THE CITY OF
Fargo
FAR MORE

City Administration
225 4th Street North
Fargo, ND 58102

MEMORANDUM

TO: **Fargo City Commission**

FROM: **Jim Gilmour, Director of Strategic Planning and Research** JG

DATE: **May 29, 2026**

SUBJECT: **Lennon Lofts – Amendment of Property Tax Exemption**

Last year, the City Commission approved property tax incentives for a redevelopment project on 6th Avenue North. One of those exemptions was a 5-year Tax Increment Financing exemption.

Construction costs were much higher than expected, and the developer did not proceed with the project.

Kevin Bartram is the new general partner and is going to proceed with the project. A new development agreement is needed to provide additional time to complete the project and list Kevin Bartram as the general partner. All other terms of the agreement are that same as what was approved last year. The agreement is attached for your consideration.

Recommended Motion

Approve the agreement to provide a 5-year Tax Increment Financing exemption for the Lennon Lofts project.

DEVELOPER AGREEMENT

By and Between

CITY OF FARGO, NORTH DAKOTA

a North Dakota Municipal Corporation

and

Lennon Lofts, LLC

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(Included for Convenience of Reference Only)

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DEVELOPER AGREEMENT
[TIF Exemption Project]
City of Fargo - Lennon Lofts, LLC

THIS AGREEMENT, dated as of the __ day of _______, 20__ ("Effective Date"), is by and between the City of Fargo, a North Dakota municipal corporation, and Lennon Lofts, LLC, a North Dakota limited liability company; and provides as follows:

ARTICLE I

Definitions

Section 1.1. **Definitions**. As used in this Agreement, the following terms have the following respective meanings:

"Agreement" means this Developer Agreement, as the same may be amended.

"Certificate of Completion" means a certification in the form of the certificate attached hereto as Exhibit B and hereby made a part of this Agreement, provided to the Developer pursuant to Section 3.3 of this Agreement.

"City" means the City of Fargo, a North Dakota municipal corporation.

"Condemnation Award" means the amount remaining from an award to the Developer for the acquisition of title to and possession of the Development Property, or any material part thereof, after deducting all expenses (including fees and disbursements of counsel) incurred in the collection of such award.

"County" means the County of Cass, North Dakota.

"Capitalized Interest" means the portion of the principal amount of the TIF Eligible Expenses that represents the sum of the products of the various eligible expenses initially borne by Developer and the City that will be multiplied by an interest rate of Five and no/100ths Percent (5.00%) per annum, simple interest, multiplied by the number of years, or fraction thereof, between the later of the Effective Date or the date such expense was incurred and the date of the Certificate of Completion or, if earlier, February 1st of an earlier first (1st) Tax Year if one is specified as provided in Section 3.3(i) (regarding the Designation of Specified First Tax Year).

"Developer" means Lennon Lofts, LLC, a North Dakota limited liability company, or permitted successors or assigns.

"Development Costs" means those costs incurred and to be incurred by or on behalf of the Developer in acquiring the Development Property, in completing the Minimum Improvements and in financing those undertakings (including all interest charges on borrowed funds.

"Development Plan" means the development or renewal plan for the Development Property approved by the City on March 17, 2025, including all exhibits thereto, as the same may be amended from time to time.

"Development Property" means the real property described in Exhibit A to this Agreement.

"Effective Date" means the date and year first above written or, if said date and year is not completed, the Effective Date means the date and year that this Agreement is last signed by one of the Parties.

"Environmental Laws" means the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. sec. 96.01 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. sec. 69.01 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. sec. 1802 et seq., the Toxic Substances Control Act, 15 U.S.C. sec. 2601 et seq., the Federal Water Pollution Control Act, 33 U.S.C. sec. 1251 et seq., the Clean Water Act, 33 U.S.C. sec. 1321 et seq., the Clean Air Act, 42 U.S.C. sec. 7401 et seq., , and any other federal, state, county, municipal, local or other statute, law, ordinance or regulation which may relate to or deal with human health or the environment, all as may be from time to time amended.

"Event of Default" means an event of default defined in Section 9.1 of this Agreement.

"Hazardous Substances" means asbestos, ureaformaldehyde, polychlorinated biphenyls ("PCBs"), nuclear fuel or material, chemical waste, radioactive material, explosives, known carcinogens, petroleum products and by-products and other dangerous, toxic or hazardous pollutants, contaminants, chemicals, materials or substances listed or identified in, or regulated by, any Environmental Law.

"Minimum Improvements" means the improvements or other project work that is contemplated by and in accordance with this Agreement and described in Section 4.1.

"Mortgage" means any mortgage or security agreement in which the Developer has granted a Mortgage or other security interest in the Development Property, or any portion or parcel thereof, or any improvements constructed thereon, and which is a permitted encumbrance pursuant to the provisions of Article VII; the term "Mortgage" shall specifically include, but shall not be limited to, leases or sale-leaseback arrangements which provide financing for the acquisition of the Development Property, or the undertaking of the Minimum Improvements.

"ND TIF Exemption Law" means the Urban Renewal Law pertaining to the use of a property tax exemption including, in particular, N.D.C.C. §40-58-20(11).

"Party" means either the Developer or City.

"Parties" means the Developer and the City.

"Project" means the project of Minimum Improvements in and adjacent to the TIF District contemplated in the Development Plan.

"Tax Year" is one of a maximum of five (5) successive calendar years pursuant to this Agreement, with the first Tax Year being the year as provided in Article III of this Agreement and with the subsequent years being the four (4) subsequent calendar years. The fifteenth (5th) Tax Year, therefore, is the fourth (4th) calendar year following the first said year.

"TIF Eligible Expenses" are Development Costs incurred, City Administrative Costs; and interest accumulated that are eligible to be paid or reimbursed or, as an alternative, may be offset by a property tax exemption pursuant to Urban Renewal Law.

"Urban Renewal Law" means the North Dakota Urban Renewal Law, that is, North Dakota Century Code, Chapter 40-58, as the same may be amended.

"TIF District" means the area identified as the "District" under the City's Development Plan approved by the Board of City Commissioners of the City of Fargo on March 17, 2025, as the same may be amended.

"Unavoidable Delays" means any delay outside the control of the Party claiming its occurrence which is the direct result of strikes; other labor troubles; unusually severe or prolonged bad weather; unavailability of materials; Acts of God; fire or other casualty to the Minimum Improvements; remediation of contaminants, pollutants or hazardous substances; unforeseen soil conditions, hazardous materials or concealed conditions; litigation (including without limitation bankruptcy proceedings) and which directly results in delays; or acts of any federal, state or local governmental unit which directly result in delays.

ARTICLE II

Representations, Warranties and Covenants

Section 2.1. **Representations, Warranties and Covenants by City**. The City represents and warrants that:

(a) The City has received the approval of its Board of City Commissioners to enter into and perform its obligations under this Agreement.

(b) The City herein makes no representation or warranty, either express or implied, as to the Development Property or its condition or the soil conditions thereon or that the Development Property shall be suitable for the Developer's purposes or needs.

Section 2.2. **Representations, Warranties and Covenants by Developer**. The Developer represents and warrants that:

(a) The Developer is a limited liability company duly organized and in good standing under the laws of the State of North Dakota, is not in violation of any provisions of its operating agreement or articles of organization or the laws of the State of North Dakota and is authorized to enter into and perform its obligations under this Agreement.

(b) The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby and the fulfillment of or compliance with the terms and conditions of this Agreement are not prevented or limited by and will not conflict with or result in a breach of any provision or requirement applicable to the Developer or of any provision of any evidence of indebtedness, agreement or instrument of whatever nature to which the Developer is now a party or by which it is bound.

(c) The Developer, with respect to its undertaking of the Minimum Improvements upon the Development Property, will cause the same to occur in accordance in all material respects with this Agreement and all local, state and federal laws and regulations (including without limitation environmental, zoning, building code and public health laws and regulations and including any relocation requirements under local, state or federal law).

(d) The Developer has received no notice or communication from any local, state or federal official or body that any activities of the Developer respecting the Development Property contemplated by this Agreement, including the undertaking of the Minimum Improvements on the Development Property, may be or will be in violation of any law or regulation.

(e) The Developer will use its reasonable efforts to obtain, in a timely manner, all required permits, licenses and approvals, and to meet, in a timely manner, all requirements of all applicable local, state and federal laws and regulations which must be obtained or met before the Minimum Improvements may be lawfully completed.

(f) To the best knowledge and belief of the Developer, the undertaking of the Minimum Improvements on the Development Property at this this point in time, said point in time occurring prior to Developer being ready to fully develop the Development Property, is conditioned on the assistance and benefit to the Developer provided for in this Agreement. The Developer would not undertake the Project at this point in time without the financing provided by the City pursuant to this Agreement.

(g) The Developer represents and covenants that throughout the term of this Agreement that the tax increment assistance provided under this Agreement will be used by the Developer solely to finance those costs which are eligible costs for reimbursement of a project as defined in the Urban Renewal Law. This provision does not apply to those costs that are initially borne by the City and reimbursed to the City by Developer as provided in Section 3.3 of this Agreement.

(h) The Developer will cooperate fully with the City with respect to any litigation commenced by third parties or by the City or both against third parties with respect to the Project.

(i) The Developer will cooperate fully with the City in resolution of any traffic, parking, trash removal or public safety problems which may arise in connection with the undertaking of the Project.

(j) The Developer has not received any notice from any local, state or federal official that the activities of the Developer with respect to the Project may or will be in violation of any Environmental Law or regulation, and the Developer, without any duty of inquiry, is not aware of any state or federal claim filed or planned to be filed by any party relating to any violation of any Environmental Law.

(k) The Developer understands that the City will or may subsidize or encourage the development of other properties in the City, including properties that compete with the Development Property and Developer's intended improvements, and that such subsidies or encouragements may be more favorable than the terms of this Agreement, and that the City has not represented that development of the Development Property will be favored over the development of other properties.

(l) The Developer will spend enough in undertaking of the Project, when combined with the value of the Development Property, to generate an estimated minimum market value of $2,400,000.

(m) The Developer expects that, barring Unavoidable Delays, the Project will be substantially completed by December 31, 2028.

(n) As of the Effective Date, the Developer shall have obtained an opinion from its independent legal counsel that this agreement is in accordance with North Dakota state law, including the provisions of N.D.C.C. Chapter 40-58, and is a binding and enforceable agreement.

(o) As of the Effective Date, the Developer has marketable record title to Developer's Property free and clear of any encumbrances or lienholders except as provided in Article VII of this Agreement or, to the extent Developer does not have marketable record title, Developer has obtained from the person, firm or entity having such title an agreement [hereinafter referred to as an “Agency Agreement”] authorizing Developer to develop Developer’s Property as contemplated by this agreement and authorizing Developer to enter into this Agreement, said Agency Agreement to be in a form approved by the City.

ARTICLE III

Completion of Minimum Improvements; Future Requests for Public Assistance; TIF Tax Exemption to Offset Certain Costs

Section 3.1. **Completion of Minimum Improvements by Developer**. The Developer agrees that it will cause the Minimum Improvements on the Development Property to be completed. Subject to Unavoidable Delays, as addressed in Section 4.2, below, the Developer shall have substantially completed the Minimum Improvements for the Project by December 31, 2028. The Developer's use of the Development Property shall be subject to (a) all of the conditions, covenants, restrictions and limitations imposed by this Agreement and also to (b) building and zoning laws and ordinances and all other local, state and federal laws and regulations.

Section 3.2. **Future Requests for Public Assistance.** Developer may apply for additional public assistance for the Project development in the form of Renaissance Zone exemptions, with applications for such additional public assistance to be considered by the City according to the approval process and the decision-making criteria for those programs in effect at that time; provided further, that in order for the Development Property to be eligible for such additional public assistance, the application therefor must be made and submitted to the City prior to the Effective Date.

Section 3.3. **Whole or Partial Tax Exemption Granted by City to Offset Certain Eligible Costs**. The Developer has and/or will incur and pay significant Development Costs a portion of which costs are expected to qualify as TIF Eligible Expenses. The total sum of TIF Eligible Expenses which, including Capitalized Interest thereon, will be used to determine the amount and term of years of a TIF Tax Exemption to be granted for the Developer Property. In this manner, the City hereby agrees to permit the offset of a portion of such costs up to $365,000 utilizing the tax exemption authorized by the N.D. TIF Exemption Law. The TIF Eligible Expenses that are authorized by this Agreement are comprised of six components:

> First Component--Cost of Acquisition or Market Value: The sum of $220,000 said amount constituting the cost of acquisition or the market value of the buildings existing on the Development Property as of the Effective Date as determined by the City Assessor and agreed-upon by Developer;
>
> Second Component--Demolition and Site Cleaning, Soil Correction and Remediation of Grading: The sum of $95,000, which is the estimated cost, determined by the Developer and approved by the City, to demolish the said existing buildings and other improvements on the Development Property;
>
> Third Component-- Removal of substandard soils, rubble and site clearing; and, asbestos remediation; filling and grading of the site: $30,000

Fourth Component--Advance Administrative TIF Fees: As an advance fee for the administration of this tax increment program project, the sum of $20,000 to be borne by the Developer and paid to the City.

Fifth Component—Capitalized Interest: Certain interest on TIF Eligible Expenses as described and calculated herein to become Capitalized Interest.

The advance administrative TIF fee, set forth above, will be paid by Developer, and will be due and payable by Developer to the City on or before the Effective Date.

If there is a category of expense that is deemed ineligible under the Urban Renewal Law, but there are additional eligible expenses not otherwise reimbursed under this Agreement, then such otherwise non-reimbursed, but eligible, expenses may be recognized as an eligible expense under this Agreement.

The amount of TIF Eligible Expenses to be recognized as the basis for the City's grant of the TIF Tax Exemption will be calculated along with the resulting term of years of tax exemption to be granted and the portion or percentage of full tax exemption applied throughout said term of years shall be determined as follows:

(a) Subject to the conditions of this Agreement, the City intends to provide public assistance to Developer for the project by the grant of total or partial tax exemption as set forth herein, as a means by which the Developer may recoup TIF Eligible Expenses. N.D.C.C. §40-58-20 subs. 11. With respect to the award or grant by a City of a tax exemption, as set forth in this Agreement, the calculation of a full or partial tax exemption value is determined by and limited to the calculated "tax increment" as defined in Urban Renewal Law. Id. Accordingly, at such time as the parties have entered into this Agreement, the Development Plan and TIF District shall have previously been approved by the City thereby establishing the authority of the City to request the Cass County Auditor and Treasurer to compute and certify tax increments resulting from the TIF District and the County Auditor will compute and certify the original taxable value of each lot and parcel of real estate in the TIF District, "as last assesses and equalized" before the date of the request, thus establishing the "base" from which tax increment may then be calculated. N.D.C.C. §40-58-20 subs. 1, 2. Thereafter, in accordance with the statute, in each subsequent year the County Auditor undertakes a process to extend the aggregate property tax mill rate against both the "base" value and the said calculated tax increment, to offset tax increment proceeds by any lost values that occur and then to remit the net tax increment to the City having established the Development Plan and TIF District. Id. at subs. 3-7. Therefore, the total or partial tax exemption described in this Agreement is limited to, and based upon, said tax increment. Id. at subs. 11.

(b) When the Developer has substantially completed the Minimum Improvements in a timely manner, the Developer will be responsible for submitting to the City a compilation of Development Costs which Developer will represent as being TIF Eligible Expenses fitting within the several components identified in this Section, above, said costs to be categorized according to said individual components along with receipts and other evidence of such costs. Demonstration of said costs shall be made pursuant to one or more certifications in form and substance satisfactory to the City that all or a portion of the costs of the Minimum Improvements have been incurred, together with evidence satisfactory to the City of the nature and amount of the costs of the Minimum Improvements and of the costs incurred by the Developer. Each certification shall demonstrate the specific purpose and amount of the costs of the Minimum Improvements and their compliance with the representation set forth at Section 2.2(g). The City's determination of a cost's compliance with the representation set forth at Section 2.2(g) shall, if based on the advice of its city attorney after consultation with the Developer or its counsel, be conclusive.

(c) TIF Tax Exemption—Direction to County, Term of Years, Portion of Exemption. If the conditions set forth in this Section are met, the Certificate of Completion shall be ready to be issued and delivered by the City in a form substantially similar to Exhibit B when the Developer has thus demonstrated in writing to the reasonable satisfaction of the City that the Developer has incurred and paid eligible expenses in the amounts and categories as provided in this Section, such costs being expended in furtherance of construction of the Minimum Improvements to be borne by Developer, and which expenses will not be otherwise reimbursed or paid. Further, once the Certificate of Completion has been issued and delivered by the City, the City, upon written request by the Developer, will issue written communication to the County Finance Office requesting and directing that a tax increment financing exemption authorized by N.D.C.C. Section 40-58-20(11) is to be applied against the Development Property over a term of five (5) years, with the first year of said exemption to be the First Tax Year, and with said exemption to continue thereafter from year-to-year for another four (4) Tax Years after which the TIF Tax Exemption will therefore expire. The said TIF Tax Exemption to be applied for the term of years and percentage as follows:

(1) Tax Years One (1) through Five (5)-- 100% tax exemption.

To the extent the sum of the Developer's submitted TIF Eligible Expenses that have been approved and verified by the City totals not less than Three Hundred Thousand and no/100ths Dollars ($300,000), then the schedule of tax exemption applicable over the term of years shall be modified to the schedule described in subsection (j), below.

(d) The Certificate of Completion shall be delivered only if no Event of Default shall have occurred and be at the time continuing.

(e) If the City shall refuse or fail to provide a Certificate of Completion for the Project in accordance with the provisions of this Section 3.3, the City shall, within thirty (30) days after written request by the Developer, provide the Developer with a written statement indicating in adequate detail in what respects the Developer has failed to complete the Project in accordance with the provisions of this Agreement, or is otherwise in default under the terms of this Agreement, and what measures or acts it will be necessary, in the opinion of the City, for the Developer to take or perform in order to obtain such Certificate of Completion.

(f) Subject to an approved adjustment in accordance with subsection (i) of this Section 3.3, the tax exemption will commence after the issuance of the Certificate of Completion, the first Tax Year of the TIF Tax Exemption being the calendar year within which the next February 1st that is subsequent to the date of issuance of the Certificate of Completion. By way of example, therefore, if the Certificate of Completion is issued on December 15th of 2028, the first Tax Year will be the year 2027, the property taxes for which become payable in 2028, said year 2027 being the calendar year within which "the next February 1st falls that is subsequent to said December 15, 2028. In the same manner, if the Certificate of Completion were, for example, issued on January 15, 2027, the first Tax Year would still be the year 2027 because February 1, 2027, is subsequent to the January 15, 2027, date of issuance of the Certificate of Completion. As a result, the valuation of the Development Property as of said February 1st, as determined by the City Assessor, shall therefore be used to quantify the value of the TIF Tax Exemption, or portion thereof, being applied as provided in this Agreement.

(g) Developer may apply for additional public assistance in the form of Renaissance Zone assistance. Such application will be considered by the City in accordance with the criteria for such program. If Developer succeeds with such application, then the TIF Tax Exemption can be coordinated or scheduled (i.e. by appropriately identifying the "first (1st) Tax Year") to follow such other public assistance program. For example, if the project also qualifies for a Renaissance Zone exemption for five years, the first Tax Year for the application of the TIF Tax Exemption may be scheduled to follow the five-year exemption so the two programs complement each other.

(h) The Developer specifically recognizes and agrees that if the Developer obtains other public assistance in the form of a five-year Renaissance Exemption from property taxes for the Project, such five-year exemption will not commence until sometime after completion of construction of the Project and, therefore the first Tax Year of a TIF Tax Exemption will not commence until after the expiration of the Renaissance Zone tax exemption and, therefore, it may be necessary or appropriate for the City Assessor to refrain from making any written request to the County Finance Office requesting and directing that the TIF Tax Exemption to be applied for a particular Tax Year until the Renaissance Zone property tax exemption is nearing its conclusion. Therefore, Developer will be responsible for submitting a timely written request to the City Assessor requesting the Assessor to remit the written correspondence to the County Finance Office requesting and directing that said TIF Tax Exemption, having been authorized by N.D.C.C. Section 40-58-20(11), is to be applied against the Development Property as is referenced in subsection (c) of this Section 3.3, said Developer request to the City Assessor to include the name of the original Developer of this Agreement, the effective date of this Agreement, the legal description of the Development Property, and enclosing a complete copy of this Agreement so that the City Assessor has sufficient information at hand to make the Assessor's written request to the County Finance Office.

(i) Designation of Specified First Tax Year. The Developer shall be authorized to request the City to approve the issuance of the TIF Tax Exemption prior to substantial completion of the Minimum Improvements, to therefore be applicable to a specified first Tax Year instead of the first Tax Year as is otherwise determined under this Agreement, by the following method:

> (1) The Developer submits a written request to the City at least 60 days prior to February 1st of the year that the Developer proposes to be the first Tax Year;
>
> (2) That although the Project has not reached the point of substantial completion, Developer represents to the City that the valuation of the

Development Property, including the construction of the Minimum Improvements underway, is at least 80% of the expected value of the Minimum Improvements as identified in Section 4.1 of this Agreement, said representation being subject to review and confirmation by the City;

(3) In the same manner as provided in subsection (b) of this Section 3.3, Developer will be responsible for submitting to the City a compilation of Development Costs which Developer will represent as being TIF Eligible Expenses fitting within the several components identified in this Section, above, said costs to be categorized according to said individual components along with receipts and other evidence of such costs. The Developer, in making said request prior to substantial completion, is thereby waiving the right to request approval of any subsequent expenses that might otherwise be TIF Eligible Expenses.

(4) In the same manner as provided above, in subsections (b) and (c), hereof, the City may, and is authorized to, approve said expenses and issue the request to the County Finance Office to commence the TIF Tax Exemption for the first Tax Year prior to substantial completion in the same manner as is provided above. The mayor is authorized to approve the same. Such approval shall not be unreasonably withheld.

(j) Shortfall of TIF Eligible Expenses—Adjustment of Annual Exemption. As referred to in subsection (c), hereof, in such event that the City-approved and verified TIF Eligible Expenses total a sum of less than $300,000 then the schedule of the TIF Tax exemption applied to the Development Property shall be modified to a schedule of percentages that is commensurate with the reduced level of TIF Eligible Expenses as determined by the City after consultation with the Developer.

(k) For purposes of this Agreement all project values shall be as valued by the City Assessor.

(l) The public assistance being provided to Developer via this Agreement being in the form of a TIF Tax Exemption allows the Developer to avoid incurring a portion of property taxes that would otherwise be applicable; however, nothing in this Agreement should be interpreted or construed to provide any guaranty or assurance that the schedule of TIF Tax Exemption to be applied to the Development Property will result in the Developer being able to completely recoup the full extent of the approved and verified TIF Eligible Expenses including Capitalized Interest thereon.

Section 3.4. **Release and Indemnification Covenants**.

(a) The Developer releases the City and the governing body members, officers, agents, including independent contractors, consultants and legal counsel, servants and employees thereof (hereinafter, for purposes of this Section, collectively the "Indemnified Parties") from, covenants and agrees that the Indemnified Parties shall not be liable for, and agrees to indemnify and hold harmless the Indemnified Parties against, any loss or damage to property or any injury to or death of any person for which a claim is made prior to the issuance of a Certificate of Completion and occurring at, about or in connection with the Development Property and/or Minimum Improvements, or the Developer's undertaking and completion thereof, or resulting from any defect therein, except to the extent such loss, damage or death is caused by the negligence or other wrongful acts of the Indemnified Parties. This subsection (a) shall only apply to claims made prior to the issuance of the Certificate of Completion for the Project.

(b) Except for any willful misrepresentation or any willful or wanton misconduct or negligence of the Indemnified Parties, the Developer agrees to protect and defend the Indemnified Parties, now and forever, and further agrees to hold the aforesaid harmless from any claim, demand, suit, action or other proceeding whatsoever by any person or entity whatsoever brought prior to the issuance of a Certificate of Completion and arising or purportedly arising from this Agreement, or the transactions contemplated hereby or the acquisition, construction, installation, ownership, and operation of the Minimum Improvements; provided that this indemnification shall not apply to the warranties made or obligations undertaken by the City in this Agreement.

(c) The Indemnified Parties shall not be liable for any damage or injury to the persons or property of the Developer or its officers, agents, servants or employees or any other person who may be about the Project due to any act of negligence of any person, other than any act of negligence on the part of any such indemnified party or its officers, agents, servants or employees.

(d) All covenants, stipulations, promises, agreements and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the City and not of any governing body member, officer, agent, servant or employee of the City.

(e) This Agreement shall not create nor be construed to create any partnership, joint venture, agency, or employment relationship between the Parties.

Section 3.5. **Requests for Extensions.**

Developer is authorized to make a written request for the extension of any of the Developer's deadlines for commencement or completion of work in advance of the deadline in question. Such request must be delivered to the City at least thirty (30) days in advance of the deadline unless the reason for the extension arose subsequent to such 30-day advance notice period. Requests for extension will be submitted to the board of city commissions for its consideration and the City Commission's decision on such request or requests shall be final.

Section 3.6. **Use of Tax Increment by City.**

Although the TIF tax exemption as referenced in Section 3.3(a) of this Agreement, that is extended to the Development Property will thereby preclude the City from receiving a considerable portion of tax increments; however, it is expected that the City will still receive the remittance of tax increment from the County Auditor over and above the portion comprising the tax exemption. The City may use such tax increment proceeds for any purpose permitted by law.

ARTICLE IV

Completion Of Minimum Improvements

Section 4.1. **Completion of Minimum Improvements**. The Minimum Improvements shall consist of the demolition of two buildings existing on the Development Property; asbestos remediation and the removal of substandard soils, rubble and other site clearing; right-of-way improvements; utility relocation and connections and related street repairs, and the construction of a multi-level apartment building with a minimum of twenty-two (22) residential apartment dwelling units with enclosed (indoor) parking on the ground level. The Minimum Improvements constitute the minimum extent of the project work required to be provided hereunder by the Developer.

Section 4.2. **Commencement and Completion of Minimum Improvements**. Subject to Unavoidable Delays, by October 1, 2026, the Developer shall have commenced the demolition work of the described Minimum Improvements, and by December 31, 2028, the Developer shall have substantially completed the Minimum Improvements as stated in Section 3.1.

Time lost as a result of Unavoidable Delays shall be added to extend the completion date above beyond such date, a number of days equal to the number of days lost as a result of Unavoidable Delays.

The Developer agrees for itself, and every successor in interest to the Development Property, or any part thereof, that the Developer, and such successors and assigns, shall cause to be promptly begun and diligently prosecuted to completion of the Minimum Improvements thereon, and that such work shall in any event be commenced and completed within the period specified in this Section 4.2. It is intended and agreed that such agreements and covenants shall be covenants running with the land and that they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Agreement, be, to the fullest extent permitted at law and in equity, binding for the benefit of the City and enforceable by the City against the Developer and its successors and assigns. Until the Minimum Improvements has been completed, the Developer shall make reports to the City, in such detail and at such times as may reasonably be requested by the City, as to the actual progress of the Developer with respect to the Minimum Improvements.

The Developer agrees that it shall permit designated representatives of the City to enter upon the Development Property during the work on the Minimum Improvements to inspect such work, after reasonable notice to Developer and at City's risk, to determine compliance with this agreement. This subsection is not intended to apply to the customary building or code inspections by the City, which inspections are otherwise required and permitted by law.

Section 4.3. **Reserved**.

Section 4.4. **Certificate of Completion-Project**. The City's obligation to issue and deliver the Certificate of Completion for the Project shall require the Developer to have substantially completed construction of Project with a project value that brings the assessed value of the

Development Property to a minimum of $2,400,000, as determined by the City Assessor; and to have substantial completion of construction occurring no later than the deadline for such completion as described in Section 3.1. Said Certificate of Completion shall be issued under the conditions and under the authority described in Article III, including Section 3.3 thereof. Such Certificate of Completion shall be a conclusive determination that the Developer has fulfilled the obligations of the Developer, and its successors and assigns, to commence and substantially complete the Project.

ARTICLE V

Insurance And Condemnation

Section 5.1. **Insurance.**

(a) The Developer will provide and maintain or cause to be maintained at all times during the process of constructing the Minimum Improvements and, from time to time at the request of the City, furnish the City with proof of payment of premiums on:

(i) Reserved.

(ii) Comprehensive general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations and contractual liability insurance) together with an Owner's Contractor's Policy with limits against bodily injury and property damage of not less than $500,000 for each occurrence (to accomplish the above-required limits, an umbrella excess liability policy may be used); and

(iii) Worker's compensation insurance, with statutory coverage.

(b) All insurance required in this Article V shall be taken out and maintained in responsible insurance companies selected by the Developer which are authorized under the laws of the State to assume the risks covered thereby. The Developer will deposit upon the request of the City, but no more often than annually, with the City copies of policies evidencing all such insurance, or a certificate or certificates or binders of the respective insurers stating that such insurance is in force and effect. In lieu of separate policies, the Developer may maintain a single policy, or blanket or umbrella policies, or a combination thereof, which provide the total coverage required herein, in which event the Developer shall deposit with the City a certificate or certificates of the respective insurers as to the amount of coverage in force upon the Minimum Improvements as to Phase One Development and as to, if any, the Project.

Section 5.2. **Condemnation**. In the event that title to and possession of the Minimum Improvements, or any material part thereof, but solely as to the Development Property which the Developer retains ownership of, shall be taken in condemnation or by the exercise of the power of eminent domain by any governmental body or other person (except the City) prior to the Maturity Date the Developer shall, with reasonable promptness after such taking, notify the City as to the nature and extent of such taking.

ARTICLE VI

Reserved.

ARTICLE VII

Mortgage Financing

Section 7.1. **Limitation Upon Encumbrance of Property**. Prior to the completion of the Minimum Improvements, as certified by the City, neither the Developer nor any successor in interest to the Development Property or any part thereof shall engage in any financing or any other transaction creating any mortgage or other encumbrance or lien upon the Development Property, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attach to the Development Property, other than:

(a) except for the purpose of securing financing for the Development Property or Minimum Improvements, or all of them; and

(b) only if the City is given notice of such Mortgage in accordance with Sections 7.1 and 7.2.

Section 7.2. **Notice of Mortgage**. The Developer shall provide the City with a copy of the Mortgage and related note prior to the completion of the Minimum Improvements thereon.

Section 7.3. **Notice of Default; Copy to Mortgagee**. Whenever the City shall deliver any notice or demand to the Developer with respect to any breach or default by the Developer in its obligations or covenants under this Agreement for which the remedies of Sections 9.2 and 9.3 are available, the City shall at the same time forward a copy of such notice or demand to each holder of any Mortgage at the last address of such holder shown in the records of the City.

Section 7.4. **Mortgagee's Option to Cure Defaults**. After any breach or default referred to in Section 7.3, each such holder shall (insofar as the rights of the City are concerned) have the right, at its option, to cure or remedy such breach or default (or such breach or default to the extent that it relates to the part of the Development Property covered by its mortgage) and to add the cost thereof to the Mortgage debt and the lien of its Mortgage; provided, however, that if the breach or default is with respect to construction covered by the Mortgage, nothing contained in this Section or any other Section of this Agreement shall be deemed to require such holder, either before or after foreclosure or action in lieu thereof, to undertake or continue the construction or completion of the work covered by the Mortgage (beyond the extent necessary to conserve or protect the work or construction already made), provided that any such holder shall not devote the Development Property or portion thereof to a use inconsistent with the Development Plan or this Agreement without the agreement of the City.

Section 7.5. **City's Option to Cure Default on Mortgage**. In the event that the Developer is in default under any Mortgage authorized pursuant to this Article VII, whether or not the holder of the Mortgage has given the Developer notice of such default, the Developer shall notify the City in writing of:

(a) the fact of the default;

(b) the elements of the default; and

(c) the actions required to cure the default.

If the default is an "Event of Default" under such Mortgage, which shall entitle such holder thereof to foreclose upon the Development Property covered by the Mortgage or any portion thereof, the Developer shall afford the City an opportunity to cure the "Event of Default" to the extent consistent with the Mortgage or permitted by the holder of the Mortgage upon request of the Developer, which request the Developer hereby covenants to make, within the time for cure provided by the Mortgage or within such longer reasonable time period as the holder shall deem appropriate. The City shall have no obligation to cure any such default.

ARTICLE VIII

Prohibitions Against Assignment And Transfer; Indemnification

Section 8.1. **Status of Developer; Transfer of Substantially All Assets**. As security for the obligations of the Developer under this Agreement, the Developer represents and agrees that prior to the earlier of the Maturity Date, the Developer will maintain its existence as a North Dakota limited liability company and maintain its authority to conduct business in the State of North Dakota and shall not consolidate with or merge into another entity and shall not dissolve or otherwise dispose of all or substantially all of its assets; provided that the Developer may consolidate with or merge into another entity or sell or otherwise transfer to a partnership, corporation, limited liability company or other entity organized under the laws of one of the United States, or an individual, all or substantially all of its assets as an entirety and thereafter dissolve and be discharged from liability hereunder if (i) the transferee partnership, corporation, other entity or individual assumes in writing all of the obligations of the Developer under this Agreement; and (ii) the City receives such new security from the successor Developer to assure completion of the Project and the fulfillment of the remaining obligations of this Agreement as the City deems necessary or desirable.

Section 8.2. **Prohibition Against Transfer of Property and Assignment of Agreement**. The Developer represents and agrees that prior to the issuance of the Certificate of Completion:

(a) Subject to Article VII and Section 8.2(c) of this Agreement, except only by way of security for, and only for, the purpose of obtaining financing necessary to enable the Developer or any successor in interest to the Development Property, or any part thereof, to perform its obligations with respect to making the Minimum Improvements under this Agreement, and any other purpose authorized by this Agreement, the Developer has not made or created and will not make or create or suffer to be made or created any total or partial sale, assignment, conveyance, or lease, or any trust or power, or transfer in any other mode or form of or with respect to the Agreement or the relevant portion of the Development Property or any part thereof or any interest therein, or any contract or agreement to do any of the same, without the prior written approval of the City.

(b) Subject to Section 8.2(c), the City shall be entitled to require, except as otherwise provided in the Agreement, as conditions to any such approval that:

> (i) Any proposed transferee shall have the qualifications and financial responsibility, in the reasonable judgment of the City, necessary and adequate to fulfill the remaining obligations undertaken in this Agreement by the Developer with respect to the relevant portion of the Development Property.
>
> (ii) Any proposed transferee, by instrument in writing satisfactory to the City and in form recordable among the land records, shall, for itself and its successors and assigns, and expressly for the benefit of the City, have expressly assumed with respect to the relevant portion of the Development Property all of the remaining obligations of the Developer under this Agreement and agreed to be

subject to all the conditions and restrictions to which the Developer is subject (unless the Developer agrees to continue to fulfill those obligations, in which case the preceding provisions of this Section 8.2(b)(ii) shall not apply); provided, however, that the fact that any transferee of, or any other successor in interest whatsoever to, the Development Property, or any part thereof, shall not, for whatever reason, have assumed such obligations or so agreed, shall not (unless and only to the extent otherwise specifically provided in this Agreement or agreed to in writing by the City) deprive the City of any rights or remedies or controls with respect to the Development Property or any part thereof or to the Minimum Improvements work; it being the intent of the parties as expressed in this Agreement that (to the fullest extent permitted at law and in equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement) no transfer of, or change with respect to, ownership in the Development Property or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, shall operate, legally or practically, to deprive or limit the City of or with respect to any rights or remedies or controls provided in or resulting from this Agreement with respect to the Minimum Improvements that the City would have had, had there been no such transfer or change. In the absence of specific written approval by the City to the contrary, no such transfer or approval by the City thereof shall be deemed to relieve the Developer, or any other party bound in any way by this Agreement or otherwise with respect to the Minimum Improvements work, from any of its obligations with respect thereto.

(iii) There shall be submitted to the City for review and prior written approval all pertinent instruments and other legal documents involved in effecting the transfer of any interest in this Agreement or the Development Property governed by this Article VIII.

(c) Upon the furnishing of a Certificate of Completion for Project pursuant to Section 4.4, notwithstanding any provisions to the contrary in this Article VIII, the Developer may sell or transfer such property or a portion thereof without any approval pursuant to Section 8.2(a) or (b).

Section 8.3. **Approvals**. Any approval of a transfer of interest in the Developer, this Agreement, or the Development Property or of a release of the Developer from its obligations hereunder required to be given by the City under this Article VIII may be denied only in the event that the City reasonably determines that the ability of the Developer to perform its obligations under this Agreement and its statutory duty, as owner, to pay ad valorem real property taxes assessed and not exempted with respect to the Development Property, or any part thereof, or the overall financial security provided to the City under the terms of this Agreement, or the likelihood of the Minimum Improvements being successfully completed pursuant to the terms of this Agreement, will be materially impaired by the action for which approval is sought.

Section 8.4. **Pre-approved Transfers. Reserved.**

ARTICLE IX

Events of Default

Section 9.1. **Events of Default Defined.** The following are Events of Default under this Agreement:

(a) There shall have occurred a failure in the observance or performance in any material respect of any covenant, condition, obligation or agreement to be observed or performed under this Agreement.

(b) If any representation or warranty made by the Developer herein shall at any time prove to have been incorrect in any material respect as of the time made.

(c) If the Minimum Improvements are not substantially completed by December 31, 2028, as such time may be extended by Unavoidable Delays.

(d) If the holder of any mortgage on the Development Property or any portion thereof shall commence a legal action on the secured indebtedness or a foreclosure of its mortgage.

(e) If the Developer shall breach any warranties, covenants or other provisions of this Agreement not referred to in the foregoing provisions of this Section 9.1.

(f) The filing by the Developer of a voluntary petition in bankruptcy or the adjudication of the Developer as a bankrupt, the insolvency of the Developer or the filing by the Developer of any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation resolution or similar relief under any present or future federal, state or other statutes, laws or regulations relating to bankruptcy, insolvency or other relief for debtors, or if the Developer seeks or consents to or acquiesces in the appointment of any trustee, receiver or liquidator for itself or its property, or makes any general assignment for the benefit of creditors, or admits in writing its inability to pay its debts generally as they become due.

(g) If the Developer shall not have available, and be able to demonstrate to the reasonable satisfaction of the City, sufficient funds to complete the Improvements and pay all costs thereof.

An Event of Default shall also include any occurrence which would with the passage of time or giving of notice become an Event of Default as defined hereinabove.

Section 9.2. **Remedies on Default.** Whenever any Event of Default occurs, in addition to all other remedies available to the City at law or in equity, the City (1) may without notice suspend its performance under this Agreement until it receives assurances from the Developer, deemed adequate by the City, that the Developer has cured its default and will continue its performance under this Agreement, and (2) may, after provision of sixty (60) days written notice to the Developer of the Event of Default, but only if the Event of Default has not been cured within said sixty (60) days, or, if the Event of Default cannot be cured within sixty (60) days, the

Developer does not provide assurances to the City reasonably satisfactory to the City that the Event of Default will be cured as soon as reasonably possible, terminate this Agreement, without further obligation whatsoever hereunder to the Developer Further, whenever an Event of Default occurs that is described in Section 9.1(c), then, after provision of fifteen (15) days written notice to the Developer of such Event of Default, the City shall have the right to enter and take possession of any or all of the Development Property for the purpose of completing the Minimum Improvements and, in the course of so doing, securing the Development Property from intruders and/or preventing uninvited or unwanted persons from, entering the Development Property as may be necessary and appropriate and to abate or mediate any fire hazards or other safety hazards that are reasonably determined to exist by the City. City may enter the property under the authority granted by this Agreement, by one or more ordinances enacted pursuant to Section 40-58-18 of the North Dakota Century Code, or by both such authority.

Notwithstanding anything to the contrary stated in this Agreement, the City shall not exercise any remedies at law or in equity or under this Agreement upon an Event of Default by the Developer, other than the City's right to suspend its performance under this Agreement, until after provision of sixty (60) days written notice to the Developer of the Event of Default, but only if the Event of Default has not been cured within said sixty (60) days, or, if the Event of Default cannot be cured within sixty (60) days, the Developer does not provide assurances to the City reasonably satisfactory to the City that the Event of Default will be cured as soon as reasonably possible.

As a remedy for an Event of Default:

(a) The City may withhold a Certificate of Completion.

(b) The City may suspend or terminate the grant of the TIF tax exemption having been provided as set forth in this Agreement, if the Event of Default is a Specified Event of Default.

(c) The City may take any action, including legal, equitable or administrative action, which may appear necessary or desirable to collect any payments due under this Agreement, to recover any damages or to enforce performance and observance of any obligation, agreement, or covenant of the Developer under this Agreement.

Section 9.3. **Right to Enter Property Upon Certain Events to Abate Safety Hazard.** Subject to the limitation of remedies contained in Section 9.2, prior to receipt by the Developer of the Certificate of Completion for the Project, if an Event of Default under Section 9.1(a) - (g) occurs and (except in the case of an Event of Default under subsection (f) of Section 9.1) is not cured within the times specified in Section 9.2, then the City shall have the right to enter and take possession of any or all of the Development Property for the purpose of securing the Development Property from intruders and/or preventing uninvited or unwanted persons from, entering the Development Property as may be necessary and appropriate and to abate or mediate any fire hazards or other safety hazards that are reasonably determined to exist by the City. Such abatement or mediation action may, in the reasonable discretion of the City, include the entry by the City or a contractor engaged by the City upon the Development Property for the purpose of completing all or any portion of the Minimum Improvements. Developer agrees to this provision and authorizes such entry onto the Development Property under such circumstances. Further, in such event or events, the City shall be authorized to offset costs incurred by the City in furtherance of the actions authorized by this Section from tax increments.

Section 9.4. **No Remedy Exclusive.** No remedy herein conferred upon or reserved to the either Party is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 9.5. **No Additional Waiver Implied by One Waiver.** If any agreement contained in this Agreement should be breached by either Party and thereafter waived by the other Party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

Section 9.6. **Agreement to Pay Attorneys' Fees and Expenses.** Whenever any Event of Default occurs and has not been cured within sixty (60) days and the City shall employ attorneys or incur other expenses for the enforcement, performance or observance of any obligations or agreement on the part of the Developer contained herein, or for the identification and/or pursuit of any remedies or possible workouts of such default, the Developer agrees that it shall, on demand therefor, pay to the City the reasonable fees of such attorneys and such other reasonable expenses so incurred by the City. If an Event of Default cannot be cured within sixty (60) days, but the Developer has provided assurances to the City reasonably satisfactory to the City that the Event of Default will be cured as soon as reasonably possible (as provided in Section 9.2), and the Developer does so cure said Event of Default in the manner as assured to the City, the Event of Default shall be deemed to have been cured within said sixty (60) days for purposes of this Section.

ARTICLE X

Additional Provisions

Section 10.1. **Titles of Articles and Sections.** Any titles of the several parts, Articles and Sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions hereof.

Section 10.2. **Notices and Demands.** Except as otherwise expressly provided in this Agreement, a notice, demand or other communication under this Agreement by either Party to the other shall be sufficiently given or delivered if sent by registered or certified mail, postage prepaid, return receipt requested, or delivered personally; and,

(a) in the case of the Developer, to Lennon Lofts, LLC, 505 Broadway St. N, Suite 201, Fargo, ND 58102, Attention: Kevin J. Bartram; and,

(b) in the case of the City, to the City at 225 4th Street North, North Dakota 58102, Attention: Director of Strategic Planning and Research AND to the City at 225 North 4th Street, Fargo, North Dakota 58102, Attention: City Auditor;

or at such other address with respect to either such Party as that Party may, from time to time, designate in writing and forward to the other as provided in this Section.

Section 10.3. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall constitute an original hereof.

Section 10.4. **Law Governing.** The Parties agree that this Agreement shall be governed and construed in accordance with the laws of the State of North Dakota.

To the extent the ability of the City to perform any obligations under this agreement is impaired or limited by modifications in North Dakota law, as established either by the legislature or the courts, this agreement shall be interpreted and construed to maximize the fulfillment of such obligations under the law; however, no breach of this agreement may be deemed to occur as a result of such impairment or limitation

Section 10.5. **No Filing of Agreement.**. The Parties agree that this Agreement shall not be filed against the Development Property, and each Party agrees that if it shall inadvertently cause or suffer this Agreement to be so filed, it will take such actions as may be necessary to remove, satisfy and render ineffective any such filing.

Section 10.6. **Modification**. If the Developer is requested by the holder of a Mortgage or by a prospective holder of a prospective Mortgage to amend or supplement this Agreement in any manner whatsoever, the City will, in good faith, consider the request with a view to granting the same unless the City, in its reasonable judgment, concludes that such modification is not in the public interest, or will significantly and undesirably weaken the financial security provided to the interests of the City by the terms and provisions of this Agreement.

Section 10.7. **Legal Opinions**. Upon execution of this Agreement, each party shall, upon request of the other parties, supply the other parties with an opinion of its legal counsel to the effect that this Agreement is legally issued or executed by, and valid and binding upon, such party, and enforceable in accordance with its terms.

Section 10.8. **Approvals; Mayor Authority-Action**. Wherever in this Agreement the consent or approval of the City or Developer is required or requested, such consent or approval shall not be unreasonably withheld or unduly delayed (except to the extent that, as a remedy upon the occurrence of an Event of Default, the City is entitled to withhold its performance). Any approval, execution of documents, or other action to be taken by the City pursuant to this Agreement or for the purpose of determining sufficient performance by the Developer under this Agreement may be made, executed or taken by the Mayor of the City without further approval by the Board of City Commissioners of the City, to the extent permitted by law. The Mayor may, but shall not be required to, consult with other City staff with respect to such matters.

ARTICLE XI

Termination of Agreement; Expiration

Section 11.1. **City's Option to Terminate.** As provided and under the conditions specified in Section 9.2, the City may terminate this Agreement if an Event of Default shall have occurred hereunder and be continuing. Nothing in that or in this Section shall affect the City's right, should the City not so elect to terminate this Agreement and as recourse against the Developer, to insist on performance hereunder by the Developer.

Section 11.2. **Expiration.** This Agreement shall expire when the TIF tax exemption granted for a term of one or more years pursuant to this Agreement has expired.

Section 11.3. **Effect of Termination or Expiration.** No termination or expiration of this Agreement pursuant to the terms hereof shall terminate any rights or remedies of the City arising hereunder due to an Event of Default, or of the Developer arising hereunder due to a breach of this Agreement by the City, occurring prior to such termination or expiration.

Section 11.4. **No Third Party Beneficiaries.** There shall, as against the City, be no third party beneficiaries to this Agreement. More specifically, the City enters into this Agreement, and intends that the consummation of the City obligations contemplated hereby shall be, for the sole and exclusive benefit of the Developer, and notwithstanding the fact that any other "persons" may ultimately participate in or have an interest in the Improvements, the City does not intend that any party other than the Developer shall have, as alleged third party beneficiary or otherwise, any rights or interests hereunder as against the City, and no such other party shall have standing to complain of the City's exercise of, or alleged failure to exercise, its rights and obligations, or of the City's performance or alleged lack thereof, under this Agreement.

IN WITNESS WHEREOF, the City and Developer have caused this Agreement to be executed by their duly authorized representatives.

Dated ______________

CITY OF FARGO,
a North Dakota municipal corporation

(SEAL)

By ______________________________
Dr. Tim Mahoney, its Mayor

ATTEST:

By ______________________________
Angie Bear, Deputy City Auditor on behalf of the City Auditor

STATE OF NORTH DAKOTA)
)ss.
COUNTY OF CASS)

The foregoing instrument was acknowledged before me this ____ day of _________, 20__, by Dr. Tim Mahoney and Angie Bear, Deputy City Auditor, respectively, of the City of Fargo, North Dakota, on behalf of said City.

____
Notary Public

This document drafted by:

Erik R. Johnson
Assistant City Attorney
Fargo, ND
701-371-6850

Dated 6-1-26

Lennon Lofts, LLC

By ______________________
Kevin J. Bartram, its: Gen. Mgr/Pres.

STATE OF NORTH DAKOTA)
)ss.
COUNTY OF CASS)

The foregoing instrument was acknowledged before me this 1 day of June, 2026 by KEVIN J. BARTRAM, the General Manager and President of Lennon Lofts, LLC, a North Dakota limited liability company, on behalf of said company.

SUE E NELSON
Notary Public
State of North Dakota
My Commission Expires February 24, 2030

Sue E. Nelson
Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF DEVELOPMENT PROPERTY

The Development Property consists of that certain real property situate in the City of Fargo, County of Cass and State of North Dakota, more fully described as:

Lot One (1), Block One (1), 220 Addition to the City of Fargo

The property address is 220 6th Avenue North, Fargo, ND 58102.

EXHIBIT B

CERTIFICATE OF COMPLETION—

_________________ PROJECT

WHEREAS, the City of Fargo, North Dakota, a municipal corporation, (the "City") and Lennon Lofts, LLC, a North Dakota limited liability company (the "Developer") have entered into an agreement dated as of the ____ day of _______, 20__; and

WHEREAS, pursuant to said agreement, the Developer was obligated to undertake and substantially complete in a timely manner certain Minimum Improvements as described in said agreement and the Developer did so in a timely and acceptable manner; and,

WHEREAS, the Developer has to the present date performed said covenants and conditions insofar as it is able in a manner deemed sufficient by the City to permit the execution of this certification;

NOW, THEREFORE, this is to certify that all the Project specified to be done and made by the Developer have been completed, and the above covenants and conditions in said Developer Agreement have been performed by the Developer and that the Developer has fulfilled the obligations of the Developer, and its successors and assigns, for the Project.

CITY OF FARGO,
a North Dakota municipal corporation

By: ___________________________________
______________, Mayor

Attest:

____
_________________, City Auditor