Question 1.6.)	
1.6. What would recipient have done without business subsidy or financial assistance? (Mark one): <input type="checkbox"/> Remain at previous location, but not expand <input type="checkbox"/> Remain at previous location but expand at the location <input type="checkbox"/> Relocate to different Minnesota location <input type="checkbox"/> Relocated outside Minnesota <input type="checkbox"/> Other: _____	
1.6.1. Was the project a result of eminent domain? <input type="checkbox"/> Yes <input type="checkbox"/> No	

## Section 2: Goals and Public Purpose Identified in the Agreement

2.1. Minn. Stat. §116J.994 requires that business subsidy and financial assistance agreements state a public purpose. Which of the following public purposes were stated in the agreement? (Mark all that apply.)	
<input type="checkbox"/> Enhancing economic diversity <input type="checkbox"/> Creating high-quality job growth <input type="checkbox"/> Job retention <input type="checkbox"/> Stabilizing the community	<input type="checkbox"/> Increasing tax base (cannot be only purpose) <input type="checkbox"/> Other (please specify): _____

2.2. Indicate whether the agreement included the following types of goals, and whether the recipient had attained those goals at the time of this report. (Fill in the boxes and attainment date(s) for each goal.)			
	Goals established?	Target attainment dates (month & year)	All goals attained?
A) Specific wage and job goals to be attained within 2 years	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No
B) Other job-creation and/or retention goals	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No
C) Other wage goals	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No
D) Goals other than wage and job goals	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No
2.5. Has the recipient achieved all goals (see Question 2.1 and 2.2) and fulfilled all obligations stipulated in the agreement (Mark one.)			
<input type="checkbox"/> Yes <input type="checkbox"/> No			

### Section 3: Agreement Information

3.1. Total dollar value of business subsidy or financial assistance Please separate value by type in Questions 3.5 and 3.6.): _____		3.2. Date agreement signed (In addition to the agreement date, indicate any dates the agreement was amended.): _____	
3.3. Benefit date (Indicate the date the recipient receives the business subsidy. If the subsidy involves physical equipment, then the benefit date is the date the equipment is placed into service. If the business subsidy involves property improvements, the benefit date is when the improvements are finished or when the business occupies the property): _____			
3.4. Does the agreement provide a business subsidy or one of the four types of financial assistance (see Question 3.6) required to be reported? (Mark one.)			
<input type="checkbox"/> business subsidy		<input type="checkbox"/> financial assistance	
3.5. If the agreement provided a business subsidy, please indicate the <b>type(s) and total dollar value for each type</b> .  <input type="checkbox"/> not applicable, agreement provided financial assistance  <input type="checkbox"/> loan (only principal) \$ _____ <input type="checkbox"/> grant (i.e., forgivable loan) \$ _____ <input type="checkbox"/> tax abatement \$ _____ <input type="checkbox"/> TIF or other tax reduction or deferral* \$ _____ <input type="checkbox"/> guarantee or payment \$ _____ <input type="checkbox"/> contribution of property or infrastructure \$ _____ <input type="checkbox"/> preferential use of governmental facilities \$ _____ <input type="checkbox"/> land contribution \$ _____ <input type="checkbox"/> other (Specify subsidy type.): _____ \$ _____		3.6. If the assistance was one of the four types of financial assistance, please indicate the type(s).  <input type="checkbox"/> not applicable, agreement provided a business subsidy  <input type="checkbox"/> assistance for property by contaminants \$ _____ <input type="checkbox"/> assistance for renovating building stock or bringing it up to code, and assistance provided for designated historic preservation districts, when 50 percent or less of total cost \$ _____ <input type="checkbox"/> assistance for pollution control or abatement \$ _____ <input type="checkbox"/> assistance for a TIF soils condition district \$ _____	



<p>3.7. If the assistance included tax increment financing, please indicate the type of TIF district. <i>(Mark one.)</i></p> <p><input type="checkbox"/> not applicable, assistance was not in the form of TIF</p> <p><input type="checkbox"/> redevelopment  <input type="checkbox"/> renewal and renovation  <input type="checkbox"/> soils condition  <input type="checkbox"/> economic development  <input type="checkbox"/> mined underground space  <input type="checkbox"/> hazardous substance subdistrict</p> <p>3.7A. If assistance included JOBZ benefits, please indicate type of assistance. <i>(Mark all that apply and please also submit the JOBZ MBAF form.)</i></p> <p><input type="checkbox"/> JOBZ   <input type="checkbox"/> JOBZ AgZone   <input type="checkbox"/> Biozone</p>	<p>3.8. Are any other grantors providing a business subsidy or financial assistance to the same project? <i>(Mark one.)</i></p> <p><input type="checkbox"/> Yes <i>(Specify each grantor and the value of their assistance below; attach an additional sheet if necessary.)</i></p> <p>Grantor: _____ Value (\$): _____</p> <p>Grantor: _____ Value (\$): _____</p> <p><input type="checkbox"/> No</p>
--	--

**Recipient Name:**

\_\_\_\_\_

**Authorized Officer**

\_\_\_\_\_

## **EXHIBIT C**

**ASSESSMENT AGREEMENT**

**BY AND BETWEEN**

**KTJ 360, LLC**

**AND**

**CITY OF HERMANTOWN**

Dated as of the 8<sup>th</sup> day of June, 2022

This document was drafted by:

Steven C. Overom  
Overom Law, PLLC  
802 Garfield Avenue, Suite 101  
Duluth, Minnesota 55802  
(218) 625-8460

## ASSESSMENT AGREEMENT

THIS ASSESSMENT AGREEMENT, dated as of the 8<sup>th</sup> day of June, 2022 by and between the **City of Hermantown** ("City") and **KTJ 360, LLC**, a Minnesota limited liability company (the "Developer"), and certified by the County Assessor for St. Louis County, Minnesota (the "Assessor") is in response to the following situation:

A. City, Hermantown Economic Development Authority ("HEDA") and Developer have entered into a certain Development Contract, dated as of June 8<sup>th</sup>, 2022 (the "Development Contract"), regarding certain real property located in the City of Hermantown, St. Louis County, Minnesota (the "Property"), which property is legally described on the Exhibit A attached to and made a part of this Assessment Agreement. Defined terms not otherwise defined herein shall be defined as set forth in the Development Contract.

B. The Development Contract provides that Developer will construct a 105-unit senior citizen housing complex and improvements (the "Project") on the Property.

C. City and Developer desire to establish certain minimum market values for the Property upon completion of the Project pursuant to Minnesota Statutes, Section 469.177, Subdivision 8.

D. Developer, City, and the Assessor have reviewed the plans for the Project.

NOW, THEREFORE, the parties to this Assessment Agreement, in consideration of the promises, covenants and agreements herein, do hereby agree as follows:

1. Effective as of January 2 of the year following the year that the Project is completed and continuing on each January 2 through the term of this Assessment Agreement, the minimum market value which shall be assigned to and assessed for the Project for purposes of real estate property taxation shall be not less than \$14,800,000.00 (the "Minimum Market Value").

2. The term of this Assessment Agreement shall expire and the Minimum Market Value herein established shall be of no further force and effect shall terminate upon the earlier of (i) the termination of the Development Contract or (ii) the date that the HEDA PAYG Note is paid in full (the "Termination Date").

3. This Assessment Agreement is contingent upon the continuing payment to Developer of the amounts payable under the HEDA PAYG Note unless the non-payment to Developer was due to Developer not paying taxes when due.

4. This Assessment Agreement shall be promptly recorded by City, with the County Recorder and/or the Registrar of Titles (as applicable) of St. Louis County, Minnesota, and shall be filed against the Property. The parties shall execute and record a termination of this Assessment Agreement upon the Termination Date.

5. Neither any preamble nor any provision of this Assessment Agreement is intended to modify the terms of this Assessment Agreement.

6. This Assessment Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties, shall be governed by and interpreted pursuant to Minnesota law, and may be executed in counterparts, each of which shall constitute an original hereof and all of which shall constitute one and the same instrument.

7. Nothing herein shall be deemed to waive Developer's right to contest that portion of any actual value assignment made by the Assessor in excess of the Minimum Actual Value established herein. In no event, however, shall Developer seek to reduce the actual value assigned below the Minimum Market Value established herein during the term of this Assessment Agreement.

8. This Assessment Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

9. Each of the parties has authority to enter into this Assessment Agreement and to take all actions required of it, and has taken all actions necessary to authorize the execution and delivery of this Assessment Agreement.

10. In the event any provision of this Assessment Agreement shall be held invalid and unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

11. The parties hereto agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements, amendments and modifications hereto, and such further instruments as may reasonably be required for correcting any inadequate, or incorrect, or amended description of the Property or the Project or for carrying out the expressed intention of this Assessment Agreement, including, without limitation, any further instruments required to delete from the description of the Property such part or parts as may be included within a separate assessment agreement.

12. This Assessment Agreement may not be amended nor any of its terms modified except by a writing authorized and executed by all parties hereto.

13. This Assessment Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

**[SIGNATURES APPEAR ON NEXT PAGE]**

IN WITNESS WHEREOF, the City has caused this Agreement to be executed by its duly authorized representatives as of the date first above written.

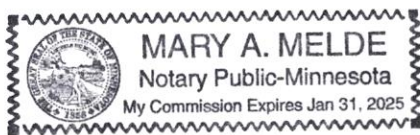
**City of Hermantown**

By Wayne Baucher  
Its Mayor

And By Jackie Dolentz  
Its City Clerk

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

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of June, 2022, by Wayne Baucher and Jackie Dolentz, the Mayor and City Clerk, respectively, of the City of Hermantown on behalf of the City of Hermantown.




Mary A. Melde  
Notary Public

[SIGNATURES CONTINUE ON NEXT PAGE]

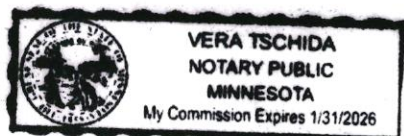
IN WITNESS WHEREOF, Developer has caused this Agreement to be executed by its duly authorized representatives as of the date first above written.


KTJ 360, LLC

By   
Its Vice President

STATE OF MINNESOTA                    )  
  ) ss.  
COUNTY OF Hennepin                )

This instrument was acknowledged before me on June 16, 2022, by David Scott, the Vice President of KTJ 360, LLC, a Minnesota limited liability company, on behalf of said company.



  
Notary Public

[END OF SIGNATURES]

**CERTIFICATION BY COUNTY ASSESSOR**

The undersigned, having reviewed certain plans for the Project to be constructed and the market value assigned to the land upon which the Project to be constructed, as described in this Assessment Agreement, hereby states as follows: The undersigned Assessor, being legally responsible for the assessment of the above-described property, hereby certifies that the \$14,800,000.00 market value hereinabove assigned to the Project is reasonable.

\_\_\_\_\_  
County Assessor for St. Louis County

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

This instrument was acknowledged before me on \_\_\_\_\_, 2022, by  
\_\_\_\_\_, the County Assessor of St. Louis County.

\_\_\_\_\_  
Notary Public



**EXHIBIT A**  
Legal Description

South Half of the West Half of Southwest Quarter of Southwest Quarter (S 1/2 of W 1/2 of SW 1/4 of SW 1/4) Section 14, Township 50 North Range 15.

This is Abstract property.

**FIRST AMENDMENT**  
**TO BUSINESS SUBSIDY AGREEMENT**

This FIRST AMENDMENT TO BUSINESS SUBSIDY AGREEMENT (this “Amendment”) is entered into as of \_\_\_\_\_, 2025, by and among the City of Hermantown (“City”), the Hermantown Economic Development Authority (“HEDA”) (HEDA and City are collectively referred to herein as “Grantors”) and Pillars of Hermantown LLC, a Minnesota limited liability company (“Developer” or “Recipient”).

**RECITALS**

A. Grantors entered into that certain Development Agreement, dated July 8, 2022, and recorded on July 11, 2022 with the St. Louis County, Minnesota Recorder’s Office as Document No.: 01447162 (the “Development Agreement”), with the original developer, KTC 360, LLC (the “Original Developer”), which provided for, among other things, the terms and conditions for construction of a 105-unit senior citizen housing complex, related water improvements and the granting of a trail easement (the “Project”).

B. Grantors also entered into that Business Subsidy Agreement dated June 8, 2022 (the “Business Subsidy Agreement”) related to the Project pursuant to which the Business Subsidy (as defined therein) was provided to Developer.

C. The Development Agreement and related Business Subsidy Agreement were subsequently assigned by the Original Developer to the Developer, and pursuant to such assignment, the Developer assumed the rights and obligations under the Development Agreement and Business Subsidy Agreement (the “Assignment and Assumption”).

D. Grantors consented to the assignment of the Development Agreement and Business Subsidy Agreement.

E. The Developer has now requested the removal of the requirement contained in the Business Subsidy Agreement that Developer provide the Easement (as defined in the Business Subsidy Agreement).

F. Grantors have found that the primary goals resulting from the provision of the Business Subsidy to Developer were achieved and the removal of the requirement that Developer provide the Easement is not inconsistent with the Business Subsidy Policy of HEDA.

NOW, THEREFORE, in consideration of the provisions and mutual obligations of the parties hereto, the parties agree as follows:

1. Capitalized Terms. All capitalized terms used in this Amendment but not defined herein shall have the same meanings assigned to them as in the Business Subsidy Agreement.

2. Recitals. The above recitals of fact are incorporated and made part of this Amendment.

3. Assignment and Assumption. The Developer affirms the Assignment and Assumption.

4. Deletion of Certain Provisions. The following terms and provisions of the Business Subsidy Agreement are deleted:

i The definition of “Easement” in Section 1

5. Amendment to Recital J. Recital J of the Business Subsidy Agreement is amended and completely replaced with the following:

J. Grantor finds that the Project will promote the development of a 105-unit senior citizen housing complex which will provide life cycle housing in the City and which will also provide or incentivize other residential housing sales and development, provide an increase in the real estate tax base, and provide needed infrastructure improvements.

6. Amendment to Section 2.3. Section 2.3 of the Business Subsidy Agreement is amended and completely replaced with the following:

2.3 The public purposes of the Business Subsidy with respect to the Project is to promote the development of a 105-unit senior citizen complex which will provide housing for individuals and to provide an increase in the real estate tax base. Grantor finds the Project will promote the development of a 105-unit senior citizen housing complex which will provide life cycle housing in the City which will also provide or incentivize other residential housing sales and development, provide an increase in the real estate tax base, and provide needed infrastructure improvements.

7. Amendment to Section 2.4. Section 2.4 of the Business Subsidy Agreement is amended and completely replaced with the following:

2.4 The goal of the Business Subsidy is to cause the Project and Infrastructure Improvements to be constructed.

8. No Other Amendments. Except to the extent amended herein, all of the terms and conditions of the Business Subsidy Agreement are ratified and confirmed and shall remain in full force and effect.

IN WITNESS WHEREOF, the City has caused this Amendment to be duly executed in its name and on its behalf, HEDA has caused this Amendment to be duly executed in its name and on its behalf, and the Developer has caused this Amendment to be duly executed in its name and on its behalf, on or as of the date first above written.

CITY OF HERMANTOWN, MINNESOTA

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

By \_\_\_\_\_  
Its City Clerk

HERMANTOWN ECONOMIC  
DEVELOPMENT AUTHORITY

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

And By \_\_\_\_\_  
Its Secretary

PILLARS OF HERMANTOWN LLC

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

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**FIRST AMENDMENT**  
**TO DEVELOPMENT AGREEMENT**

This FIRST AMENDMENT TO DEVELOPMENT AGREEMENT (this “Amendment”) is entered into as of \_\_\_\_\_, 2025, by and among the City of Hermantown (“City”), the Hermantown Economic Development Authority (“HEDA”), and Pillars of Hermantown LLC, a Minnesota limited liability company (“Developer”).

**RECITALS**

A. The City and HEDA entered into that certain Development Agreement, dated July 8, 2022, and recorded on July 11, 2022 with the St. Louis County, Minnesota Recorder’s Office as Document No.: 01447162 (the “Development Agreement”), with the original developer, KTC 360, LLC (the “Original Developer”), which provided for, among other things, the terms and conditions for construction of a 105-unit senior citizen housing complex, related water improvements and the granting of a trail easement, all on the Land described on Exhibit A.

B. The Development Agreement and related Business Subsidy Agreement dated June 8, 2022, were subsequently assigned by the Original Developer to the Developer, and pursuant to such assignment, the Developer assumed the rights and obligations under the Development Agreement and Business Subsidy Agreement (the “Assignment and Assumption”).

C. The City and HEDA consented to the assignment of the Development Agreement and Business Subsidy Agreement.

D. The Developer has now requested the removal of the requirement contained in the Development Agreement that Developer provide the Trail Easement (as defined in the Development Agreement).

NOW, THEREFORE, in consideration of the provisions and mutual obligations of the parties hereto, the parties agree as follows:

1. Capitalized Terms. All capitalized terms used in this Amendment but not defined herein shall have the same meanings assigned to them as in the Development Agreement.

2. Recitals. The above recitals of fact are incorporated and made part of this Amendment.

3. Assignment and Assumption. The Developer affirms the Assignment and Assumption.

4. Deletion of Certain Provisions. The following terms and provisions of the Development Agreement are deleted:

- i Recital D;
- ii Article I, Definition 1.24;
- iii Section 2.14;
- iv Section 10.7.8;
- v 13.2.6; and
- vi Exhibit 2.14.

5. Amendment to Recital E. Recital E of the Development Agreement is amended and completely replaced with the following:

E. Developer is willing to construct the Water Improvements as provided in this Agreement.

6. Amendment to Section 10.2. Section 10.2 of the Development Agreement is amended and completely replaced with the following:

10.2 Public Interest. City and HEDA believe that the construction of the Project will be in the public interest as it will result in increase the tax base of City and the Project will promote the development of a 105-unit senior citizen housing complex which will provide life cycle housing in the City which will also provide or incentivize other residential housing sales and development, provide an increase in the real estate tax base, and provide needed infrastructure improvements.

7. No Other Amendments. Except to the extent amended herein, all of the terms and conditions of the Development Agreement are ratified and confirmed and shall remain in full force and effect.



IN WITNESS WHEREOF, the City has caused this Amendment to be duly executed in its name and on its behalf, HEDA has caused this Amendment to be duly executed in its name and on its behalf, and the Developer has caused this Amendment to be duly executed in its name and on its behalf, on or as of the date first above written.

CITY OF HERMANTOWN, MINNESOTA

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

By \_\_\_\_\_  
Its City Clerk

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

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2025, by \_\_\_\_\_ and \_\_\_\_\_, the Mayor and City Clerk, respectively, of the City of Hermantown on behalf of the City of Hermantown.

\_\_\_\_\_  
Notary Public

HERMANTOWN ECONOMIC  
DEVELOPMENT AUTHORITY

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

And By \_\_\_\_\_  
Its Secretary

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

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2025, by  
\_\_\_\_\_ and \_\_\_\_\_, the President  
and Secretary, respectively, of Hermantown Economic Development Authority on behalf of  
Hermantown Economic Development Authority.

\_\_\_\_\_  
Notary Public

PILLARS OF HERMANTOWN LLC

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

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

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2025, by \_\_\_\_\_, the \_\_\_\_\_ of Pillars of Hermantown, LLC on behalf of Pillars of Hermantown LLC.

\_\_\_\_\_  
Notary Public

## **EXHIBT A**

### **LEGAL DESCRIPTION**

Real property in the City of Hermantown, County of St. Louis, State of Minnesota, described as follows:

Parcel 1:

The South Half of the West Half of the Southwest Quarter of the Southwest Quarter (S 1/2 of W 1/2 of SW 1/4 of SW 1/4), Section Fourteen (14), Township Fifty (50), Range Fifteen (15), St. Louis County, Minnesota.

(Abstract Property)

Parcel 2:

Non-exclusive access and utility easements as set forth in the Easement Agreement dated September 23, 2020, recorded October 09, 2020, as Document No. 01392559.