

ASSIGNMENT AND ASSUMPTION OF
TAX ABATEMENT

THIS ASSIGNMENT AND ASSUMPTION OF TAX ABATEMENT (this "Assignment") dated as of the ___ day of July, 2020, is made and entered into by and among KTJ 339, LLC, a Minnesota limited liability company (the "Assignor") and TF WSP, LLC, a Delaware limited liability company (the "Assignee").

WITNESSETH:

WHEREAS, the Assignor is the Developer under that certain Tax Abatement Agreement dated October 28, 2019 (the "Abatement Agreement"), by and between the Assignor and the City of West St. Paul, Minnesota, a Minnesota municipal corporation (the "City"); and

WHEREAS, the Assignor has agreed to terminate its rights under that certain Contract for Private Development dated July 19, 2019, by and among the Assignee, the City, and the West St. Paul Economic Development Authority (the "EDA") and the Assignee proposes to enter into a Contract for Private Development dated July 27, 2020 (the "CPD"), by and among the Assignee, the City, and the EDA, pursuant to which the EDA will convey certain real property, legally described in Exhibit A thereto (the "Development Property") and the Assignee has agreed to construct the Minimum Improvements (as defined in the CPD); and

WHEREAS, the Assignor desires to assign its obligations, rights and interest in, to and under the Abatement Agreement to the Assignee, as of the date hereof, and the Assignee desires to accept the assignment thereof and assume the Assignor's obligations under the Abatement Agreement from and after the date hereof, all as more particularly set forth in this Assignment.

NOW, THEREFORE, in consideration of the foregoing and the covenants and agreements contained herein, the Assignor and the Assignee hereby covenant and agree as follows:

1. Any capitalized term used herein and not otherwise defined herein shall have the meaning ascribed to such term in the Abatement Agreement.
2. The Assignor does hereby grant, transfer, and assign to the Assignee all of the Assignor's rights, title, benefits and interest in, to and under the Abatement Agreement.
3. The Assignor hereby agrees to indemnify and defend the Assignee, its successors and assigns, and its employees, agents, members, managers and officers (collectively, the "Assignee Indemnified Parties") against, and hold the Assignee Indemnified Parties harmless from, any and all cost, liability, loss, damage or expense, including, without limitation, reasonable attorneys' fees and expenses (collectively, "Losses and Liabilities"), arising out of or in any way related to a failure by the Assignor, its successors or assigns to keep and perform, or a default by the Assignor, its successors

or assigns under, any of the covenants, obligations and agreements to be performed by the Developer under the Abatement Agreement prior to the date hereof.

4. The Assignee, as of the date hereof, hereby accepts the foregoing assignment, and assumes and agrees to faithfully abide by, perform, and discharge each and every term, covenant, and condition of the Abatement Agreement applicable to the "Developer" (the "Assumed Obligations"), and to be fully bound by all of the foregoing.

5. The Assignee hereby agrees to indemnify and defend the Assignor, its successors and assigns, and its employees, agents, partners and officers (collectively the "Assignor Indemnified Parties") against, and hold the Assignor Indemnified Parties harmless from, any and all Losses and Liabilities arising out of or in any way related to a failure by the Assignee, its successors or assigns to keep and perform, or a default by Assignee, its successors or assigns under, any of the Assumed Obligations from and after the date hereof.

6. The Assignor hereby warrants and represents to the Assignee as follows:

(a) The Abatement Agreement has not been modified or amended and is in full force and effect as of the date hereof; and

(b) To the Assignor's knowledge, there is no Event of Default in existence under the Abatement Agreement nor is there in existence any state of facts or circumstances which, with the giving of notice or lapse of time or both, would constitute an Event of Default under the Abatement Agreement.

7. The Assignor will not enter into any modification or amendment of the Abatement Agreement that would adversely affect the rights and interest of the Assignee thereunder or the Assumed Obligations unless such modification or amendment is entered into by the Assignee. The Assignor will not enter into any agreement terminating the Abatement Agreement without the prior written consent of the Assignee.

8. The Assignor shall give and deliver a copy of any notice, demand or other communication which the Assignor gives or delivers to, or receives from, the City under the Abatement Agreement, and that relates to or may affect the rights and interest of the Assignee under the Abatement Agreement or the Assumed Obligations, to the Assignee in the manner set forth in Section 5.3 of the Abatement Agreement, addressed or delivered personally to the Assignee as follows:

TF WSP, LLC
Attn: Shay Baldwin
c/o Trilogy Real Estate Group
520 West Erie, Suite 100
Chicago, Illinois 60654

With a copy to:

Levenfeld Pearlstein, LLC
Attn: Thomas Jaros
2 North LaSalle, Suite 1300

Chicago, Illinois 60602
E-mail: tjaros@lplegal.com

or at such other address as the Assignee may, from time to time, designate by written notice to the Assignor given or delivered in the manner set forth in Section 5.3 of the Abatement Agreement. The Assignee shall give and deliver a copy of any notice, demand or other communication which the Assignee gives or delivers to, or receives from, the City under the Abatement Agreement, and that relates to or may affect the rights and interest of the Assignor under the Abatement Agreement, delivered personally to the Assignor or given or delivered in the manner set forth in Section 5.3 of the Abatement Agreement to the Assignor pursuant to the notice address set forth therein, or at such other address as the Assignor may, from time to time, designate by written notice to the Assignee.

9. The Assignee expressly represents, for the benefit of the City, that it is a limited liability company duly organized and in good standing under the laws of the State of Delaware, duly qualified to do business in, and in good standing under the laws of the State of Minnesota, is duly authorized to transact business within the State of Minnesota, is not in violation of any provisions of its organizational documents or the applicable laws of any state, has power to enter into this Assignment and has duly authorized the execution, delivery and performance of this Assignment by proper action of its governing body.

10. The Assignor hereby irrevocably authorizes and directs the City to pay exclusively to or at the direction of the Assignee, from and after the date hereof, all sums due under the Abatement Agreement, subject to the terms thereof; and the Assignor acknowledges and agrees that the City shall have no further liability to the Assignor for the same.

11. The Assignor acknowledges that the City's rights and remedies against the Developer under the Abatement Agreement are unaffected by this Assignment.

12. The Assignor and the Assignee agree that neither this Assignment nor the Abatement Agreement shall be amended or changed in any way without prior written approval of the City or as specifically provided therein.

13. This Assignment shall be binding on and inure to the benefit of the parties hereto and their successors and assigns and shall further be for the benefit and reliance of the City.

14. This Assignment shall be governed by and construed in accordance with the laws of the State of Minnesota.

15. This Assignment may be executed in counterparts, which counterparts when considered together shall constitute a single, binding, valid and enforceable agreement.

[Signature pages follow]

IN WITNESS WHEREOF, the Assignor and the Assignee have executed and delivered this Assignment and Assumption of Tax Abatement as of the date first above written.

ASSIGNOR:

KTJ 339, LLC, a Minnesota limited liability company

By: _____

Its: _____

ASSIGNEE:

TF WSP, LLC, a Delaware limited liability
company

By: _____

Its: _____

CONSENT AND AGREEMENT

July __, 2020

The undersigned, City of West St. Paul, Minnesota, a Minnesota municipal corporation ("City"), hereby (i) consents, in accordance with Section 3.6 of the Abatement Agreement, to the execution and delivery of the foregoing Assignment and Assumption of Tax Abatement (the "Assignment and Assumption") by the Assignor and the Assignee named therein, and the terms and provisions thereof; (ii) agrees that in the event of any inconsistency between the terms and provisions of the Assignment and Assumption and the terms and provisions of the Abatement Agreement (as defined in the Assignment and Assumption), the terms and provisions of the Assignment and Assumption shall control; (iii) releases the Assignor from all the Assumed Obligations as defined in the Assignment and Assumption; and (iv) warrants, represents and certifies to the Assignee as follows:

(A) To the knowledge of the undersigned, the Abatement Agreement has not been modified or amended and are in full force and effect as of the date hereof; and

(B) To the knowledge of the undersigned, there is no Event of Default in existence, nor is there in existence any state of facts or circumstances which, with the giving of notice or lapse of time or both, would constitute an Event of Default under the Abatement Agreement.

(C) If the City delivers any notice, demand or other communication to the Developer under the Abatement Agreement that relates to or may affect the rights and interest of the Assignee under the Abatement Agreement or the Assumed Obligations, the City will deliver a copy of such notice, demand or communication to the Assignee in the manner set forth in the Abatement Agreement addressed or delivered personally to the Assignee as follows:

TF WSP, LLC
Attn: Shay Baldwin
c/o Trilogy Real Estate Group
520 West Erie, Suite 100
Chicago, Illinois 60654

With a copy to: Levenfeld Pearlstein, LLC
Attn: Thomas Jaros
2 North LaSalle, Suite 1300
Chicago, Illinois 60602
E-mail: tjaros@lplegal.com

or at such other address as the Assignee may, from time to time, designate by written notice to City given or delivered in the manner set forth in the Abatement Agreement.

IN WITNESS WHEREOF, the City has caused this Consent and Agreement to be duly executed as of the date first written above.

CITY OF WEST SAINT PAUL, MINNESOTA

By: _____
David J. Napier
Its Mayor

By: _____
Ryan Schroeder
Its City Manager

