

PURCHASE AGREEMENT

This Purchase Agreement (the “**Agreement**”) is entered into as of the “**Effective Date**” by and between OneTwoOne Development, LLC, a Minnesota limited liability company (hereinafter referred to as “**Buyer**”) and the City of Apple Valley (hereinafter referred to as “**Seller**”). Buyer and Seller are jointly referred to as the “**Parties**.”

In consideration of the foregoing and the mutual covenants, and agreement hereinafter expressed, and for other good, fair and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Seller and Buyer hereby agree as follows:

1. **Purchase and Sale.** Buyer desires to purchase, and Seller desires to sell and convey to Buyer all of Seller’s right, title and interest in and to that certain parcel of real estate located in Dakota County, State of Minnesota, which is approximately 3.65 acres in area, and which is assigned Property ID Number 01-81750-01-010 and legally described in **Exhibit "A"** attached hereto (the “**Property**”), subject to the terms and conditions of this Agreement.
2. **Conditions.** The obligations of Buyer and Seller under this Agreement are conditioned upon each of the following occurring on or prior to Closing Date (defined herein):
 - 2.1 Buyer entering into a Business Subsidy Agreement with the Apple Valley Economic Development Authority (“**AVEDA**”) that provides for the AVEDA loaning \$1,148,639.00 to Buyer for purposes of Buyer acquiring the Property from Seller (hereinafter “**Loan**”);
 - 2.2 Buyer providing a promissory note in favor of AVEDA in a form acceptable to AVEDA; and
 - 2.3 Upon completion of paragraphs 2.1 and 2.2, AVEDA wiring the \$574,320.00 to the title company handling the Closing (defined herein) on the Closing Date.
3. **Price And Payment.**
 - 3.1 **Price.** The total purchase price for the Property is One Million One Hundred Forty-Eight Thousand Six Hundred Thirty-Nine and 00/100 Dollars (\$1,148,639.00) (the “**Purchase Price**”).
 - 3.2 **Payment.** The Purchase Price shall be paid as follows:
 - a. **Earnest Money.** Within three (3) business days following the Effective Date (defined herein), Buyer shall deliver to the Seller the sum of *One Thousand and 00/100 Dollars (\$1,000.00)* (the “**Earnest Money**”). The Earnest Money shall apply to and be credited against the Purchase Price, as set forth below, and shall be non-refundable in all events other than in

connection with Buyer's exercise of its option to terminate this Agreement as expressly set forth in Paragraph 7.1 hereof.

- b. **Balance Due.** On the Closing Date (defined herein), Buyer shall deliver payment of Purchase Price, minus the Earnest Money, plus pay all costs related to the Closing.

4. **Title Examination.**

- 4.1 **Title Commitment.** Seller will, within a reasonable time after the Effective Date, furnish at Seller's expense a current title commitment (the "Commitment") for an owner's policy of title insurance for the Property from a reputable title insurance company, which shall include proper searches covering bankruptcy, state and federal judgments and tax liens and a pending, deferred and levied special assessment search. Buyer shall be allowed fifteen (15) calendar days after receipt of the Commitment for the examination thereof and the making of any objections to the insurability of title, said objections to be made in writing, by facsimile or email or deemed to be waived. Any objections to title not made within fifteen (15) calendar days shall be deemed waived by Buyer. If any objections are so made, Seller shall promptly commence such actions reasonably necessary to cure such objections and shall be allowed sixty (60) days after the making of such objections by Buyer to cure said objections, and in such case the Closing Date shall be extended accordingly. If such defects are cured within said 60 day period, Buyer shall be notified in writing of the curing of the defects, and Buyer shall proceed to close this transaction according to its terms and conditions.
- 4.2 **Defective Title.** If title is not insurable and cannot be made so by Seller within the 60 day period set forth in Paragraph 4.1, and if Buyer does not waive by written notice given to Seller within 10 days after the end of the 60 day period, the curing of defects, this Agreement shall be null and void, in which event neither Buyer nor Seller shall be liable for damages hereunder to the other, and the Earnest Money shall be returned to Buyer.
- 4.3 **Title Insurance Policy.** The Parties agree that Buyer's obligation to purchase the Property is contingent upon a title insurance company providing Buyer with title insurance for the Property.

5. **Closing Procedures.**

- 5.1 **Closing Date.** Subject to the fulfillment or waiver of the conditions hereof, the closing of the purchase and sale contemplated hereunder shall occur on _____ (hereinafter "**Closing Date**" or "**Closing**").
- 5.2 **Place of Closing.** The Closing shall be conducted at a title company providing title insurance with respect to this transaction, if any, or at such other place as Buyer and Seller may mutually agree upon.

5.3 Buyer's Closing Obligations. At Closing, Buyer shall deliver to Seller the following:

- a. The Purchase Price, minus Earnest Money, by wire transfer or other immediately available funds;
- b. A principal payment in the amount of \$672,385.00 to be applied and credited by Seller toward the special assessments due and payable against the portion of the Property designated for residential development;
- c. An executed Waiver of Objection to Special Assessments (**Exhibit "B"**) associated with special assessments, to be levied against the portion of the Property designated for commercial development, in the principal amount of \$672,385.00 ("**Principal Special Assessment Amount**") payable over 15 years together with interest at the rate of 5% per year with the first installment shall be due and payable in 2018;
- d. A promissory note ("**Note**") in favor of Seller in the amount of \$574,320.00, as security for Buyer's performance as set forth in Section 6.4 of this Agreement. Except as otherwise provided in the Note, the principal and interest due thereunder shall be due and payable on December 1, 2018;
- e. An Assignment of an Accounts Receivable in favor of Seller securing the Note; and
- f. Such documents as may be reasonable necessary to effectuate the transfer contemplated in this Agreement.

5.4 Seller's Closing Obligations.

- a. Provided Buyer has complied with the terms and conditions of this Agreement, Seller shall convey title that is marketable, insurable, and indefeasible. At Closing, the Property shall be conveyed by Seller to Buyer by quit claim deed (the "**Deed**") duly executed in form for recordation.
- b. A Certificate of Real Estate Value in the form required by Dakota County and/or the State of Minnesota;
- c. A standard seller's affidavit relating to the absence of bankruptcies, tax liens, judgments or other proceedings and unrecorded interests that affect or could affect the title to the Real Estate;
- d. A Well Disclosure Statement as required by the State of Minnesota; and

- e. Such other documents as may be reasonably necessary to effectuate the transfer contemplated in this Agreement.

5.5 Real Estate Taxes. Buyer shall pay all real estate taxes and installments of special assessments due and payable following the Closing Date.

5.6 Cost of Recording. The cost of recording the Deed shall be borne by Buyer.

5.7 Escrow Fees. The parties agree that any and all closing fees of any Title Company involved in the Closing shall be borne by Buyer.

6. Buyer's Representations, Warranties and Covenants. Buyer warrants, represents and covenants to Seller each and every one of the following which shall be true on the Closing Date and shall survive the Closing Date unless specifically waived in writing by Seller:

6.1 The person executing this Agreement and any documents required hereunder is fully authorized to execute such documents.

6.2 The execution, delivery and performance by Buyer of this Agreement and all instruments and agreements contemplated hereby will not result in a breach or violation or constitute a default under any agreement, instrument, indenture, order, law, ordinance or decree to which Buyer is a party or by which Buyer is bound.

6.3 Buyer represents that this sale is predicated upon the availability and use of Grant proceeds. Buyer further represents that it has read the terms and conditions of the Grant and is capable of performing the requirements thereunder. Further, Buyer acknowledges that the loss of the Grant funds will require Buyer to pay Seller additional funds as provided herein.

6.4 Buyer represents that each and every undertaking and obligation of Buyer under this Agreement and any collateral agreement shall be performed by Buyer timely when due.

6.5 Buyer shall devote the Property to its intended use and obtain all necessary permits and begin construction of the senior cooperative housing and other commercial buildings on the Property on or before June 1, 2018. Buyer's failure to do so is subject to the remedy of Seller as set forth in Section 7.3 herein. Buyer shall not transfer title to the Property prior to January 1, 2019 without the Seller's written consent.

6.6 All representations and covenants of Buyer contained in this Agreement shall be true on the Closing Date and shall survive the Closing.

7. Remedies.

- 7.1** If Seller shall default in the performance of any of its obligations hereunder, and such default is not corrected within ten (10) days after receipt by Seller of notice from Buyer setting forth such default, Buyer shall have the right (i) to bring an action for specific performance, provided such action is commenced within six (6) months from the Effective Date of this Agreement, or (ii) to cancel this Agreement, in which event the Earnest Money shall be promptly returned to Buyer. These are the sole and exclusive remedies available to Buyer in the event of Seller's default. In no event shall Buyer be permitted to recover monetary damages from Seller.
- 7.2** Buyer shall be in default hereunder if it breaches a material covenant hereunder. In addition to remedies available under Section 7.3, if Buyer is in a default in the performance of any of its obligations under this Agreement and fails to cure that breach within ten (10) days after receipt by Buyer of notice from Seller setting forth such default, Seller may (i) cancel this Agreement, in which event Seller shall be entitled to retain the Earnest Money as liquidated damages, or (ii) bring an action for specific performance, provided such action is commenced within six (6) months from the Effective Date.
- 7.3** If Buyer fails to comply with Section 6.4 herein, Seller may accelerate the due date of the Note and all principal and interest shall be payable at the discretion of Seller. Seller may exercise any and all remedies available to it and exercising one is not an exclusion to the exercise of any other. Buyer shall indemnify and hold harmless both the Seller and the AVEDA and their officers, agents and employees from and against all claims, damages, losses or expenses, including attorney fees, which may be suffered or for which they may be held liable, arising out of or resulting from the assertion against them of any claims, debts or obligations arising from Buyer's ownership or development of the Property.

8. Miscellaneous.

- 8.1 Notices.** All notices and other documents of similar legal effect from either party to the other shall be in writing and considered to have been duly given or served if sent by first class certified mail, return address as set forth below, or to such other address as such party may hereafter designate by written notice to the other party.

To Seller: City of Apple Valley
c/o Tom Lawell
7100 West 147th Street
Apple Valley, Minnesota 55124

With a copy to: Michael Dougherty
Dougherty, Molenda, Solfest, Hills & Bauer P.A.
14985 Glazier Avenue, Suite 525
Apple Valley, Minnesota 55124

To Buyer: OneTwoOne Development, LLC
3530 Lexington Avenue North, Suite 100
Shoreview, Minnesota 55126

- 8.2 Broker's Commission.** There is no brokerage fee or commission payable to any third party with respect to the transaction described herein.
- 8.3 Successors and Assigns.** The terms, conditions and covenants of this Agreement shall extend to, be binding upon and inure to the benefit of the successors and assigns of the parties hereto. This Agreement may not be assigned by Buyer without the prior written consent of Seller. Any assignment consented to by Seller shall not relieve Buyer of the obligations contained herein except as approved by Seller.
- 8.4 Headings.** The headings of the paragraphs and subparagraphs of this Agreement are for convenience of reference only. They do not form a part hereof and in no way interpret or construe such paragraphs and subparagraphs.
- 8.5 Entire Agreement.** This instrument contains the entire agreement of the Parties, and supersedes any prior written or oral agreement. It may be changed only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification, extension or discharge is sought.
- 8.6 Time of Essence.** Time is of the essence in this Agreement.
- 8.7 Governing Law.** This Agreement is made and executed under and in all respects to be governed and construed by the laws of the State of Minnesota and the parties hereto consent and submit themselves exclusively to the First Judicial District, Dakota County, State of Minnesota.
- 8.8 Non-waiver.** The waiver by either party hereto of any condition of the breach of any term, covenant or condition herein shall not be deemed to be a waiver of any other condition or of any subsequent breach of the same or other terms, covenants, or conditions herein contained.
- 8.9 As-Is Condition.** Seller makes no representations or warranties, written or oral, express or implied, regarding the condition of the Property. Buyer and Seller hereby acknowledge and agree that the Buyer is purchasing the Property from Seller in **As-Is, Where-Is** condition. Buyer's acceptance of title to the Property shall represent Buyer's acknowledgement and agreement that: (i) Seller has not made nor has Buyer relied upon any written or oral representation or warranty made

by Seller, its agents or employees with respect to the condition or value of the Property; (ii) Buyer has had an opportunity to inspect the condition of the Property, has performed such inspection as determined by Buyer to be necessary or advisable in its sole discretion; and (iii) the condition of the Property is fit for Buyer's intended use. Buyer hereby releases Seller from liability with respect to any of the foregoing, and Buyer hereby waives any cause of action (including without limitation any right of contribution) Buyer may have against Seller with respect to the foregoing, whether arising under common law, or federal, state or local statute, rule or regulation provided Buyer does not waive any cause of action for breach of any express warranty contained in this Agreement.

- 8.10 Partial Invalidity.** In the event that any Paragraph or portion of this Agreement is determined to be unconstitutional, unenforceable or invalid, such Paragraph or portion of this Agreement shall be stricken from and construed for all purposes not to constitute a part of this Agreement, and the remaining portion of this Agreement shall remain in full force and effect and shall, for all purposes, constitute this entire Agreement.
- 8.11 Construction of Agreement.** All parties hereto acknowledge that they have had the benefit of independent counsel with regard to this Agreement and that this Agreement has been prepared as a result of the joint efforts of all parties and their respective counsel. Accordingly, all parties agree that the provisions of this Agreement shall not be construed or interpreted for or against any party hereto based upon authorship.
- 8.12 Counterparts.** This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original, but all such counterparts shall constitute one and the same instrument.
- 8.13 Merger.** The provisions contained in Sections 6.3, 6.4, and 7.3 shall not merge upon closing but shall survive and remain enforceable.
- 8.14 Effective Date.** The “**Effective Date**” hereof shall be the date the later of Buyer and Seller executes this Agreement. If either party fails to date this Agreement below their signature, the date of execution of the other party shall constitute the Effective Date.

(signature page to follow)

CITY OF APPLE VALLEY

Date _____

By: _____
Mary Hamann-Roland, Mayor

Date _____

By: _____
Pamela J. Gackstetter, City Clerk

ONETWOONE DEVELOPMENT, LLC

By: _____
Its: _____

EXHIBIT A
LEGAL DESCRIPTION

Lot 1, Block 1, Village at Founders Circle, Dakota County, Minnesota

(Buyer intends to subdivide the Property into two lots, one lot for residential development and the other for commercial development. The plat is expected to be identified as Village Pointe Plaza.)

DRAFT

EXHIBIT B
Waiver of Objection to Special Assessments

To be inserted.

DRAFT

PROMISSORY NOTE (the "Note")

_____, 2017

OneTwoOne Development, LLC, a Minnesota limited liability company (the "Borrower"), for value received, hereby promises to pay to the City of Apple Valley (the "City"), or its assigns (the City and any assigns are hereinafter referred to as the "Holder"), at its designated principal office or such other place as the Holder may designate in writing, the principal sum of Five Hundred Seventy Four Thousand Three Hundred Twenty and 00/100 Dollars (\$574,320.00) with interest, as hereinafter provided. The principal of this Note is payable as follows:

1. The outstanding principal shall bear interest at a rate of five percent (5%) per annum and shall commence to accrue on July 1, 2018.

2. Borrower shall pay to Holder the outstanding principal and any interest and amounts owed under this Note on or before December 31, 2018.

3. The Borrower may prepay this Note at any time, in whole or in part, without penalty or premium. Partial prepayment shall not postpone the due date of the Note.

4. This Note is secured by that certain mortgage dated _____, 2017 executed by the Borrower in favor of the Holder (the "Mortgage"), and the holder of this Note is entitled to all of the benefits provided for in the Mortgage.

5. Borrower shall be in default hereunder upon the happening of any of the following events or conditions (each such event or condition hereinafter referred to as an "Event of Default"):

a. Borrower shall fail to pay, when due, any amounts required to be paid by the Borrower under this Note to the Holder and shall fail to cure such default(s) within ten (10) days after Holder gives Borrower written notice thereof; provided that the Holder may, in its discretion, permit the Borrower more than 10 days to cure any such payment default based on circumstances acceptable to the Lender; and

b. Borrower commences a voluntary proceeding seeking liquidation, reorganization, or other relief with respect to itself or its debts under any bankruptcy, insolvency, or other similar law now or hereafter in effect, or seeking the appointment of a trustee, receiver, liquidator, custodian, or other similar official for it or a substantial part of its property or consents to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it or makes a general assignment for the benefit of creditors or takes any corporate action to authorize any of the foregoing.

c. Any involuntary proceeding is commenced against Borrower seeking liquidation, reorganization, or other relief with respect to it or its debts under any bankruptcy,

insolvency, or other similar law now or hereafter in effect, or seeking the appointment of a trustee, receiver, liquidator, custodian, or other similar official for it or a substantial part of its property, and such involuntary proceeding remains undismissed and unstayed for a period of ninety (90) days.

d. Borrower shall become insolvent (whether in equity or bankruptcy sense).

6. If an Event of Default occurs under this Note or any instrument securing this Note, then the Holder of this Note may at its right and option, without notice, declare immediately due and payable the principal balance of this Note, together with any costs of collection including attorney fees incurred by the Holder of this Note in collecting or enforcing payment hereof, whether suit be brought or not, and all other sums due hereunder, or under any instrument securing this Note. The Borrower agrees that the Holder of this Note may, without notice to the Borrower of this Note and without affecting the liability of the Borrower of this Note, accept additional or substitute security for this Note, or release any security or any party liable for this Note or extend or renew this Note.

7. The Holder of this Note shall not be deemed, by any act of omission or commission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by the Holder of this Note and then only to the extent specifically set forth in the writing. A waiver with reference to one event shall not be construed as continuing or as a bar to or waiver of any right or remedy as to a subsequent event. This Note may not be amended, modified, or changed except only by an instrument in writing signed by the party against whom enforcement of any such amendment, modifications, or change is sought.

8. This Note shall be governed by and construed in accordance with the laws of the state of Minnesota without regard to its conflict of laws provisions. Any disputes, controversies, or claims arising out of this Note shall be heard in the state or federal courts of Minnesota, and all parties to this Note waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

9. This Note and the Mortgage constitutes the entire Note between the parties pertaining to its subject matter and it supersedes all prior contemporaneous Notes, representations, and understandings of the parties pertaining to the subject matter of this Note.

10. Wherever possible, each provision of this Note and each related document shall be interpreted so that it is valid under applicable law. If any provision of this Note or any related document is to any extent found invalid by a court or other governmental entity of competent jurisdiction, that provision shall be ineffective only to the extent of such invalidity, without invalidating the remainder of such provision or the remaining provisions of this Note or any other related document.

IT IS HEREBY CERTIFIED AND RECITED that all conditions, acts, and things required to exist, happen, and be performed precedent to or in the issuance of this Note do exist, have happened, and have been performed in regular and due form as required by law.

IN WITNESS WHEREOF, the Borrower has caused this Note to be duly executed.

OneTwoOne Development, LLC,
a Minnesota limited liability company

By: _____
Its: _____

DRAFT

(Top 3 inches reserved for recording data)

MORTGAGE
by Business Entity

MORTGAGE REGISTRY TAX DUE: \$ _____

DATE: _____

THIS MORTGAGE ("Mortgage") is given by OneTwoOne Development, LLC, a Minnesota limited liability company, as mortgagor ("Borrower"), to the City of Apple Valley, a Minnesota municipal corporation, as mortgagee ("Lender"). As security for a promissory note executed by the Borrower in favor of Lender, of even date hereof, in the principal amount of Five Hundred Seventy Four Thousand Three Hundred Twenty and 00/100 Dollars (\$574,320.00) (the "Indebtedness"), Borrower hereby mortgages, with power of sale, the real property in Dakota County, Minnesota, legally described as follows:

Lot 2, Block 1, Village Pointe Plaza, Dakota County, Minnesota.

Check here if all or part of the described real property is Registered (Torrens) ☐

together with all hereditaments and appurtenances belonging thereto (the "Property"), subject to the following exceptions:

- (a) Covenants, conditions, restrictions (without effective forfeiture provisions) and declarations of record, if any;
- (b) Reservations of minerals or mineral rights by the State of Minnesota, if any;
- (c) Utility and drainage easements which do not interfere with present improvements;
- (d) Applicable laws, ordinances, and regulations;
- (e) The lien of real estate taxes and installments of special assessments not yet due and payable; and
- (f) The following liens or encumbrances, if any: None.

Borrower covenants with Lender as follows:

1. **Repayment of Indebtedness.** Borrower's obligations under this Mortgage will be satisfied if: (1) Borrower (a) pays the Indebtedness to Lender according to the terms of that certain promissory note, dated _____, executed between the Borrower and the Lender, that evidences the Indebtedness thereto (the "Note"); (b) pays interest on the Indebtedness as provided in the Note; (c) repays to Lender, at the times and with interest as specified, all sums advanced in protecting the lien of this Mortgage, if any; and (d) keeps and performs all the covenants and agreements contained herein, or (2) Borrower's Indebtedness is forgiven pursuant to that certain Business Subsidy Agreement, dated _____, executed between Borrower and the Apple Valley Economic Authority. It is Borrower's responsibility to record any satisfaction of this Mortgage at Borrower's expense.

2. **Statutory Covenants.** Borrower makes and includes in this Mortgage the following covenants and provisions set forth in Minn. Stat. 507.15, and the relevant statutory covenant equivalents contained therein are hereby incorporated by reference:

- (a) To warrant the title to the Property;

- (b) To pay the Indebtedness as herein provided;
- (c) To pay all taxes;
- (d) That the Property shall be kept in repair and no waste shall be committed;
- (e) To pay principal and interest on prior mortgages (if any).

3. Additional Covenants and Agreements of Borrower. Borrower makes the following additional covenants and agreements with Lender:

(a) Borrower shall keep all buildings, improvements, and fixtures now or later located on all or any part of the Property (collectively, the "Improvements") insured against loss by fire, lightning, and such other perils as are included in a standard all-risk endorsement, and against loss or damage by all other risks and hazards covered by a standard extended coverage insurance policy, including, without limitation, vandalism, malicious mischief, burglary, theft, and if applicable, steam boiler explosion. Such insurance shall be in an amount no less than the full replacement cost of the Improvements, without deduction for physical depreciation. If any of the Improvements are located in a federally designated flood prone area, and if flood insurance is available for that area, Borrower shall procure and maintain flood insurance in amounts reasonably satisfactory to Lender. Borrower shall procure and maintain liability insurance against claims for bodily injury, death, and property damage occurring on or about the Property in amounts reasonably satisfactory to Lender and naming Lender as an additional insured, all for the protection of the Lender.

(b) Each insurance policy required pursuant to Paragraph 3(a) must contain provisions in favor of Lender affording all right and privileges customarily provided under the so-called standard mortgagee clause. Each policy must be issued by an insurance company or companies licensed to do business in Minnesota and acceptable to Lender. Each policy must provide for not less than ten (10) days written notice to Lender before cancellation, non-renewal, termination, or change in coverage. Borrower will deliver to Lender a duplicate original or certificate of such insurance policies and of all renewals and modifications of such policies.

(c) If the Property is damaged by fire or other casualty, Borrower must promptly give notice of such damage to Lender and the insurance company. In such event, the insurance proceeds paid on account of such damage will be applied to payment of the amounts owed by Borrower pursuant to the Note, even if such amounts are not otherwise then due, unless Borrower is permitted to make an election as described in the next paragraph. Such amounts first will be applied to unpaid accrued interest and next to the principal to be paid as provided in the Note in the inverse order of their maturity. Such payment(s) will not postpone the due date of the payment to be paid pursuant to the Note or change the amount of such payment. The balance of insurance proceeds, if any, will be the property of Borrower.

(d) Notwithstanding the provisions of Paragraph 3(c), and unless otherwise agreed by Borrower and Lender in writing, if (i) Borrower is not in default under this Mortgage (or after Borrower has cured any such default); (ii) the mortgagees under any prior mortgages do not require otherwise; and (iii) such damage does not exceed ten percent (10%) of the then assessed market value of the Improvements, then Borrower may elect to have that portion of such insurance proceeds necessary to repair, replace, or restore the damaged Property (the "Repairs") deposited in escrow with a bank or title insurance company qualified to do business in Minnesota, or such other party as may be mutually agreeable to Lender and Borrower. The election may only be made by written notice to Lender within sixty (60) days after the damage occurs; and the election will only be permitted if the plans, specifications, and contracts for the Repairs are approved by Lender, which approval shall not be unreasonably withheld, conditioned, or delayed. If such a permitted election is made by Borrower, Lender and Borrower shall jointly deposit the insurance proceeds into escrow when paid. If such insurance proceeds are insufficient for the Repairs, Borrower shall, before the commencement of the Repairs, deposit into such escrow sufficient additional money to insure the full payment for the Repairs. Even if the insurance proceeds are unavailable or are insufficient to pay the cost of the Repairs, Borrower shall at all times be responsible to pay the full cost of the Repairs. All escrowed funds shall be disbursed in accordance with sound, generally accepted, construction disbursement procedures. The costs incurred or to be incurred on account of such escrow shall be deposited by Borrower into such escrow before the commencement of the Repairs. Borrower shall complete the Repairs as soon as reasonably possible and in a good and workmanlike manner, and in any event the Repairs shall be completed by Borrower within one (1) year after the damage occurs. If, following the completion of and payment for the Repairs, there remains any undisbursed escrow funds, such funds shall be applied to payment of the amounts owed by Borrower under the Note in accordance with Paragraph 3(c).

(e) If all or any part of the Property is taken in condemnation proceedings instituted under power of eminent domain or is conveyed in lieu thereof under threat of condemnation, the money paid pursuant to such condemnation or conveyance in lieu thereof

must be applied to payment of the amounts due by Borrower to Lender under the Note as set forth in Paragraph 3(c), even if such amounts are not then due to be paid.

(f) Borrower will diligently complete all Improvements, if any, that may now or hereafter be under construction on the Property.

(g) Borrower will pay all dues, fees, or assessments, if any, which are due and payable by Borrower to any homeowners or similar association as a result of the Property's inclusion therein.

(h) Borrower will pay any other expenses and attorneys' fees incurred by Lender pursuant to the Note or as reasonably required for the protection of the lien of this Mortgage.

4. Payment by Lender. If Borrower fails to pay any amounts to be paid hereunder to Lender or any third parties, or to insure the Improvements, and deliver the policies as required herein, Lender may make such payments or secure such insurance. The sums so paid shall be additional Indebtedness, bear interest from the date of such payment at the same rate set forth in the Note, be an additional lien upon the Property, and be immediately due and payable upon written demand. This Mortgage secures the repayment of such advances.

5. Default. In case of default (i) in the payment of sums to be paid under the Note or this Mortgage, when the same becomes due, (ii) in any of the covenants set forth in this Mortgage, (iii) under the terms of the Note, or (iv) under any addendum attached to this Mortgage, Lender may declare the unpaid balance of the Note and the interest accrued thereon, together with all sums advanced hereunder, immediately due and payable without notice, and Borrower hereby authorizes and empowers Lender to foreclose this Mortgage by judicial proceedings or to sell the Property at public auction and convey the same in fee simple in accordance with Minn. Stat. Ch. 580, and out of the monies arising from such sale, to retain all sums secured hereby, with interest and all legal costs and charges of such foreclosure and the maximum attorneys' fees permitted by law, which costs, charges, and fees Borrower agrees to pay.

6. Governing Law; Severability. This Mortgage shall be governed by the laws of Minnesota. In the event that any provision or clause of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provision.

7. Additional Terms. Check this box ☐ if Minnesota Uniform Conveyancing Blank 20.2.1 or any other addendum (either one or more) containing additional terms and conditions is attached to this Mortgage. If the foregoing box is not checked, then this Mortgage shall not contain any such additional terms and conditions. The number of additional attached pages is: N/A. Terms of this Mortgage will run with the Property and bind the parties hereto and their successors in interest.

Lender agrees that upon receiving payments from Borrower made to Lender pursuant to the Note, the Lender will release and discharge from the lien of the Mortgage a portion of the mortgaged Property equal to the percentage of a payment made by Borrower to Lender to the outstanding balance remaining under the Note.

Note: Remainder of page left blank, signature page follows.

Borrower:

OneTwoOne Development, LLC

By: _____

Its: _____

State of Minnesota, County of Dakota

This instrument was acknowledged before me on _____ by _____ as _____ of OneTwoOne Development, LLC, a Minnesota limited liability company, on behalf of the company.

(Stamp)

(signature of notarial officer)

Title (and Rank): Notary Public

My commission expires: _____
(month/day/year)

THIS INSTRUMENT WAS DRAFTED BY:

Dougherty, Molenda, Solfest, Hills & Bauer P.A.
14985 Glazier Avenue, Suite 525
Apple Valley, MN 55124
(952) 432-3136
PV: 0066.35840

Note: Failure to record or file this mortgage may give other parties priority over this mortgage.