

## FIRST AMENDMENT TO LAND SWAP AGREEMENT

**THIS FIRST AMENDMENT TO LAND SWAP AGREEMENT** (this “**First Amendment**”) is made effective as of May 24, 2022 (the “**First Amendment Effective Date**”) between and among INTERSTATE DEVELOPMENT CORPORATION, a Minnesota corporation (“**Interstate**”), LOWRY MULTIFAMILY LLC, a Minnesota limited liability company (“**Lowry Multifamily**”), KENZIE MULTIFAMILY LLC, a Minnesota limited liability company (“**Kenzie Multifamily**”), LOWRY RETAIL LLC, a Minnesota limited liability company (“**Lowry Retail**”) and HOUSING AND REDEVELOPMENT AUTHORITY OF ST. ANTHONY, MINNESOTA, a public body corporate and politic under the laws of Minnesota (the “**HRA**”). The foregoing are hereinafter sometimes collectively referred to as the “**Parties**”.

### RECITALS

A. Interstate, Lowry Multifamily, Lowry Retail, and the HRA are the current parties to that certain Land Swap Agreement dated February 8, 2022 (the “**Original Agreement**”) pertaining to certain property located in the City having addresses of 2534 Kenzie Terrace (referred to in the Original Agreement and herein as the “**Bremer Parcel**”), 2654 Kenzie Terrace (referred to in the Original Agreement and herein as the “**HRA Parcel**”), and 2401 Lowry Avenue NE (referred to in the Original Agreement and herein as the “**Redevelopment Parcel**”), as each such parcel is more particularly described in the Original Agreement.

B. In connection with the HRA’s ongoing inspection of the Bremer Parcel and Parties’ desire to accelerate Lowry Retail’s closing on the HRA Parcel and commencement of the New Bremer Project thereon, the Parties desire to amend the Original Agreement to modify certain terms and conditions related to the Parties to the transaction and the timing of the sale and conveyance of certain real estate as described herein.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto hereby agree as follows:

1. **Recitals; Definitions.** The Recitals set forth above are true and correct in all material respects and incorporated herein by reference. Unless otherwise defined herein, all capitalized terms shall have the meaning ascribed to them in the Original Agreement, unless the context clearly requires otherwise. For purposes of this First Amendment, the Original Agreement, as revised by this First Amendment, shall be collectively referred to as the “**Agreement**”.
2. **Obligations of Lowry Multifamily.** All references in the Land Swap Agreement to “Lowry Multifamily LLC” shall be replaced with “Kenzie Multifamily LLC”. Interstate, Lowry Retail, Kenzie Multifamily and the HRA hereby ratify and approve the Original Agreement, as amended by this First Amendment.
3. **Stand Alone Transactions.** The Parties agree each of the transactions contemplated by the Original Agreement may be consummated separately, such that it shall not be required that the HRA Parcel, the Bremer Parcel, and the Redevelopment Parcel be conveyed contemporaneously as is set forth in the Original Agreement. The Parties agree that the HRA Parcel, the Bremer Parcel, and the and the Redevelopment Parcel may be conveyed and sold at disparate times as is further set forth in this First Amendment. Further, regardless of whether Kenzie Multifamily closes on the purchase of the Redevelopment Property, Kenzie Multifamily will acquire the Bremer Parcel from Bremer on or before

the Closing Deadline for subsequent sale to the HRA, subject to and in accordance with the terms and conditions of this Agreement. For avoidance of doubt, (a) Lowry Multifamily hereby ratifies and confirms its obligation to convey the Bremer Parcel to the HRA by Limited Warranty Deed at the HRA Closing subject to, and upon the terms and conditions of, this Agreement, and (b) the HRA hereby ratifies and confirms its obligation to convey the HRA Parcel to Lowry Retail by Limited Warranty Deed at the Lowry Retail Closing subject to, and upon the terms and conditions of, this Agreement.

4. **Timing of Closing.** Section 4. "Timing of Closing" of the Original Agreement is hereby deleted in its entirety and be replaced with the following:

**"Section 4. Timing of Closing.** Subject to the following paragraphs of this Section 4, the closing of the conveyances referenced in Section 1 (each a "**Closing**") hereof shall occur as follows:

"(a) Lowry Retail Closing. Subject to the Bremer Parcel Acquisition Contingency and Bremer Lease Contingency and the Parties' respective rights to terminate this Agreement set forth herein, the Closing of the HRA Parcel to Lowry Retail (the "**Lowry Retail Closing**") shall occur on **May 25, 2022**, but in no event later than **May 31, 2022** (the "**Closing Deadline**").

(b) HRA Closing. Subject to the Parties' respective rights to terminate this Agreement set forth herein, the Closing of the Bremer Parcel to the HRA (the "**HRA Closing**") shall occur on a date mutually acceptable to the Parties, but no earlier than the date of the Lowry Retail Closing and no later than **July 15, 2022**.

(c) Closings Generally. Each reference to the "Closing" in this Agreement means either of the Lowry Retail Closing or HRA Closing, as applicable and as the context requires."

5. **Amendments to Conditions to Purchase of Parcels by each Party.**

(a) Bremer Parcel Acquisition Contingency. Notwithstanding anything to the contrary in the Original Agreement, the HRA's obligation to convey the HRA Parcel to Lowry Retail (or any other Party to the Agreement) under the Agreement shall be conditioned upon Kenzie Multifamily acquiring good and marketable fee title to the Bremer Parcel before, or simultaneously with, the Lowry Retail Closing and Kenzie Multifamily providing the HRA with reasonable evidence confirming the same (the "**Bremer Parcel Acquisition Contingency**"). If Kenzie Multifamily fails to timely satisfy the Bremer Parcel Acquisition Contingency, then the HRA shall have no obligation to consummate the Lowry Retail Closing and the HRA may terminate this Agreement at any time after the Closing Deadline and before Kenzie Multifamily otherwise cures such failure by acquiring such title to the Bremer Parcel.

(b) Lowry Retail Due Diligence Period. Lowry Retail hereby waives its Due Diligence Period and Due Diligence Extension Periods with respect to its purchase of the HRA Parcel, and hereby waives its corresponding Agreement termination rights under Section 5 of the Original Agreement, save and except that Lowry Retail may terminate its right and obligations to purchase the HRA Parcel under the Agreement by written notice to the HRA on or before the Closing Deadline if Bremer does not enter into a lease for the HRA Parcel with Lowry Retail (the "**Bremer Lease Contingency**") and, upon delivery of such notice, no Party hereunder shall have any further obligations with respect to the HRA Parcel under the Agreement.

- (c) HRA Due Diligence Period. Notwithstanding anything to the contrary in the Original Agreement, (i) the HRA's Due Diligence Period with respect to its purchase of the Bremer Parcel shall expire on **June 30, 2022** (without the right to further extend such Due Diligence Period pursuant to the Due Diligence Extension Periods described in the Original Agreement) and (ii) the HRA may, in its sole discretion, terminate its right and obligations to purchase the Bremer Parcel under the Agreement by written notice to Kenzie Multifamily at any time and in any event by no later than three (3) business days after the expiration of the Due Diligence Period and, upon delivery of such notice, no Party hereunder shall have any further obligations with respect to the Bremer Parcel under the Agreement.
- (d) Simultaneous Closing. Section 5(g) of the Original Agreement is hereby deleted in its entirety.
- (e) Plat Recording. Notwithstanding anything to the contrary in Section 5(h) of the Original Agreement, the Parties agree that the HRA Parcel may be conveyed to Lowry Retail as currently platted and in such event, Lowry Retail will be responsible to record the Plat after the Lowry Retail Closing, but in no event later than **August 31, 2022**. The HRA agrees to cooperate with Lowry Retail to the extent necessary to record the Plat after the Lowry Retail Closing.

6. Amendment to Title Evidence. Interstate, Kenzie Multifamily, and Lowry Retail hereby (a) waive any right to terminate the Agreement or extend the Lowry Retail Closing pursuant to Section 7 of the Original Agreement and (b) acknowledges and agrees that the HRA will undertake no actions to cure any title objections noted in those certain letters dated March 23, 2022 and April 5, 2022 from Anthony L. Barthel with respect to the Property except as expressly set forth in the HRA's title objection response letter dated April 6, 2022 from Dorsey & Whitney.

7. Amendment to Inspection Rights and Costs The Parties acknowledge that the Phase I Environmental Site Assessment Report received by the HRA with respect to the Bremer Parcel disclosed certain environmental issues with respect to the Bremer Parcel. The HRA intends to obtain a Phase II Environmental Site Assessment Report on the Bremer Parcel (the "**Phase II**"), and, notwithstanding anything to the contrary in the Original Agreement, the HRA and its environmental consultants are hereby authorized to perform subsurface soil borings on the Bremer Parcel necessary to complete such Phase II. Interstate, Kenzie Multifamily, and/or Lowry Multifamily, as applicable, have obtained all necessary approvals and consents from Bremer necessary for the HRA and its environmental consultants to access the Bremer Parcel and obtain such subsurface soil borings on the Bremer Parcel.

8. Amendment to Construction Conditions. The first and only sentence of Section 11 of the Original Agreement (Construction Conditions) is hereby be deleted in its entirety and replaced with the following sentence:

Construction will begin within thirty (30) days of the Lowry Retail Closing on the HRA Parcel for the development of the New Bremer Project, which is estimated to be completed by **September 1, 2022**, with an outside date of **December 31, 2022**.

9. Construction; Continuity of Agreement. Except as herein modified or amended, the provisions, conditions and terms of the Original Agreement will remain unchanged and in full force and effect. To the extent there shall exist a conflict between the Original Agreement and this First Amendment, the terms of this First Amendment shall control.

10. **Counterparts.** This First Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Email or facsimile signatures shall be binding as if an original signature page has been delivered.

*[Signature Page to Follow]*

*[Signature Page to First Amendment to Purchase Agreement]*

**IN WITNESS WHEREOF**, the undersigned has executed this First Amendment effective as of the First Amendment Effective Date.

**HOUSING AND REDEVELOPMENT  
AUTHORITY OF ST. ANTHONY,  
MINNESOTA**, a public body corporate  
and politic under the laws of Minnesota

By: \_\_\_\_\_  
Randy Stille, Chair

By: \_\_\_\_\_  
Charlie Yunker, Executive Director

*[Signature Page to First Amendment to Land Swap Agreement]*

**IN WITNESS WHEREOF**, the undersigned have executed this First Amendment effective as of the First Amendment Effective Date.

**INTERSTATE DEVELOPMENT CORPORATION,**  
a Minnesota corporation

By: \_\_\_\_\_  
Lonnie L. Provencher  
President

**LOWRY MULTIFAMILY LLC,**  
a Minnesota limited liability company

By: \_\_\_\_\_  
Lonnie L. Provencher  
President

**LOWRY RETAIL LLC,**  
a Minnesota limited liability company

By: \_\_\_\_\_  
Lonnie L. Provencher  
President

**KENZIE MULTIFAMILY LLC,**  
a Minnesota limited liability company

By: \_\_\_\_\_  
Lonnie L. Provencher  
President