

ASSIGNMENT OF DEVELOPMENT AGREEMENT

THIS ASSIGNMENT OF DEVELOPMENT AGREEMENT (the “Assignment”) is made and entered into as of the 1st day of July, 2021, by and among AHSL PARTNERS LLC, a Minnesota limited liability company (the “Developer”); WEST BANK, an Iowa banking corporation (the “Lender”); and CITY OF ARDEN HILLS, a Minnesota municipal corporation (the “City”).

RECITALS

A. The Developer and the City are parties to that certain Amended and Restated Development Contract and Planned Unit Development Agreement dated April 26, 2021 (the “Contract”), providing for the improvement of the real property described therein (the “Project”).

B. At the request of the Developer, the Lender has agreed to extend certain financial accommodations to the Developer for the Project pursuant to the terms of that certain Loan Agreement dated on or about the date of this Assignment (the “Loan Agreement”). In accordance with the Loan Agreement, the Developer executed and delivered to the Lender that certain Promissory Note of even date with the Loan Agreement, in the original principal amount of \$23,975,000.00 (the “Note”).

C. The obligations of the Developer under the Note and Loan Agreement are secured by a combination Mortgage, Security Agreement, and Assignment of Rents and Leases granted to Lender by Developer and encumbering the Project (the “Mortgage”), and a Security Agreement securing all personal property of the Developer (the “Security Agreement”), both dated of even date with the Loan Agreement.

D. The Note, Loan Agreement, Mortgage, Security Agreement and related documents and agreements are collectively referred to in this Assignment as the “Loan Documents.”

E. In order to further secure performance by the Developer of its obligations under the Loan Documents, the Developer has agreed to make a collateral assignment to Lender of all of the Developer’s right, title and interest in and to the Contract.

F. In addition, the Lender and the City have made certain agreements concerning the provision of notices of default of the Contract or Loan Documents.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties agree as follows:

1. Collateral Assignment of Contract. As additional security for performance by the Developer of its obligations under the Loan Documents, the Developer does hereby bargain, sell, assign and set over unto the Lender, for so long as any indebtedness pursuant to the Loan Documents shall remain outstanding, all of the Developer's right, title and interest in and to the Contract. This Assignment shall constitute a perfected, absolute and present assignment, provided that Lender shall have no right under this Assignment to enforce the provisions of said Contract until the occurrence of an Event of Default as defined in the Loan Agreement or under any of the Loan Documents. Upon the occurrence of any such Event of Default, Lender may, without affecting any of its rights or remedies against Developer under any other instrument, document or agreement, exercise its rights under this Assignment as Developer's attorney-in-fact in any manner permitted by law, and in addition, Lender shall have and possess, without limitation, any and all rights and remedies of a secured party under the Minnesota Uniform Commercial Code or otherwise provided by law. For purposes of exercising any available rights and remedies of a secured party, ten (10) days written notice shall constitute commercially reasonable notice where such is required by the Minnesota Uniform Commercial Code. The Developer's assignment of its rights under the Contract is absolute and irrevocable. The Developer hereby indemnifies and holds the City harmless from and against any claims or liabilities arising or purporting to arise from the City's performance of its obligations under this Assignment excluding claims, demands liabilities, losses, lawsuits, judgments, costs and expenses caused by the Lender's breach, negligence or intentional and wrongful acts.

2. Consent to Assignment. The Developer and the City, by executing this Assignment, agree that the Lender does not assume any of the obligations of the Developer under or with respect to the Contract unless and until the Lender shall have given to the City written notice that it has affirmatively exercised its right to exercise the collateral assignment made by this Agreement and to assume performance under the Contract. The Lender shall have the right, but not the obligation, to cure any defaults of the Developer under the Contract.

3. No Assumption of Liability by Lender. The Developer and the City agree that the Lender does not assume any of the obligations or duties of the Developer under or with respect to the Contract unless and until the Lender shall have given to the City written notice that it has affirmatively exercised its right to exercise the collateral assignment effected by this Contract and to assume performance under the Contract.

4. Notices. The Lender agrees to provide notice to the City of any default under the Loan Documents which has resulted, or with the passage of time could result, in the acceleration of the Note or foreclosure of the Mortgage. The City agrees to provide notice to the Lender of any default under the Contract which could result in the termination of the Contract, or a loss of or

imposition of a lien upon any of the Project real property. The failure of either party to give the foregoing notice shall not nullify or otherwise affect the subject default by the Developer or said party's rights and remedies on account of such Developer default.

5. Miscellaneous Provisions. The following miscellaneous provisions are a part of this Assignment:

- a. Accuracy of Recitals. The recitals set forth at the beginning of this Assignment are deemed incorporated herein, and the parties hereto represent they are true and correct.
- b. Caption Headings. Caption headings in this Assignment are for convenience purposes only and are not to be used to interpret or define the provisions of this Assignment.
- c. Amendments. This Assignment may not be amended or modified except in a writing executed by all parties hereto.
- d. Counterparts. It is understood and agreed that this Assignment may be executed in several counterparts, each of which shall, for all purposes, be deemed an original, and all of such counterparts, taken together, shall constitute one and the same Assignment, even though all of the parties hereto may not have executed the same counterpart of this Assignment.
- e. Choice of Law, Severability. This Assignment is made in the State of Minnesota and shall be construed in accordance with the laws thereof. If any provision hereof is in conflict with any statute or rule of law of the State of Minnesota and is otherwise unenforceable, such provisions shall be deemed null and void only to the extent of such conflict or unenforceability, and shall be deemed separate from and shall not invalidate any other provision of this Assignment.
- f. Time is of the Essence. Time is of the essence in the performance of this Assignment.
- g. Notices. All notices required to be given under this Assignment shall be given in writing and shall be effective when actually delivered or when deposited in the United States mail, first class, postage prepaid, addressed to the party to whom the notice is to be given at the address shown below:

City: City of Arden Hills
c/o City Clerk
1245 Hwy 96 W.
Arden Hills, MN 55112

Lender: West Bank

Attn. Aaron Meester
622 Roosevelt Road
St. Cloud, MN 56301

Developer: AHSL Partners LLC
Attn. Roger Fink
3601 – 18th Street South, Suite 103
St. Cloud, MN 56301

Any party may change its address for notices under this Assignment by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address.

- h. Amendments. This Assignment constitutes the entire understanding and agreement of the parties as to the matters set forth in this Assignment. No alteration or amendment to this Assignment shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.
- i. Successors and Assigns. This Assignment shall bind the Developer, the Lender and the City and the successors and assigns of each.

[Signature page follows]

IN WITNESS WHEREOF, the parties have executed this Assignment of Development Agreement effective as of the day and year first above written.

DEVELOPER:

AHSL PARTNERS LLC, a Minnesota limited liability company

By _____
Jeffrey Drown
Its President

CITY:

CITY OF ARDEN HILLS, a Minnesota municipal corporation

By _____
Its Mayor

By _____
Its City Clerk

LENDER:

WEST BANK, an Iowa banking corporation

By _____
Aaron Meester
Its Vice President