

**ASSIGNMENT OF TAX INCREMENT FINANCING
AND SUBORDINATION AGREEMENT**

This ASSIGNMENT OF TAX INCREMENT FINANCING AND SUBORDINATION AGREEMENT (“Assignment”) is effective as of _____ 2024, by and between SE 7th Ave Distribution LLC, a Minnesota limited liability company, its successors and assigns (“Developer”); PARK STATE BANK, a Minnesota banking corporation (“Lender”); the CITY OF GRAND RAPIDS, a municipal corporation and political subdivision of the State of Minnesota (the “City”); and the GRAND RAPIDS ECONOMIC DEVELOPMENT AUTHORITY, a body corporate and politic organized under and existing under the laws of the State of Minnesota (the “Authority”).

PRELIMINARY RECITALS

A. Developer is undertaking a project in the City of Grand Rapids, Minnesota (the “City”) on the land described in Exhibit A hereto, consisting of the constructing and equipping of an approximately 210,000 square foot warehouse and distribution center, to be owned by Developer and operated by L & M Supply, Inc., a Minnesota corporation (the “Project”).

B. The Project is within Tax Increment Financing District No. 1-14: L&M Supply (the “TIF District”) created by the City.

C. The City, the EDA and the Developer have entered into that certain Development Assistance Agreement dated as of December 15, 2023 (the “Contract”) setting forth the City’s agreement to provide certain tax increment payments derived from the TIF District to reimburse Developer for a portion of the capital costs of the Project (the “Tax Increment Financing”) as consideration for construction of the Project.

D. In order to further evidence the Tax Increment Financing, the City will issue and deliver to Developer a Tax Increment Revenue Note in the maximum principal amount of Three Million Four Hundred Seventy-Nine Thousand and Eighty-Four Dollars (\$3,479,084) (the “TIF Note” and together with the Contract and any and all amendments and documents related to the foregoing, the “TIF Documents”). The TIF Note, if and when issued pursuant to the terms of the Contract, shall bear simple non-compounding interest at the rate of 6.50% and is payable as to principal from 90% of the tax increments derived from the TIF District, and which have been received by the City in the 6-month period preceding each payment date on the TIF Note in accordance with the provisions of Minnesota Statutes, Section 469.177 (the “Tax Increment”).

E. The Lender has made or will make credit advances to the Developer pursuant to the following:

- i. a Promissory Note from Developer to Lender in the original principal amount of not to exceed \$2,400,000 (the “Note”);
- ii. a Construction Loan Agreement between Developer and Lender (the “Loan Agreement,” and together with this Assignment, the “Loan Documents”) establishing the terms and conditions of a loan to the Developer by the Lender of the proceeds of the Note (the “Loan”) to finance a portion of the costs of the Project; and

iii. Guarantees of L & M Supply, Inc.; L & M Supply Virginia, Inc.; TDS Distributors, Detroit Lakes, Inc.; DES Distributors, Inc.; 3Gen Properties, LLC; and L&M Legacy RE Holdings, LLC.

F. Lender requires as a condition precedent to Lender making advances under the Note that (i) Developer assign its rights and interests under the TIF Documents to Lender, and (ii) the City and the Authority subordinate their rights under the Contract to the Note and the Loan Documents as provided herein.

G. Developer has agreed to execute and deliver this Assignment to Lender as security for repayment of the Loan and the Note, and the City and the Authority have agreed to subordinate its rights under the Contract to the Note and the Loan Documents.

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

1. Assignment of TIF.

A. Developer transfers, assigns and grants a security interest in, pledges, and conveys, to Lender all right, title and interest of Developer, if any, in and to the TIF Documents (and together with the Loan Documents, the “Documents”), provided Lender does not assume any obligations under the TIF Documents unless and until Lender assumes such obligations in writing, together with the immediate and continuing right to receive and collect all amounts due or to become due thereunder and all other rights which may derive from or accrue thereunder and the right to amend, cancel, modify, alter or surrender the TIF Documents for the purpose of securing the following (hereinafter collectively referred to as the “Indebtedness Secured Hereby”):

i. payment of the indebtedness evidenced by and performance of the terms and conditions of the Note and the Loan Documents;

ii. payment of all other sums with interest thereon becoming due and payable to Lender hereunder and under the Note and the Loan Documents;

iii. performance and discharge of each and every obligation, covenant and agreement of Developer herein and in the Note, the Loan Documents and the TIF Documents, to the extent assigned hereunder.

B. Developer constitutes and appoints the Lender its irrevocable attorney-in-fact to enforce all rights, title and interest of the Developer under the TIF Documents, to collect and receive any debts or obligations related thereto, and to satisfy the Contract as same might or could have done were this Assignment not executed, and covenants with the Lender that the Developer has good right to sell, assign and transfer the same.

2. Present Pledge and Assignment.

A. This Assignment shall constitute a perfect, absolute and present pledge and assignment in connection with which Developer shall have delivered to Lender the TIF Note assigned and endorsed to Lender as provided in the following sentence. Immediately upon the

issuance of the TIF Note by the City, the Developer shall execute and deliver to Lender the Allonge Endorsement to Note in the form attached hereto as Exhibit B to be attached to the TIF Note.

B. So long as no default has occurred under the Loan Documents, the TIF Documents, or this Assignment, Developer may collect the semi-annual payments under the TIF Note. From and after the occurrence of an Event of Default (as defined herein) and after the City has received: (i) written notice from the Lender to the City that payments should be made to the City; (ii) an Acknowledgement Regarding TIF Note in the form attached as Exhibit 2 to the TIF Note executed by the Lender; and (iii) the re-registration of the TIF Note in the name of the Lender, all payments on the TIF Note shall be paid directly to Lender to be held and applied by Lender as provided herein and in the Loan Agreement.

C. If Developer should receive any payments on the TIF Note or otherwise under the TIF Documents at any time after the occurrence of an Event of Default, Developer shall immediately deposit such payments with Lender to be held and applied in accordance with the Loan Agreement and this Assignment.

D. If Developer and Lender make inconsistent demands on the City for payment under the TIF Note, or otherwise challenge the appropriate party to which payment is to be made, Developer and Lender expressly agree and authorize the City to pay to Lender the disputed amount. Upon the making of any such payment to Lender, the City's obligation with respect to the making of such payment will be deemed fully satisfied.

3. Subordination of Contract. The City and the Authority agree and acknowledge that the Note and the Loan Documents, and all advances made thereunder and accrued interest thereon are senior and prior to the Contract. Therefore, the City agrees to subordinate, and subordinates any and all liens, security interests and restrictive covenants, if any, included in the Contract to any and all liens, security interests and restrictive covenants, if any, securing repayment of the Note or created by the Loan Documents; provided, however, that the agreements in this Section 3 will not limit or otherwise affect the City's exercise of its remedies set forth in Section 5.2 of the Contract and nothing herein shall be construed as subordinating the requirements contained in the Contract that the Project be used in accordance with the provisions of Section 3.8 of the Contract. Without limiting the foregoing, the City agrees that, in the event of any insured loss and/or condemnation award on or for the Project, the City shall attorn solely to the act and decision of Lender which shall be made as set forth in the Loan Documents in collecting, settling for and paying any and all insurance/awards made to or associated with the Project, except to the extent that such amounts are applicable to payment of the City's administrative fees relating to the TIF District and the TIF Documents. Nothing herein shall be construed as subordinating the City's rights under the TIF Note or the Tax Abatement Note and the Contract to terminate or suspend payments under the TIF Note or the Tax Abatement Note.

4. Warranties. Developer covenants, warrants and agrees that:

A. Upon issuance of the TIF Note, it is the true and lawful, absolute owner of the TIF Note free and clear from any and all liens, security interest, encumbrances or other right, title or interest of any other person, firm or corporation;

B. It has the full right and title to assign and pledge the TIF Note and its interest in the TIF Documents; there are no outstanding claims, assignments or pledges thereof, other than as set forth hereinabove; there are no existing defaults under the TIF Documents on the part of the parties hereto; and it has fully complied with and is not in default with regard to the TIF Documents.

C. The TIF Documents shall not be amended, altered, cancelled, modified or surrendered without the prior written consent of Lender.

D. It is in material compliance with the terms, conditions and provisions of the Contract.

E. No default by either Developer, the City, or the Authority exists under the terms of the TIF Note or Contract.

F. The maturity date of the TIF Note is the earliest to occur of payment in full of the principal amount of the TIF Note, termination of the Contract or the TIF Note, termination of the TIF District, or February 1, 2035.

G. The Contract remains in full force and effect.

H. There are no defenses, setoffs or counterclaims against or with regard to the TIF Note or the Contract or the indebtedness evidenced thereby. The TIF Note is a valid and enforceable obligation of the City and Developer in accordance with its terms.

5. Performance under the TIF Documents. Developer shall (a) enforce or secure the performance of each and every material obligation of the City and the Authority in the TIF Documents; (b) not borrow against or further pledge or assign any payments due under the TIF Documents; and (c) not waive, excuse, condone or in any manner release or discharge the City or the Authority from their obligations under the TIF Documents.

6. Security Agreement. This Assignment constitutes a Security Agreement under the Uniform Commercial Code as adopted in the State of Minnesota (the "Code") and shall be governed by the Code.

7. Events of Default. An Event of Default shall occur hereunder upon any of the following:

A. a default occurs under any of the terms, conditions or provisions of the Note;
or

B. failure to comply with or perform any of the terms, conditions or covenants of this Assignment; or

C. a default shall occur under any of the Documents or any other instrument securing the Loan or the Note; or

D. any representation or warranty made by Developer herein, in the or in any other Document shall be false, breached or dishonored.

8. Remedies. Upon or at any time after an Event of Default that remains uncured after any required notice under the Loan Documents, Lender may declare all Indebtedness Secured Hereby immediately due and payable and provide notice to the City to thereafter make all payments on the TIF Note to Lender and apply all sums held by Lender including the sums received from the TIF Note to the Indebtedness Secured Hereby and may, at its option, enforce the payment thereof and exercise all of the rights of a holder of the TIF Documents. In addition, upon the occurrence of an Event of Default which remains uncured, Lender may without demand, advertisement or notice of any kind (except such notice as may be required under the Code) and all of which are, to the extent permitted by law, expressly waived by the Developer:

A. exercise any of the remedies available to a secured party under the Code;

B. proceed immediately to exercise each and all of the powers, rights, and privileges reserved or granted to Lender under the Documents; and/or

C. proceed to protect and enforce this Assignment by suits or proceedings or otherwise, and for the enforcement of any other legal or equity available to Lender.

In the event that any notice is required to be given under the Code such requirements for reasonable notice shall be satisfied by giving at least 10 days written notice prior to the event or thing giving rise to the requirement of notice.

9. Authorization to the City and the Authority. The City and the Authority are irrevocably authorized and directed by Developer to recognize the claims of Lender without investigating the reason for any action taken or the validity of or the amount of indebtedness owing to Lender or the existence of any Event of Default. Developer irrevocably directs and authorizes the City and the Authority at the written direction of the Lender to pay exclusively to Lender or its assigns from and after the date hereof, all sums due under the TIF Documents without the necessity and to the extent such sums are paid to Lender and Developer agree that the City and the Authority shall have no further liability to Developer for the same. The sole signature of Lender shall be sufficient for the exercise of any rights under this Assignment and the sole receipt by Lender of any sum paid by the City or the Authority shall be in discharge and release of that portion of any amount owed by the City or the Authority.

10. Additional Instruments. Developer, upon the request of Lender shall, at Developer's sole expense, execute and deliver all assignments, certificates, financing statements or other documents and give further assurances and do all other acts and things as Lender may request to perfect or to realize upon Lender's interest in the TIF Note and the TIF Documents or to protect, enforce, or otherwise effect Lender's rights and remedies. If Developer is unable or unwilling to execute any such other assignments, certificates, financing statements or other documents and to file financing statements or other public notices or recordings with the appropriate authorities, as and when reasonably requested by Lender, and Developer authorizes Lender to sign and deliver as its true and lawful agent and attorney-in-fact, coupled with an interest,

any such assignment, certificate, financing statement or other document and to make any such filing.

11. Amendment. The TIF Documents shall not be amended, altered, cancelled or modified in any way which materially affects the generation or receipt of the Tax Increment Financing without the prior written consent of Lender.

12. Release. Upon payment and performance in full of the Indebtedness Secured Hereby, this Assignment shall be released and shall thereafter become null and void and be of no further effect. Lender shall provide the City written notice of such release.

13. Successors and Assigns. This Assignment, and each and every covenant, agreement and provision hereof shall be binding upon Developer and its successors and assigns and shall inure to the benefit of Lender and its successors and assigns. Should Lender assign the Loan and the Loan Documents to any other person or entity, Lender shall cause such person or entity to be bound by the terms and provisions hereof.

14. Governing Law. This Assignment is intended to be governed by the laws of the State of Minnesota.

15. Validity and Severability Clause. The unenforceability or invalidity of any provision hereof shall not render any other provision or provisions herein contained unenforceable or invalid. Any provisions found to be unenforceable shall be severable from this Assignment.

16. Notices; Notice to City and Authority.

A. Notices which any party hereto may desire or may be required to give to any other party shall be made in the manner specified by the Loan Agreement.

B. Lender agrees to use commercially reasonable efforts to notify the City and the Authority of the occurrence of any Event of Default by Developer under the Loan Documents.

17. Attorneys' Fees. Developer agrees to pay all costs and expenses, including reasonable attorneys' fees, at any time paid or incurred by Lender, the City and the Authority in connection with the enforcement of the Lender's rights hereunder.

18. Counterparts. This Assignment may be executed in several counterparts, each of which is an original and all of which constitute but one and the same instrument.

19. Binding Effect. The Contract and the obligations of this Assignment shall run with the Land and burden the Project and remain in effect and be binding upon the Developer, its successors and assigns until terminated; provided, however, the Developer shall remain obligated under this Assignment, notwithstanding any assignment or transfer of the Project unless released in writing by the City and the Authority, notwithstanding any provision of this Assignment or the Contract to the contrary.

20. Exhibits. The Exhibits to the Assignment are as follows:

Exhibit A
Exhibit B

Legal Description
Allonge Endorsement to Note

IN WITNESS WHEREOF, the undersigned have caused this Assignment of Tax Increment Financing and Subordination Agreement to be effective as of the date first above written.

DEVELOPER:

SE 7TH AVE DISTRIBUTION LLC

By _____
Its CEO _____

STATE OF MINNESOTA)
)
COUNTY OF ITASCA)

The foregoing instrument was acknowledged before me this ____ day of _____, 2024, by _____, the CEO of SE 7th Ave Distribution LLC, a Minnesota limited liability company, on behalf of the company.

Notary Public

LENDER:

PARK STATE BANK

By _____
Its _____

State of Minnesota, County of Itasca

The foregoing instrument was acknowledged before me on _____, 2024, by Shannon Benolken, Vice President of Park State Bank, a Minnesota banking corporation, on behalf of the corporation.

Notary Public

CITY:

CITY OF GRAND RAPIDS, MINNESOTA

By _____
Its Mayor

By _____
Its City Administrator

STATE OF MINNESOTA)
)
COUNTY OF ITASCA)

The foregoing instrument was acknowledged before me this ____ day of _____, 2024, by Tasha Connelly and Tom Pagel, the Mayor and City Administrator, respectively, of the City of Grand Rapids, a Minnesota municipal corporation, on behalf of the City.

Notary Public

AUTHORITY:

GRAND RAPIDS ECONOMIC DEVELOPMENT
AUTHORITY

By _____
Its President

By _____
Its Executive Director

STATE OF MINNESOTA)
)
COUNTY OF ITASCA)

The foregoing instrument was acknowledged before me this ____ day of _____, 2024, by Sholom Blake and Rob Mattei, the President and Executive Director, respectively, of the Grand Rapids Economic Development Authority (the “Authority”), a body corporate and politic, on behalf of the Authority.

Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

Fryberger, Buchanan, Smith & Frederick, P.A. (CJV)
302 West Superior Street, Suite 700
Duluth, MN 55802

**EXHIBIT A
TO
ASSIGNMENT OF TAX INCREMENT FINANCING
AND SUBORDINATION AGREEMENT**

LEGAL DESCRIPTION

**EXHIBIT B
TO
ASSIGNMENT OF TAX INCREMENT FINANCING
AND SUBORDINATION AGREEMENT**

ALLONGE ENDORSEMENT TO TIF NOTE

FOR VALUE RECEIVED, SE 7TH AVE DISTRIBUTORS LLC, a Minnesota limited liability company, endorses, assigns and transfers to PARK STATE BANK, a Minnesota banking corporation, all of its right, title and interest in and to the following-described Note:

City of Grand Rapids, Minnesota Tax Increment Revenue Note dated _____, 202__, in the original principal amount not to exceed \$3,479,084 executed by the City of Grand Rapids, as maker, to SE 7th Ave Distributors LLC, a Minnesota limited liability company, as registered owner.

Dated: _____, 20__.

SE 7TH AVE DISTRIBUTORS LLC

By _____
Its _____

THIS ALLONGE IS TO BE AFFIXED TO THE NOTE DESCRIBED ABOVE