

DEBT PAYMENT AGREEMENT

This Debt Payment Agreement ("Agreement") is made and entered into as of the _____ day of _____, 2013, by and among the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota ("HRA") the City of Saint Paul ("City") and Selby Area Community Development Corporation ("Selby Area CDC").

RECITALS

- A. The City and Selby Area CDC executed a Memorandum of Agreement in June 2011 ("MOA") in relation to the construction of a field at the Jimmy Lee Recreation Center.
- B. Selby Area CDC owes the City the sum of Fifty Thousand Dollars (\$50,000.00) under the MOA ("Debt").
- C. The HRA has been asked to pay the Selby Area CDC's Debt to the City and the HRA is willing to do so in exchange for the transfer to the HRA by the Selby Area CDC of real property located at 940 Selby in Saint Paul, Minnesota and legally described in Exhibit A attached to this Agreement ("Property").
- D. The HRA's Board of Commissioners has approved this Agreement by its Resolution No.12-2355 adopted on December 26, 2012.
- E. The City Council of the City has approved this Agreement by its Resolution No. RES 13-58 adopted on January 23, 2013.
- F. The Selby Area CDC's board of directors has approved this Agreement by its Resolution adopted on _____, 2013.
- G. The three parties to this Agreement desire to memorialize their understandings by executing this Agreement.

TERMS OF AGREEMENT

NOW, THEREFORE, in consideration of and in reliance on the foregoing recitals, and the covenants, contingencies and agreements contained herein, the parties hereby agree as follows:

1. Acquisition and Conveyance of Property. Subject to the conditions as set forth in this Agreement, the HRA agrees to acquire the Property from the Selby Area CDC, and the Selby Area CDC agrees to convey and transfer fee simple title to the Property to the HRA.

2. **Payment of Debt.** Upon the conveyance of the Property to the HRA and at Closing, the HRA agrees to pay the City the sum of Fifty Thousand and 00/100 Dollars (\$50,000.00) in satisfaction of the Debt.

3. **“As-is” Conveyance.** The HRA agrees to accept the Property in its ‘as-is’ condition. Neither the City nor the Selby Area CDC make any representations or warranties of any kind concerning the Property, or any improvements located thereon.

4. **Closing.** The closing of the transactions contemplated by this Agreement (the "Closing") shall occur within five days following the satisfaction or waiver of the HRA’s contingency described in section 8 below (the “Closing Date”). The Closing shall take place at the office of the City’s Attorney Office in Room 400, City Hall, Saint Paul, Minnesota, or such other location as agreed to by the parties. Selby Area CDC agrees to deliver possession of the Property to the HRA on the Closing Date.

5. **Seller's Closing Documents.** On the Closing Date, Selby Area CDC shall execute and deliver to the HRA the following, all in form and content reasonably satisfactory to the HRA:

5.1 **Warranty Deed.** A Warranty Deed conveying marketable fee simple title to the Property to the HRA, free and clear of all encumbrances.

5.2 **FIRPTA Affidavit.** A non-foreign affidavit, properly executed, containing such information as is required by IRC Section 1445(b)(2) and its regulations.

5.3 **Well Certificate.** A Certificate signed by Selby Area CDC warranting that there are no "Wells" on the Property within the meaning of Minn. Stat. § 103I or if there are "Wells", a Well Certificate in the form required by law.

5.4 **Storage Tanks.** If the Property contains or contained a storage tank, an affidavit with respect thereto, as required by Minn. Stat. § 116.48.

5.5 **Individual Sewage Treatment Systems.** If the Property contains an individual sewage treatment system, a disclosure statement as required by Minn. Stat. § 115.55.

5.6 **Resolution.** A resolution of its Board of Directors approving this Agreement and authorizing the signatory to this Agreement and documents to execute the necessary documents to close this transaction.

5.7 **Certificate of Good Standing.** A Certificate of Good Standing from the Minnesota Secretary of State.

5.8 **Affidavit.** An Affidavit of Title by Selby Area CDC indicating that on the Closing Date, to Selby Area CDC’s knowledge, there are no outstanding, unsatisfied judgments, tax liens or bankruptcies against or involving Selby Area CDC or the Property, that there has been no skill, labor or material

furnished to the Property or any improvement for which payment has not been made or for which mechanics' liens could be filed; and that there are no other unrecorded interests in the Property.

5.9 Other Documents. All other documents reasonably determined by the HRA or the title insurance company to be necessary to transfer the Property to the HRA free and clear of all encumbrances.

6. Costs; Fees. Costs for the title insurance commitment and policy, state deed tax, and recording costs for the acquisition of the Property by the HRA shall be paid by the HRA. Each party shall pay their own attorney's fees.

7. Indemnity Clause. Selby Area CDC agrees to defend, indemnify and hold the HRA and City harmless from all costs, claims, causes of action, expenses and liabilities of every kind and nature, including reasonable attorneys fees, arising out of: (i) the Selby Area CDC's failure to perform the terms of this Agreement, and (ii) the presence or release by Selby Area CDC or any other person or entity of any hazardous materials and substances, toxic materials, and petroleum products on or under the Property before or as of the Closing Date.

8. Contingency. The following contingency affects the parties to this Agreement:

The HRA's obligations under this Agreement are subject to the receipt and approval by the HRA of a title insurance commitment and policy insuring marketable title to the Property free and clear of all liens and encumbrances except the HRA agrees to pay or assume any outstanding real estate taxes and assessments. If such contingency is not satisfied or waived in writing by the HRA then this Agreement shall, upon notice given by the HRA to the City and Selby Area CDC, terminate and no party shall have any further rights, obligations or duties hereunder.

9. Termination of MOA. Upon completion of the Closing, the MOA shall terminate and neither the City nor Selby Area CDC shall have any further rights, obligations or duties thereunder.

10. Notices. Any notices in connection with this Agreement shall be given to the intended party by U.S. mail, postage prepaid, or by hand delivery, at the respective addresses set forth on the signature page of this Agreement. Notices delivered by U.S. mail shall be effective on the third day following the postmark and notices delivered by hand shall be effective upon delivery if left with a competent person at the delivery address during customary business hours.

11. Construction and Binding Effect. This Agreement contains the entire agreement of the parties, and supersedes all prior oral or written agreements between the parties. This Agreement shall be construed in accordance with the laws of the State of Minnesota, and shall be binding upon the parties hereto and their successors and assigns.

12. Survival of Indemnification. Selby Area CDC's indemnification to the HRA and City under section 7 above shall survive the delivery of the Warranty Deed, and shall be enforceable by the HRA and City after Closing.

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**SEPARATE SIGNATURE PAGE OF
HOUSING AND REDEVELOPMENT AUTHORITY OF THE
CITY OF SAINT PAUL, MINNESOTA
FOR AGREEMENT**

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be made as of the day and year first above written.

**HOUSING AND REDEVELOPMENT
AUTHORITY OF THE CITY OF SAINT
PAUL, MINNESOTA**

By: _____
Its Executive Director

By: _____
Its Director, Office of Financial Services

Address: 25 West 4th Street
Suite 1300
St. Paul, Mn 55102
Attn: HRA Executive

Director

Approved as to form:

Assistant City Attorney

**SEPARATE SIGNATURE PAGE OF
CITY OF SAINT PAUL
FOR ACQUISITION AGREEMENT**

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be made as of the day and year first above written.

CITY OF SAINT PAUL, MINNESOTA

By: _____
Its Mayor or Deputy Mayor

By: _____
Its Director, Office of Financial Services

Address: 25 West 4th Street
Suite 1300
Saint Paul, Mn 55102
Attn: PED Director

Approved as to form:

Assistant City Attorney

**SEPARATE SIGNATURE PAGE OF
SELBY AREA CDC
FOR AGREEMENT**

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be made as of the day and year first above written.

**SELBY AREA COMMUNITY
DEVELOPMENT CORPORATION**

By: _____

Its _____

Address: _____

**EXHIBIT A
TO
AGREEMENT**

Legal Description of the Property

Lot 5, Block 3, Smith and Taylor's Addition to the City of St. Paul, Ramsey County, Minnesota, according to the recorded plat thereof