TO: **EDA PRESIDENT AND BOARD**
FROM: **EXECUTIVE DIRECTOR**
DATE: **AUGUST 08, 2016**

City of West Saint Paul

SUBJECT:

Business Subsidy Request – 260 Marie Avenue

BACKGROUND INFORMATION:

On May 23, the Board reviewed a Concept Plan from James, Dan and Noah Tilsen, the owners of Westview Park Apartments. The Board requested that they hold a neighborhood meeting and present the neighbors' comments to the Board at a future meeting.

The project involves purchasing 260 Marie Avenue, demolishing the building and constructing a new $8 million dollar, three-story, 58-unit market rate apartment facility. The facility would include 58 underground parking stalls and 58 above ground stalls. The current tax value equals $10,000. The new estimated tax value would generate $150,000 annually.

The applicant is requesting $49,450 to cover half of the demolition costs. The subsidy would be contingent on all City approvals, including rezoning and site plan approval. Bolander and Sons Company submitted the lowest bid totaling $98,900 (see attached bids).

The subject area would also need to be rezoned from I-1 Industrial to R-4 multi-family (see attached map). Rezoning will take approximately two months and could be reviewed by the Planning Commission on September 20 and final approval by the City Council on September 26.

		Amount
Fund:	EDA Fund	
Department:	Comm. Dev.	
Account:	N/A	$49,450

STAFF RECOMMENDATION:

Review the attached comments from the neighborhood meeting. If the Board wishes to move forward, staff will present a request from the Tilsen's at the regular EDA meeting for consideration of a business subsidy of $49,450 for demolition assistance.

ATTACHMENTS:

- Letter from the owners of Westview Park Apartments
- Summary of Neighborhood Meeting
- Concept Drawing
- Zoning Map
- Business Subsidy Application
- Demolition Bids
- Development Agreement

WESTVIEWPARK APARTMENT HOMES

285 Westview Drive
West St. Paul, Minnesota 55118
Office 651-451-2998 Fax 651-455-4948

City of West Saint Paul

Honorable Members of the Board:

We are negotiating the purchase the health center on 260 Marie. The property abuts our property to the north and is currently vacant. We are very concerned about its current blighted condition.

We believe a new market rate apartment building would be the best option and would greatly benefit the neighborhood and our city. As it stands now, an unused and unsightly building is bringing nothing to the community and has remained virtually untouched for over ten years. There has not been many new multi-family housing being built in West Saint Paul over the last thirty years. This new building will help property value of the direct residential neighbors. The proposed building would cost over $8,000,000 to construct. This would increase the property taxes paid from $10,000 to over $150,000 per year.

Our proposal is to build a 58 unit three story apartment building with underground parking for 58 spots along with 58 surface parking spots.

In order to accomplish this we are asking for increased density to 58 units and setbacks that currently exist on the property, 40' front and 15' setback to the industrial. The plan also has the decks encroaching into the front setback by 6'. We feel this is justified because of the triangular nature of the site and the extra-large 100' right-of-way for Marie Avenue.

We hope to create green energy-efficient higher-end market-rate living situations that will complement the neighborhood, the community, and our city.

The current building's large cement box which covers the pool will be approximately the same height as what we intend to build. The property is currently zoned for Light Industrial. Offices are becoming harder to fill and warehouses for this property would be too small. Our expertise is in multi-family housing and we believe this would be an appropriate option in this location, as it is already next to our apartment homes.

Westview Park Apartments is West Saint Paul's largest apartment community with 298 market-rate units. We are family owned and operated and we take pride to be located in West Saint Paul. Westview Park looks forward to working with the City of West Saint Paul to make our community the best it can be.

Thank you very much,

James Tilsen
Daniel Tilsen
Noah Tilsen

A Summary of the Community Meeting Regarding the Future of 260 Marie Ave Held at Westview Park Apartments' Community Room

12 People signed in, however more were in attendance, including Councilmember Bellows.

- Both councilmembers of the ward attended, Bellows & Napier
- The seller's realtor, Dean Trongard attended
- Westview Park representatives were present: James Tilsen, Dan Tilsen, Noah Tilsen, Janie Tilsen, and Debbie Brookins

9 Comment cards were received

- 5 support Westview's apartment proposal (2 did not attend meeting, 1 was filled by an employee)
- 4 were opposed

Concerns:

- Traffic
- Foot Traffic
- Parking issues
- Line of sight entering Marie
- Placement of garage/ obstructing Marie
- Crime
- Noise
- Neighbors being able view residents from balcony
- Water runoff / reservoir placement
- Youth hangout / congregation

Suggestions:

- All brick
- Upscale apartment
- Install more trees / privacy fence / raised earth

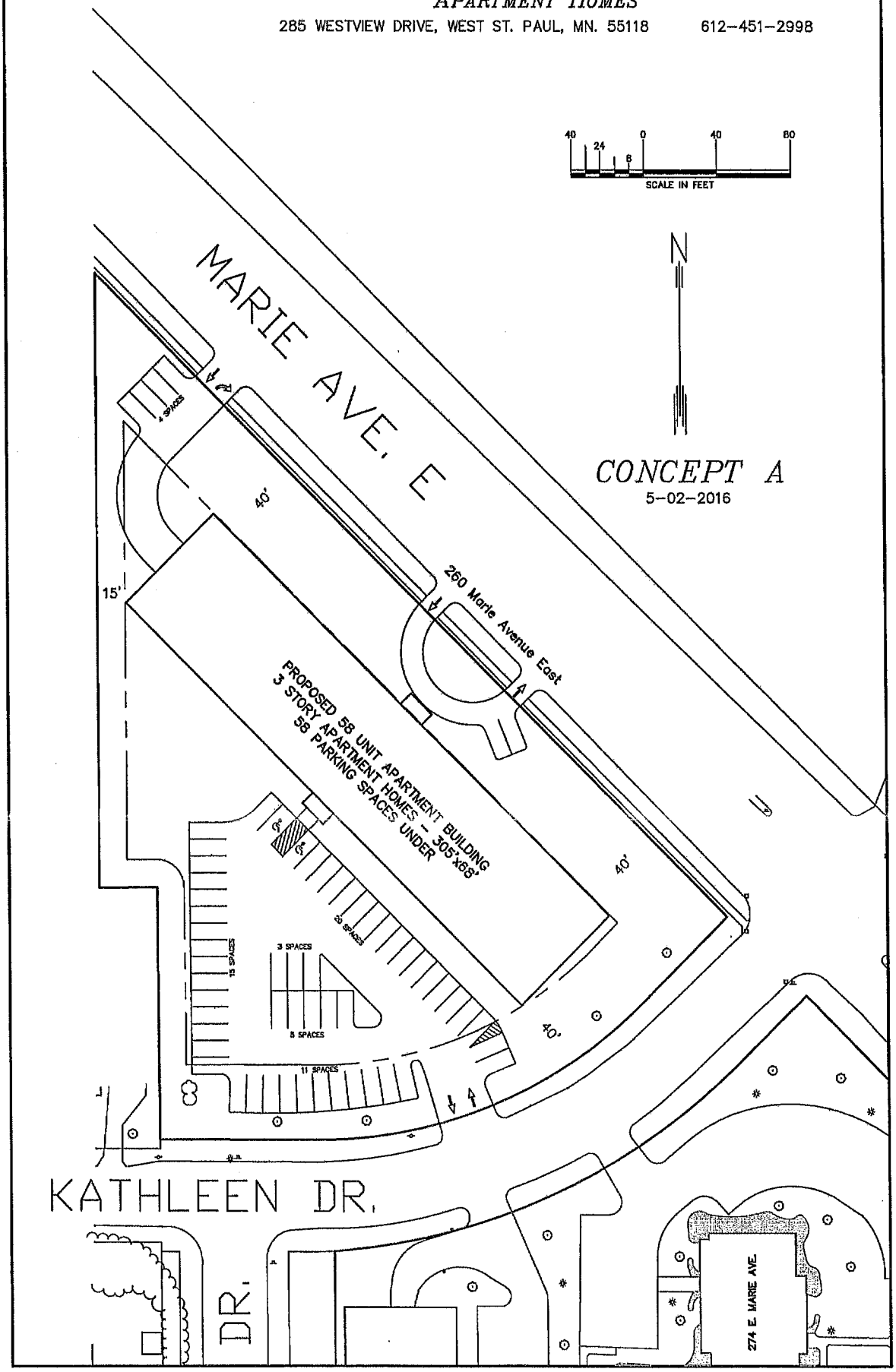
Other suggested uses:

- Office
- Something 9-5 m-f only, not 24/7 365
- Park
- Green space

WESTVIEW PARK

APARTMENT HOMES

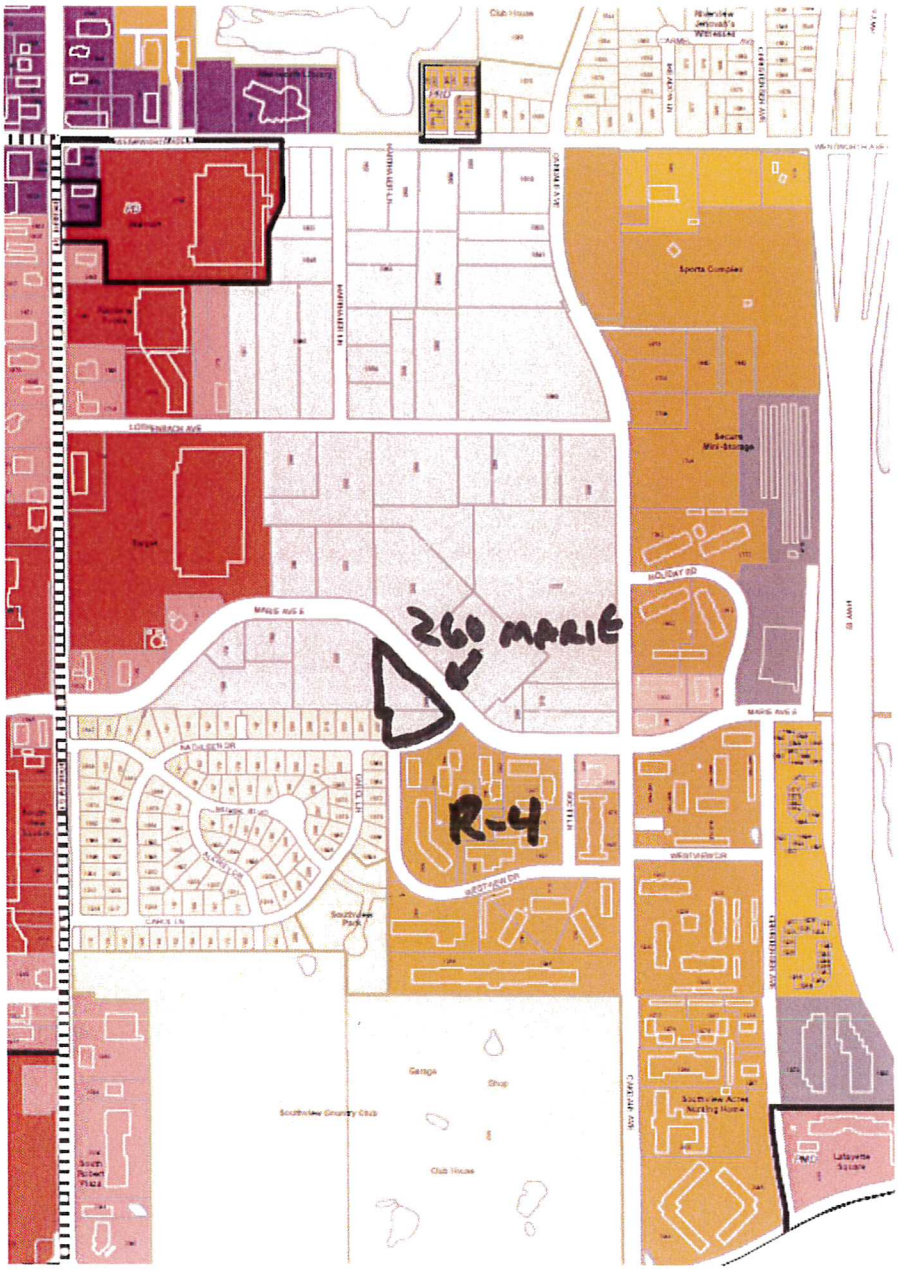
285 WESTVIEW DRIVE, WEST ST. PAUL, MN. 55118 612-451-2998



CONCEPT A

5-02-2016

260 Marie – Zoning Map



Residential

- R-1 - One Family Residential
- R-2 - Two Family Residential
- R-3 - Townhouse Residential
- R-4 - Multiple Family Residential
- C - Conservancy District

Commercial

- B-1 - Limited Business
- B-2 - Neighborhood Business
- B-3 - General Business
- B-4 - Shopping Center
- B-5 - Gateway North Mixed-Use District
- B-6 - Town Center Mixed-Use District

Industrial

- I-1 - Light Industrial
- I-2 - General Industrial

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CITY OF WEST ST. PAUL

BUSINESS SUBSIDY APPLICATION

Name of Applicant (individual or corporation): Westview Park Apartments L.P.

Business Address: 285 Westview Drive City: West St. Paul Rent or Own:__Own

Phone: Business (651)_451-2998 Home: (____)_____ Fax: (651)_455-4948

Owner of Project Site (if different):__As of 8/15/2016_____

Business Organization: Sole Proprietor_____ Partnership__X___ Corp. _____ LLC_____

Names of General Partners:

- Robert Tilsen, James Tilsen, Daniel Tilsen

Product or Service:

- Residential housing. (Apartment ownership and management)

No. of Employees (incl. Owners)____9_____ No. of Employees Projected____11_____

Wage rates___12-20/hr_ Projected Wage Rate for new employees___12-20 hr_____

Description of Proposed Project:

Demolition of existing vacant structure in preparation to build new apartment building. Install screening landscaping for adjacent residences.

Participating Lender:_____Loan Officer: _____ Phone: _____

Uses of Funds:

Types of Expenditure	Cost
Demolition costs per bid	$ 98,900
Asbestos/ Hazardous Waste Assessment per invoice	$ 1,075
Misc. Hazardous Waste Removal (Fluorescent and HPS bulbs, ballasts, Freon)	$ 2,000
Install landscaped berm with spaded-in 13ft spruce at northeast rear corner of 237 Kathleen Drive	$ 16,000
Total Uses 4	$ 117,975

Scheduled Project (Demolition and Screening) Start Date: October 2016
Project Completion Date: November 2016
We have offered the fire and police departments use of the building for training before demolition and they both are interested.
New Building 2017

Sources of Funds:

	Source Amt.	Pct. Rate	Term	Collateral	Payment
Personal Equity	$		N/A	N/A	N/A
Business Equity	$ 68,525				
Bank:					
Bank:					
Other:					
West St. Paul EDA	$ 49,450				
Total Sources	$ 117,975	100%			

All grants require at least equal to the amount of the grant.

Please include the following with your application:

__X__ A map showing the location of the project.

__X__ A statement indicating why the funds are necessary to undertake this project, how proposal meets business subsidy criteria, and if the project will proceed without assistance.

- The existing building has been vacant for almost 10 years and is a danger and an eyesore to the neighborhood, and depresses surrounding property values. Our understanding is that the City had previously planned on completing this demolition on its own. The feasibility and success of our proposed new multi-family building is contingent upon the cost, and this demolition is a major cost.

- New building will provide modern homes and substantial property tax increase for the City.

Additional information may be requested as needed. The City of West St. Paul reserves the right to approve or deny applications for the Business Subsidies Program.

I certify that the above information, and any additional information enclosed herein, is true and correct to the best of my knowledge.

Signature of Applicant:_____ Date:_____

Submit to: Jim Hartshorn, Community Development Director
City of West St. Paul
1616 Humboldt Avenue
West St. Paul, MN 55118
Or email to jhartshorn@wspmn.gov

For further information or clarification, call (651) 552-4140

CARL BOLANDER & SONS CO.

251 STARKEY ST. - P.O. BOX 7216
SAINT PAUL, MINNESOTA 55107
PHONE: (651) 224-6299 FAX: (651) 223-8197

To: Noah Tilsen
Westview Park Apartments
(651) 451-2998 *w*
(651) 455-4948 *f*
285 Westview Drive
West Saint Paul, MN 55118

Bid Date: August 1, 2016
Project: Southview Athletic Club
260 Marie Ave
West St. Paul, MN

Bolander submits pricing as follows: Structure Demolition $ 98,900.00

Inclusions:

1. Complete structure demolition including city demo permit.
2. Allowance of $2,500.00 for water and sewer disconnects.
3. Category one non-friable, non-regulated ACM on flashing and other above grade areas.
4. Slope basements and surrounding areas for OSHA safe slopes.
5. Seed and Mulch disturbed area.

Exclusions:

1. Bond; add 1% If required
2. Testing, monitoring & inspections, survey, layout work
3. Engineering, design, preconstruction video and survey
4. Shoring, bracing, earth retention, underpinning
5. **Asbestos/lead/chemicals/hazardous materials testing or removal**
6. Sealing of wells
7. Underground tanks
8. Removal and disposal of Municipal Solid Waste (MSW)
9. Removal or relocation of buried: debris, rubble, and/or obstructions
10. Dust/weather/safety barriers
11. Utility relocates/re-routes
12. Traffic control

This proposal is subject to review by Bolander in 30 days.

Thank you for the opportunity to bid this project to your firm.

Sincerely,

Andy Ristrom
612-242-4118 cell

KAMISH
EXCAVATING

1301 South Concord Street
South St. Paul, MN 55075
Direct: 651.457.3600
Fax: 651.731.7794
www.kamishexcavating.com

PROPOSAL

To: Noah Tilson
(651) 451-2998 phone #
noahwestview@gmail.com

Job: 260 Marie Ave.
" Athletic Club Demo"

From: Brad Ensrude

Date: 8/01/16

INCLUDES: **Complete demolition, removal, and disposal of the commercial building located at 260 Marie Ave in West St Paul, MN.. This would include all necessary permits, One sewer and water disconnect at the property line, MPCA demolition notification, City demolition permit, erosion control as per city requirements, complete foundation removal, proper disposal of the demolition debris, disposal of the non-friable foundation waterproofing along with the foundation debris, and rough grading of the site with on-site soil.**

Total **$121,350.00**

Alternates: 1.) Add for removal and disposal of the asphalt parking lot. $12,500.00

NOT INCLUDED:
1.) **Asbestos / Hazardous materials abatement**
2.) **Payment of any outstanding water bills or taxes to get permits.**
3.) **Import of fill material, or topsoil and seed for final ground cover.**
4.) **Clearing & grubbing of trees and shrubs.**
5.) **Temporary hydro-seeding of the lot if required.**

Submitted by: Brad Ensrude (Brad Ensrude - 651.775.0848 cell)

AGREEMENT FOR DEMOLITION ASSISTANCE

THIS AGREEMENT, made on this _____ day of_____, 2016, by and between the West St. Paul Economic Development Authority, a Minnesota public body corporate and politic, located at 1616 Humboldt Avenue, West St. Paul, Minnesota 55118 ("the EDA"), and Westview Park Apartments Limited Partnership, a Minnesota limited partnership, located at 285 Westview Drive, West St. Paul, Minnesota 55118 ("Westview Park").

RECITALS

WHEREAS, the EDA was created pursuant to Minnesota Statutes, Sections 469.001 through 469.047 and 469.090 through 469.108 ("the Act"), and was authorized to transact business and exercise its powers by a resolution of the City Council of the City of West St. Paul ("the City");

WHEREAS, in furtherance of the objectives of the Act, the EDA has undertaken various projects to promote the creation of housing, economic and job opportunities within the City, and in this connection is engaged in carrying out a redevelopment project currently known as the 260 East Marie Avenue Project ("the Project"); and

WHEREAS, among the powers possessed by the EDA is the power to carry out within a redevelopment project undertakings and activities for the elimination or prevention of the development or spread of slums or blighted, deteriorating areas and for economic development; and

WHEREAS, the Project is located on a parcel of real property, more particularly described and incorporated herein as Exhibit A ("Redevelopment Property"), which is in need of redevelopment in order to help maximize economic development opportunities for the community; and

WHEREAS, the Redevelopment Property is in a substandard condition and the deterioration caused blight to adjoining properties; and

WHEREAS, in order to achieve the objectives of the EDA, the EDA is prepared to assist with demolition of the Redevelopment Property to promote economic development; and

WHEREAS, the Project will increase the property tax base through new construction; and

WHEREAS, Westview Park has requested a Loan for demolition assistance, as it intends to demolish the existing structure and remove all construction debris and Westview Park intends to redevelop the property with a development that is consistent with the City Code, Zoning Ordinance, and the EDA's Minimum Improvements (attached as Exhibit B); and

WHEREAS, if Westview Park commences demolition within 90 days, commences construction on the Property that complies with the Minimum Improvements within 1 year and completes the Project within 3 years, 100% of the Loan will be forgiven but, if Westview Park fails to comply, 100% of the Loan, with interest, will be immediately due and payable to the EDA; and

WHEREAS, the EDA believes that the redevelopment of the Property pursuant to this Agreement, and fulfillment generally of this Agreement are in the best interests of the EDA and the health, safety, and welfare of its residents, and in accord with the public purposes and provisions of the applicable State and local laws and requirements under which the Project has been undertaken and is being assisted.

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

ARTICLE I
Definitions

Section 1.1. Definitions. In this Agreement, unless a different meaning clearly appears from the context:

"Act" means Minnesota Statutes, Section 469.001 through 469.047 and Section 469.090 through 469.108.

"Agreement" means this Agreement, as the same may be from time to time modified, amended, or supplemented, in writing.

"City" means the City of West St. Paul, Minnesota.

"Commencement Date" or "Commence Construction" shall mean the date that demolition permits are approved for demolition of the existing building or means the date that building permits for the construction of a new building are approved by the City, as applicable.

"Construction Plans" means the plans, specifications, drawings, and related documents on the construction work to be performed by the Developer on the Redevelopment Property, which shall be sufficiently detailed to include all plans that the City may reasonably request to allow it to ascertain the nature and quality of the proposed Minimum Improvements.

"County" means Dakota County.

"Demolition Costs" means the cost to demolish and remove the existing structures on the Redevelopment Property.

"EDA" means the West St. Paul Economic Development Authority, a public body corporate and politic organized under the laws of the State of Minnesota, or any successor or assign.

"Event of Default" means an action by the Developer listed in Article VI of this Agreement.

"Minimum Improvements" means the demolition and removal of the current structures, and construction of a new market-rate apartment building on the Property that is owned by Developer. The Minimum Improvements are more fully described in Exhibit B, hereby incorporated.

"Developer" means Westview Park Apartments Limited Partnership, a Minnesota limited partnership, located at 285 Westview Drive, West St. Paul, Minnesota 55118.

"Loan" means the amount of reimbursement of Demolition Costs that the EDA will pay to Developer pursuant to this Agreement.

"Permitted Encumbrances" means the following encumbrances on the title to the Redevelopment Property: (i) such encumbrances as are mutually agreed to by the EDA and the Developer; (ii) governmental regulations, if any, affecting the use and occupancy laws of the Redevelopment Property and Minimum Improvements; (iii) zoning laws of the City, County, and State, reservations to the State, in trust for the taxing districts concerned, of minerals and mineral rights in those portions of the Redevelopment Property the title to which may have at any time been forfeited to the State for nonpayment of real estate taxes; and (iv) the lien of unpaid real estate taxes, if any, not presently payable but to be paid as part of the annual taxes to become due.

"Project" or "Redevelopment Project" means the demolition of the existing buildings at 260 East Marie Avenue, West St. Paul, Minnesota and construction of a 3-story market-rate apartment building with approximately 58-units, with underground and surface parking, or such plans that are approved by the City Council and EDA, which is valued at approximately $8 million.

"Redevelopment Property" or "Property" means the real property described in Exhibit A of this Agreement.

"State" means the State of Minnesota.

"Unavoidable Delays" means delays beyond the reasonable control of the party seeking to be excused, which are the direct result of strikes, other labor troubles, weather, fire, or other casualty to the Minimum Improvements, litigation commenced by third parties which, by

injunction or other similar judicial action, results in delays, or acts of any federal, state or local governmental unit (other than the EDA in exercising its rights under this Agreement) that result in delays.

ARTICLE II
Representations and Warranties

Section 2.1. Representations by the EDA. The EDA makes the following representations as the basis for the undertaking on its part:

(a) The EDA is duly organized and existing under the laws of the State. Under the provisions of the Act, the EDA has the power to enter into this Agreement and carry out its obligations.

(b) The activities of the EDA are undertaken for the purpose of removing, preventing, or reducing blight, blighting factors, or the causes of blight, for the purposes of increasing the tax base and economic development opportunities within the City.

(c) The Redevelopment Property is properly zoned or will be properly zoned by the Commencement Date for construction of the Project.

(d) Upon proof of paid receipts or paid invoices of the Demolition Costs, the EDA will reimburse the Developer for a portion of the actual Demolition Costs, in an amount not to exceed _____ Dollars ($_____). If the Developer Commences Construction of a market rate apartment building on the Property within one (1) year of the date of this Agreement, and completes construction in accordance with the Minimum Improvements within three (3) years, then 100% of the Loan will be forgiven.

Section 2.2. Representations and Warranties by the Developer. The Developer represents and warrants that:

(a) The Developer intends to acquire the Redevelopment Property.

(b) The undertakings in this Agreement are and will be used for the purpose of redevelopment of the Redevelopment Property and not for speculation.

(c) The Developer has received no notice or communication from any local, state or federal official that the activities of the Developer or the EDA in the Redevelopment Property may be or will be in violation of any environmental law or regulation (other than those notices or communications of which the EDA is aware). The 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 or which give any person a valid claim under any of the foregoing.

(d) The Developer will obtain, in a timely manner, all required permits, licenses, insurance and approvals, and will meet all requirements of all applicable local, state, and federal

laws and regulations which must be obtained or met before the Minimum Improvements may be lawfully constructed or acquired.

(e) The Developer will cooperate with the EDA with respect to any litigation other than litigation in which the EDA and the Developer are adverse parties, commenced with respect to the Redevelopment Project.

(f) In the event that this Agreement is terminated by the EDA as a result of an Event of Default, the Developer agrees that the Developer will, within 10 days of a written demand by the EDA, reimburse the EDA for all of its costs and expenses, including reasonable fees of attorneys and consultants, incurred in connection with the negotiation, preparation and implementation of this Agreement.

(g) Whenever any Event of Default occurs and the EDA employs attorneys or incurs other expenses for the collection of payments due or to become due or for the enforcement of performance or observance of any obligation or agreement on the part of the Developer under this Agreement, the Developer agrees that the Developer shall, within 10 days of written demand by the EDA, pay to the EDA the reasonable fees of attorneys and other expenses so incurred by the EDA.

ARTICLE III
Demolition of Redevelopment Property

Section 3.1. Demolition of Redevelopment Property. The Developer shall commence demolition of existing buildings on the Redevelopment Property at the Developer's expense within 90 days of acquiring the Property and complete demolition and removal of all demolition debris within 90 days of the Commencement Date of demolition.

Section 3.2. Time of Reimbursement for Demolition. Subject to satisfaction of the terms and conditions contained in this Agreement and the timing of Section 3.1, and after the EDA has confirmed that the requirements of Section 3.1 have been satisfied, as long as the Developer is not in default, then upon proof of paid receipts or paid invoices of the Demolition Costs, the EDA will reimburse the Developer for actual Demolition Costs, in an amount not to exceed _____ _____ Dollars ($_____) within 30 days of submission of such paid receipts.

ARTICLE IV
Construction of Minimum Improvements

Section 4.1. Construction of Minimum Improvements. The Developer agrees that the Developer will construct the Minimum Improvements on the Redevelopment Property pursuant to Exhibit B.

Section 4.2. Commencement and Completion of Construction. Subject to Unavoidable Delays, the Developer shall Commence Construction of the market-rate apartment building within one (1) year of the date of this Agreement. Subject to Unavoidable Delays, the Developer shall complete construction in accordance with the Minimum Improvements within three (3) years of the date of this Agreement.

The Developer agrees for the Developer, any successors and assigns, and every successor in interest to the Redevelopment Property shall contain covenants on the part of the Developer and such successors and assigns, that the Developer, and such successors and assigns, will promptly begin and diligently prosecute to completion the Redevelopment Property through the construction of the Minimum Improvements, and that the construction will in any event be commenced and completed within the period specified in Sections 3.1 and 4.2 of this Agreement. It is intended and agreed that any agreements and covenants will be covenants running with the land and that they will, in any event, and without regard to technical classification or designation, be binding for the benefit of the EDA and enforceable by the EDA against the Developer and the Developer's successors and assigns.

ARTICLE V
Prohibitions Against Assignment and Transfer; Indemnification

Section 5.1. Prohibition Against Transfer of Property and Assignment of Agreement. The Developer represents and agrees that:

(a) The Developer has not made or created, and will not make or create, or suffer to be made or created, any total or partial sale, assignment, lease, conveyance or any trust or power, or transfer in any other mode or form of or with respect to the Agreement or the Redevelopment Property or any part of or any interest in, or any contract or agreement to do any of the same, without the prior written approval of the EDA.

(b) The EDA is entitled to require, except as otherwise provided in the Agreement, as conditions to any such approval that:

i Any proposed successor Developer shall have the qualifications and financial responsibilities, as determined by the EDA, necessary and adequate to fulfill the obligations undertaken in this Agreement by the Developer (or in the event the transfer is of or relates to part of the Redevelopment Property, such obligations to the extent that they relate to such part);

ii Any proposed successor Developer, by instrument in writing satisfactory to the EDA and in recordable form, for itself, and its heirs and assigns, and expressly for the benefit of the EDA, shall expressly assume all of the obligations of the Developer under this Agreement and agree to be subject to all the conditions and restrictions to which the Developer is subject (or, in the event the transfer is of or relates to part of the Redevelopment Property, such obligations, conditions and restrictions to the extent that they relate to such part) unless the Developer agrees to continue to fulfill those obligations, and

iii All instruments and other legal documents involved in effecting transfer shall be submitted to the EDA for review; and if approved, written notice will be sent to the Developer.

Section 5.2. Release and Indemnification Covenants.

(a) The Developer covenants and agrees that the EDA, the City and the City Council, officers, agents, servants and employees are not liable for and agrees to release, indemnify and, hold harmless the EDA, the City and the City Council, officers, agents, servants and employees against any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the Minimum Improvements, except for loss or damage resulting in willful misconduct or willful negligence of the EDA, City or the City Council, officers, agents, servants or employees.

(b) Except for any willful misrepresentations or any willful or wanton misconduct or negligence of the following named parties, the Developer agrees to protect and defend the EDA, the City and the City Council, officers, agents, servants and employees, now and forever, and further agrees to hold the EDA harmless from any claim, demand, suit, action or other proceeding whatsoever by any person or entity whatsoever arising or purportedly arising from this Agreement, or the transactions contemplated by it or the acquisition, construction, installation, ownership, and operation of the Minimum Improvements.

(c) Except as otherwise specifically provided in this Agreement, the EDA, the City and the City Council, officers, agents, servants and employees shall not be liable for any damage or injury to the persons or property of Developer, officers, agents, servants or employees or any other person who may be about the Redevelopment Property or Minimum Improvements due to any act of negligence of any person other than the EDA, City or City Council, officers, agents, servants or employees.

(d) All covenants, stipulations, promises, agreements and obligations of the EDA contained in this Agreement are deemed to be the covenants, stipulations, promises, agreements and obligations of the EDA and not of any City Council member, officer, agent, servant or employee of the EDA in his or her individual capacity.

ARTICLE VI
Events of Default

Section 6.1. Events of Default Defined. The term "Event of Default" shall mean any one or more of the following events:

(a) Failure by the Developer to Commence Construction and complete Minimum Improvements as required pursuant to Articles III and IV and Exhibit B of this Agreement.

(b) Failure by the Developer to pay real estate taxes due for the Redevelopment Property in a timely manner.

(c) Failure by the Developer to observe or perform any other covenant, condition, obligation or agreement on its part to be observed or performed hereunder.

(d) Failure by the Developer to provide sufficient proof of paid receipts or paid invoices.

(e) The Developer:

i Files any petition in bankruptcy or for any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the United States Bankruptcy Act or under any similar federal or State law; or

ii Admits in writing inability to pay debts generally as they become due; or

iii Is adjudicated bankrupt or insolvent, or if a petition or answer proposing the adjudication of the Developer as bankrupt under any present or future federal bankruptcy act or any similar federal or State law, shall be filed in any court and such petition or answer shall not be discharged or denied within 90 days after the filing thereof; or a receiver, trustee or liquidator of the Developer and shall not be discharged without 90 days after such appointed, or if the Developer consents to or acquiesces in such appointment.

Section 6.2. Remedies on Default. Whenever any Event of Default referred to in Section 6.1 of this Agreement occurs, the EDA may exercise its right under 6.2 after providing 20 days written notice, but only if the Event of Default has not been cured within said 20 days or, if the Event of Default cannot be cured within 30 days, the Developer does not provide assurance to the EDA reasonably satisfactory to the EDA that the Event of Default will be cured as soon as reasonably possible:

(a) Cancel and rescind or terminate the Agreement.

(b) 100% of the Loan, with interest, will be immediately due and payable to the EDA upon an event of default. Failure to repay the Loan shall result in the Loan being assessed against the Property by the City, pursuant to Minn. Stat. Ch. 429 as a special assessment. Developer hereby waives its assessment appeal rights up to the Loan amount which constitutes a benefit pursuant to Minn. Stat., Ch. 429 in the manner authorized by Minnesota Statutes § 462.3531 in return for the EDA's efforts to facilitate the Project;

(c) Take whatever action, including legal, equitable or administrative action, which may appear necessary or desirable to the EDA to collect any payments due under this Agreement, or to enforce performance and observance of any obligation, agreement, or covenant of the Developer under this Agreement, including assessing the costs against the Property.

Section 6.3. No Remedy Exclusive. No remedy conferred upon or reserved to the EDA is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative.

Section 6.4. No Additional Waiver Implied by One Waiver. In the event any condition contained in this Agreement should be breached by either party and thereafter waived by the

other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

ARTICLE VII
Additional Provisions

Section 7.1. EDA Representatives Not Individually Liable. No member, official, or employee of the EDA shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the EDA or for any amount which may become due to the Developer or successor or on any obligations under the terms of the Agreement.

Section 7.2. Restriction on Use. The Developer agrees for any successors and assigns and every successor in interest to the Redevelopment Property, that the Developer, successors and assigns, shall devote the Redevelopment Property to the uses specified in this Agreement, and shall not discriminate upon the basis of race, color, creed, age, sex or national origin in the sale, use or occupancy of the Redevelopment Property or any improvements erected on it. These covenants, restrictions and conditions shall run with the land and be binding on all parties having any right, title or interest in the Redevelopment Property.

Section 7.3. Titles of Articles and Sections. Any titles of the several parts, Articles and Sections of the Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 7.4. Notices and Demands. Except as otherwise provided in this Agreement, a notice, demand or other communication under the Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally to:

Developer:

Westview Park Apartments Limited Partnership
285 Westview Drive
West St. Paul, MN 55118

EDA:

West St. Paul Economic Development Authority
Executive Director
1616 Humboldt Avenue
West St. Paul, MN 55118

Section 7.5. Counterparts. This Agreement is executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 7.6. Survival of Provisions. The provisions of this Agreement and the representations, warranties and indemnities contained herein shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

Section 7.7. Recording. The parties agree that Developer shall record this document at the Dakota County Recorder's Office.

Section 7.8. Termination. Upon completion of Minimum Improvements, or any repayment or assessment of the Loan, this Agreement shall terminate. The EDA shall execute a Certificate of Completion upon termination of this Agreement.

[Remainder of page intentionally blank]

IN WITNESS WHEREOF, the EDA has caused this Agreement to be duly executed in its name and behalf and the Developer has caused this Agreement to be duly executed in his name and behalf on or as of the date first written.

West St. Paul Economic Development Authority

By: _____
David Meisinger, President

By: _____
James Hartshorn, Executive Director

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

The foregoing instrument was acknowledged before me this ____ day of _____, 2016 by David Meisinger and James Hartshorn, the President and Executive Director respectively, of the West St. Paul Economic Development Authority, on behalf of the EDA.

_____
Notary Public

WESTVIEW PARK APARTMENTS LIMITED PARTNERSHIP

By: _____
Its: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

The foregoing instrument was acknowledged before me this ____ day of _____ _____, 2016, by _____, a _____ (title) of Westview Park Apartments Limited Partnership, a limited partnership, on behalf of said partnership.

_____
Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF REDEVELOPMENT PROPERTY

Part of the SW ¼ of the SE ¼ of Section 20, Township 28, Range 22; Beginning at a point 166.82 feet East of the Southwest corner of said SW ¼, SE ¼, Thence North and parallel to the West line of said SW ¼, SE ¼ distance of 332.71 feet to the Southerly line of Marie Avenue, thence South 45 degrees 00 minutes East along the Southerly line of Marie Avenue, a distance of 471.25 feet to the south line of said SW ¼, SE ¼ thence West 328.83 feet to the point of beginning, Dakota County, Minnesota, according to the Government Survey thereof.

AND

Part of the NW ¼ of the NE ¼, Section 29, Township 28, Range 22; beginning at a point 198.0 feet East of the Northwest corner of said NW ¼, NE ¼, thence South along the East line of A.E. Rehnberg's Southview Addition, a distance of 135.0 feet to the North line of East Kathleen Drive, thence East 76.32 feet to the point of beginning of a curve to the Northeast central angle 45 degrees 00 minutes, radius 252.94 feet, thence along the curve a distance of 214.37 feet to the point of curve, thence North 45 degrees 00 minutes East a distance of 58.11 feet, to the Southerly line of Marie Avenue, thence North 45 degrees 00 minutes West a distance of 20.0 feet, to the North line of Section 29, thence West along the North line of Section 29, a distance of 297.65 feet to the point of beginning, according to the United States Government Survey thereof and situate in Dakota County, Minnesota.

EXHIBIT B

DESCRIPTION OF MINIMUM IMPROVEMENTS

Commence demolition of all existing structures on the Property within 90 days of acquisition of the Property. Complete demolition and removal of any and all construction debris within 90 days of the Commencement Date of demolition. Commence construction and significant pursuit of construction of a 3-story green energy-efficient higher-end market rate apartment building, with approximately 58-units, with underground and surface parking, or such plans that are approved by the City Council and EDA, which is valued at approximately $8 million, within one (1) year of the date of this Agreement. Complete construction within three (3) years of the date of this Agreement.