

WATER MAIN, STORM SEWER AND SANITARY SEWER UTILITY OPERATION AND MAINTENANCE AGREEMENT

This Water Main, Storm Sewer and Sanitary Sewer Utility Operation and Maintenance Agreement (the "Agreement") is executed this ___ day of _____, 2025, between the Village of Romeoville, an Illinois home rule municipal corporation ("Village") and HPTS Apartments, LLC ("Developer").

RECITALS

A. Developer is the owner of real property ("Property") located in the Village which is legally described on attached Exhibit A and incorporated by reference herein, and which has been developed by the Developer as Highpoint Town Square Apartments ("Project").

B. The storm sewer facilities approved by Village and constructed by Developer for the Project are described and depicted in Exhibit B, attached hereto and incorporated herein by reference.

C. The water main and sanitary sewer facilities approved for the Project and constructed by Developer are described and depicted in Exhibit C and are located within easements that are likewise depicted in Exhibit C, attached hereto and incorporated herein by reference.

D. Pursuant to certain exceptions granted to the Project pursuant to Ordinance No. 17-1352, the water main, storm sewer and sanitary sewer utilities depicted within Exhibits B and C were permitted to be installed closer to buildings and other improvements included within the Project than otherwise allowed by applicable Village ordinances, necessitating that the Developer assume all maintenance responsibilities for these water main, storm sewer and sanitary sewer utilities, with the Village retaining the right but not the obligation to perform any necessary maintenance, repair, replacement or improvement of the same.

E. For purposes of this agreement, the party permanently responsible for the maintenance obligations described in this Agreement shall be the Developer or any successor to Developer as owner of the Project.

F. The water main, storm sewer and sanitary sewer utilities and all related appurtenances that the Developer shall be responsible for maintaining pursuant to this Agreement may sometimes hereinafter be collectively referred to as the "Improvements", consisting of those improvements described and depicted in Exhibits B and C.

Now, therefore, the parties agree as follows:

Section 1. Compliance with Laws, Ordinances. Developer agrees to operate, use, maintain, repair and ensure the continuing functionality of the Improvements in accordance with all state and local laws, ordinances, and regulations as well as the terms of this Agreement.

Section 2. Compliance with Village Approvals. Without limiting the provisions of Section 1, the Developer agrees to operate the Project in accordance with the terms and conditions of all Village ordinances and all approvals heretofore sought from and issued by the Village with respect to the development of the Project as well as the terms and conditions of this Agreement and its Exhibits.

Section 3. Alterations or changes. No permanent alterations or permanent changes to the Improvements shall be permitted unless they are approved, in writing, by the Village, and any such approved changes will be deemed to comply with this Agreement. Provided that the same are performed in compliance with the provisions of this Agreement, Developer need not obtain prior written approval from the Village for the performance of routine maintenance of the Improvements.

Section 4. Easements to be secured and recorded. The Developer, at its expense, if it has not done so as of the date of this Agreement, shall secure from any affected owners (including itself) of land all easements and releases of rights-of-way necessary for utilization of the Improvements, and shall record them with the Will County Recorder of Deeds. These easements will provide for appropriate ingress and egress to and maintenance of such all portions of said stormwater systems and releases of rights-of-way will not be altered, amended, vacated, released or abandoned without prior written approval of the Village. Shrubs, trees or permanent structures shall not be located within the easements utilized by the Developer without the prior written approval of the Village. All such easements shall expressly provide for the right but not the obligation of the Village to access the easement areas shown in Exhibits B and C, and to use such easements for performing any maintenance, repair or other activities deemed necessary by the Village, or which are required for legal compliance purposes.

Section 5. Specific Maintenance Responsibilities.

A. Storm sewer maintenance. As used herein, and without limiting the generality of Sections 1 and 2 of this Agreement, with respect to storm sewer utilities, "maintain" or "maintenance" shall mean inspecting, cleaning out, , repairing, and removing accumulated sediment, leaves, weeds, debris, and obstructions from all pollution-control devices, or similar appurtenances of the storm sewer system such that failure to maintain is likely to result in impeding the functioning of the storm sewer system.

1. Operation of Storm Sewer System. The Developer shall, at all times operate the storm sewer system in a manner consistent with generally accepted management practices and the provisions of Chapters 158 and 160 of the Village Code of Ordinances.

B. Water Main Utilities. As used herein, and without limiting the generality of Sections 1 and 2 of this Agreement, with respect to water main utilities described and depicted in Exhibit C, “maintain” or “maintenance” shall mean the performance of all work and repair necessary to ensure the proper and compliant functioning of the water main utilities.

C. Sanitary Sewer Facilities. As used herein, and without limiting the generality of Sections 1 and 2 of this Agreement, with respect to sanitary sewer facilities described and depicted in Exhibit C, “maintain” or “maintenance” shall mean the performance of all work and repair necessary to ensure the proper and compliant functioning of the sanitary sewer facilities.

D. Failure to Maintain. In the event the Developer does not operate and maintain the Improvements as required under the terms of this Agreement, the Village shall be entitled, and is hereby expressly authorized by the Developer, to take one or more of the following actions (or any combination of the same):

(1) The Village or its agent may go onto the Property and maintain the Improvements. Not less than ten (10) days before taking such action, the Village shall provide to the Developer and any other owners (as determined by reference to the tax rolls maintained by the Will County Treasurer), by first-class mail, notice of its intention. The Developer hereby grants to the Village and its agents a non-revocable license to go onto the Property to carry out the provisions of this subsection. The Village will invoice the cost of the specified maintenance, and the Developer shall pay the amount of the invoice within thirty (30) days of the Village’s mailing the invoice by first class mail. If the Developer shall fail to pay the amount of the invoice, all costs, fees, or expenses incurred by the Village in maintaining the Improvements pursuant to this subsection may be, without further notice, assessed as a lien on the Property, to be collected in any manner provided for by law.

(2) Require the Developer to provide a letter of credit in an amount sufficient to ensure maintenance of the Improvements, in a form satisfactory to the Village. The Developer shall provide the requested letter of credit within fifteen (15) business days of receiving such a request from the Village. The letter of credit shall provide that the payment to the Village shall be assured upon submission by the Village of notice that the Developer has not maintained the Improvements as required by this Agreement.

Section 6. Violation of Agreement. The parties acknowledge that monetary damages for a breach of this Agreement would be inadequate to compensate the

parties for the benefit of their bargain. Accordingly, the parties expressly agree that in the event of a violation of this Agreement, the non-breaching party shall be entitled to receive specific performance. Nothing herein shall be deemed a waiver of the Village's rights to seek enforcement of this Agreement, any approvals previously granted, or any other available remedies for breach of this Agreement to the extent otherwise authorized by law. A violation of the terms and conditions of this Agreement by the Developer or its successors subsequent to the completion of the Project shall entitle the Village, in the event of litigation to enforce this Agreement, to receive its reasonable attorney and consulting fees incurred.

Section 7. Recording. The obligations under this Agreement are covenants that run with the land and bind successors in title of the Developer. It is the parties' intent that this Agreement shall be recorded with the Will County Recorder of Deeds. The Developer shall be responsible for all costs associated with the recording of the Agreement.

Section 8. Miscellaneous.

A. Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the enforceability or validity of the remaining provisions and this Agreement shall be construed in all respects as if any invalid or unenforceable provision were omitted.

B. Notices. All notices permitted or required to be given shall be in writing and sent either by mail or by personal delivery to the addresses given below:

To Village: Village of Romeoville
Attn: Village Manager
1050 Romeo Road
Romeoville, IL 60446

To Developer: _____

C. Waiver. No failure or delay on the part of any party in exercising any right, power, or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power, or privilege under this Agreement preclude further exercise thereof or the exercise of any other right, power, or privilege. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights and remedies provided by law.

D. Governing Law. This Agreement is being executed and delivered and is intended to be performed in the State of Illinois and shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the internal laws thereof without regard to conflicts of laws principles.

E. Amendment. This Agreement may only be amended in writing, signed by all parties.

F. Recitals. The recitals set forth above shall be deemed to be incorporated into this Agreement as if fully set forth herein.

The parties have executed this Agreement on the day and year first above written.

Village of Romeoville

HPTS Apartments, LLC (Developer)

By: _____

By: [Signature]

Attest: _____

Attest: [Signature] [Signature]

EXHIBIT A

EXHIBIT B

EXHIBIT C