

**ASSIGNMENT AND ASSUMPTION OF SUBSTITUTE DEVELOPMENT  
AGREEMENT AND CONSENT AND ACKNOWLEDGMENT OF CITY**

This Assignment and Assumption Agreement (this "Agreement") is made and entered into as of \_\_\_\_\_, 2023 (the "Effective Date"), by and between Watertown Square, LLC, a Delaware limited liability company (the "Assignor") and EXCHANGERIGHT NET-LEASED PORTFOLIO 62 DST, a Delaware statutory trust (the "Assignee") and the City of Watertown, Wisconsin (the "City").

WHEREAS, the Assignor and the City entered into that certain Substitute Development Agreement dated July 7, 2009 ("Original Agreement", and that certain Amended Development Agreement dated November 9, 2022 ("Substitute Agreement"; the Original Substitute Agreement and the Substitute Agreement hereinafter collectively, the "Development Agreement") covering certain property owned by the Assignor and legally described on **Exhibit A** attached hereto ("Property"); and

WHEREAS, pursuant to the terms of the Development Agreement, the Property is entitled to certain public incentive programs, including a portion of revenues held by the City in a City controlled interest-bearing, segregated fund (the "Fund"); and

WHEREAS, the Assignor wishes to convey and sell to the Assignee, and the Assignee wishes to purchase the Property subject to the Development Agreement; and

WHEREAS, in connection with the conveyance of the Property, Assignor desires to assign to Assignee, and Assignee desires to assume, the Assignor's interest in the Development Agreement and the Fund.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, Assignor and Assignee hereby agree as follows:

1. All capitalized terms not otherwise defined in this Agreement shall bear the meaning given them in the Development Agreement.

2. Assignment and Assumption of Development Agreement. Assignor does hereby assign to Assignee all of Assignor's right, title and interest in and to the Development Agreement. Assignee hereby accepts the assignment of the Assignor's interest in the Development Agreement, and hereby assumes all of the obligations and liabilities of the Assignor thereunder accruing from and after the Closing (as defined in the Agreement), except for those obligations and liabilities expressly reserved by Assignor, and agrees, for the benefit of Assignor and the City, to perform, observe, keep and comply with all the terms, covenants, conditions, provisions and agreements contained therein on the part of Assignor to be performed, observed, kept and complied with from and after Closing. Notwithstanding the foregoing, Assignor shall indemnify Assignee against and hold Assignee harmless of and from, all liabilities, obligations, actions, suits, proceedings or claims, and all losses, costs and expenses, including but not limited to, reasonable attorneys' fees, arising as a result of any act, omission or obligation of Assignor arising or accruing with respect to the Development Agreement occurring or alleged to have occurred prior to Closing.



3. Assignment of the Fund. Assignor does hereby assign and transfer to Assignee, without recourse, all of Assignor's right, title and interest in and to any of the Fund. Assignor covenants to Assignee that Assignee shall receive all of Assignor's interest in the Fund, which is in the maximum amount of \$260,000.00, plus applicable interest, if any.

4. Confirmation by City. City consents to the foregoing assignment of the Development Agreement, consents to the sale of the Property to the Assignee and management of the Property by Assignee from and after Closing, and confirms it is made in full compliance with the provisions of Section 9.12 of the Original Agreement.

5. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of such counterparts shall constitute one Agreement. To facilitate execution of this Agreement, the parties may execute and exchange by email in PDF format counterparts of the signature pages, which shall be deemed an original.

[signature page follows]

S-1



*(signature page to Assignment)*

CITY:

CITY OF WATERTOWN, WISCONSIN

By: \_\_\_\_\_  
Emily McFarland  
Its: Mayor

By: \_\_\_\_\_  
Megan Dunneisen  
Its: City Clerk

STATE OF WISCONSIN     )  
  ) ss  
COUNTY OF JEFFERSON    )

The foregoing instrument was acknowledged before me on \_\_\_\_\_,  
2023, by Emily McFarland and Megan Dunneisen, the Mayor and City Clerk of the City of  
Watertown, Wisconsin.

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My Commission expires: \_\_\_\_\_

THIS INSTRUMENT WAS DRAFTED BY:  
Christoffel & Elliott, P.A.  
1111 UBS Plaza  
444 Cedar Street  
St. Paul, MN 55101

## **Exhibit A**

### **Legal Description**

That certain real property lying in the County of Jefferson, State of Wisconsin, legally described as follows:

**Parcel 1:**

Lot 1 of Certified Survey Map No. 5225 recorded on August 7, 2009, in Volume 28 of Certified Surveys on Pages 126-131 as Document No. 1263956, being all of Lots 1 through 18, part of Lots 37 through 46, vacated Montgomery Street, vacated Robert Street and vacated Crangle Avenue and vacated alley, all of Crangle's Addition, Outlot 2, Twelfth Ward – formerly Third Ward, and part of Certified Survey Map No. 1167 recorded in Volume 4 on Page 38, all in the NW ¼ of the SW ¼ of Section 4, Township 8 North, Range 15 East, City of Watertown, Jefferson County, Wisconsin.

EXCEPTING THEREFROM land conveyed to Fatmir Suloja in Quit Claim Deed recorded on 07/07/10 as Document No. 1278701, described as follows: Commencing at the Southwest corner of Lot 2 of Certified Survey Map No. 5225; thence North 84°17'20" West, along said Northerly right-of-way of Bernard Street and the Southerly line of said Lot 1, Certified Survey Map No. 5225, 66.97 feet to the point of beginning of the hereinafter described lands: thence continuing North 84°17'20" West, along said right-of-way, 12.03 feet; thence North 12°23'00" East, along the Westerly line of said Lot 1, 169.90 feet; thence South 08°19'42" West, 168.93 feet to the point of beginning.

**Parcel 2:**

TOGETHER WITH AND SUBJECT TO Rights and Easements as set forth on Declaration of Restrictions and Easements recorded on 7/21/09 as Document No. 1262986.

Tax Key No. 291-0815-0432-012

Address: 600 S. Church St., Watertown, WI 53094