This **DRAFT** Housing Infrastructure Agreement was submitted to VEPC as part of the project application. It has not been reviewed or approved by VEPC.

# HOUSING INFRASTRUCTURE AGREEMENT

This HOUSING INFRASTRUCTURE AGREEMENT (this "Agreement") is made and entered into as of the ___ day of __________, 2026 (the "Effective Date"), by and between the TOWN OF MIDDLEBURY, a Vermont municipal corporation with a principal office at 77 Main Street, Middlebury, Vermont 05753 (the "Town"), and SUMMIT DEVELOPMENT, LLC, a Vermont limited liability company with a principal address of 7 Aspen Drive, Unit 1, South Burlington, Vermont 05403 (the "Developer"). The Town and Developer are sometimes referred to individually as a "Party" and collectively as the "Parties."

## RECITALS

WHEREAS, the Town ("Applicant" herein) is willing to be an applicant under the Vermont Economic Progress Council's ("VEPC") Community Housing Infrastructure Program ("CHIP") to increase the supply of housing units in the Town consistent with the goals and purpose of CHIP; and

WHEREAS, the Developer intends to serve as the project sponsor (the "Sponsor") in accordance with VEPC's CHIP requirements, thus undertaking the financing of the costs, fees, and expenses to construct the infrastructure proposed to be constructed in support of a new housing development (the "Housing Infrastructure Project") and therefore assuming all responsibility for debt associated with the Housing Infrastructure Project; and

WHEREAS, the Developer intends to construct Stonecrop Meadows-Phase II consisting of 74 new housing units representing a mix of 39 attached single-family units and a single 35-unit affordable multi-family building (the "Housing Development") on nine parcels of land comprised of +/-____ acres of land located northerly of Seminary Street Extension in the Town (the "Housing Development Site") that meet CHIP eligibility requirements, including affordability, primary-residence occupancy, and long-term housing availability; and

WHEREAS, the Town intends to seek approval from VEPC to utilize tax-increment financing ("TIF") as provided for under CHIP to remit a portion of future property tax revenues generated within the designated Housing Development Site to the Developer, in its capacity as the Sponsor, for financing the Housing Infrastructure Project; and

WHEREAS, VEPC requires that CHIP-funded Housing Infrastructure Project be directly related to and necessary for the creation of the Housing Development, and requires the Town to enter into a binding agreement with the Developer and, if applicable, the Sponsor establishing obligations, performance assurances, and conditions for payment; and

WHEREAS, the Parties intend through this Agreement to define their respective responsibilities, establish the terms under which TIF revenue will be obligated to the Housing Infrastructure Project and related costs, and ensure compliance with VEPC's CHIP guidelines.

NOW, THEREFORE, in consideration of the mutual covenants herein, the Parties hereto agree as follows.

## SECTION 1 — DEFINITIONS

1. **Tax-Increment Financing (TIF):** A public financing tool whereby the incremental growth in future property tax revenues for a given parcel or group of parcels is captured and used to pay for or finance infrastructure and other public improvements.
2. **Community Housing Infrastructure Program (CHIP):** A program administered by the Vermont Economic Progress Council that allows municipalities to leverage TIF from municipal property taxes and State Education Fund property taxes to help pay for infrastructure that enables new housing development on a single parcel or a group of contiguous parcels.
3. **Vermont Economic Progress Council (VEPC)**: An independent board of Vermont citizens consisting of nine Governor-appointees, two General Assembly appointees, and two non-voting representatives from each region of the state designated by Regional Development Corporations and Regional Planning Commissions. VEPC serves as an approval and authorization body for TIF in Vermont, and administration of the CHIP program is managed by VEPC's professional staff.
4. **Applicant:** Eligible applicants to CHIP are, in every case, Vermont municipalities, which is defined above.
5. **Developer**: The person or entity responsible for undertaking to construct new housing that will be served by Housing Infrastructure Project, which is defined above.
6. **Sponsor**: The person or entity undertaking to finance the construction of Housing Infrastructure Project, which is defined above.
7. **Housing Infrastructure Project:** The infrastructure and public improvements that are mutually agreed upon by the Municipality, the Developer, and the Sponsor, and approved by VEPC, to be paid for using TIF revenue in compliance with all CHIP requirements, which is defined above.
8. **Housing Development Site:** The parcel or parcels that encompass a Housing Development authorized by the Municipality where new housing and associated infrastructure will be constructed, which is defined above and further described on "Exhibit A" attached hereto and incorporated herein by reference as made more fully a part hereof.
9. **Housing Development Project:** The construction, rehabilitation, or renovation of any building on an approved Housing Development Site, which is defined above. .
10. **Related Costs**: Expenses incurred and paid by a municipality, Developer or Sponsor that are directly related to the creation, implementation, and administration of the Housing Infrastructure Project, as further defined in 24 V.S.A. § 1906(18).
11. **State Education Fund**: Represents the property tax levied by the State to help fund education in Vermont.
12. **Retained Increment**: This is the portion of future TIF increments that will be retained by the municipality and the Education Fund.
13. **Project Increment:** The portion of future TIF increments that will be remitted to the Sponsor to help pay for the Housing Infrastructure Project. Project Increment will also be

used to reimburse the eligible Related Costs incurred in preparing the CHIP application and to reimburse the eligible Related Costs associated with ongoing administration of CHIP in support of the Housing Infrastructure Project.

14. **Final Repayment Date:** The date on which the Town's obligation to remit the Project Increment ends.
15. **Short Term Rental:** For purposes of this agreement, a short-term rental is defined as any unit leased for a term of less than six months.

**SECTION 2 — OBLIGATION OF TAX-INCREMENTS**

**2.1 Use of Increment.**

Subject to the terms and conditions hereinafter provided, the Town shall obligate and allocate tax-increment revenues generated within the approved Housing Development Site solely for the purpose of financing the Housing Infrastructure Project outlined in Section 6 and the Related Costs identified in Section 7.

**2.2 Dedication of Municipal Property Tax-Increment.**

Commencing in the first year in which the Developer incurs debt for the Housing Infrastructure Project, the Town shall remit to the Developer, in its capacity as the Sponsor, on an annual basis, for a term of up to twenty (20) years, or until all debt for the Housing Infrastructure Project is retired or such improvements are otherwise paid for, or until the termination of this Agreement, whichever shall first occur, 85 percent of the municipal property tax increment generated through the regular collection of municipal property taxes on parcels located within the Housing Development Site.

**2.3 Dedication of State Education Fund Tax-Increment.**

Commencing in the first year in which the Developer incurs debt for the Housing Infrastructure Project and provided the Housing Development satisfies the affordability criterion of 24 V.S.A. § 1910, the Town, with the ongoing consent of the State of Vermont (the "State"), shall remit to the Developer, in its capacity as the Sponsor, on an annual basis, for a term of up to 20 years or until all debt for the Housing Infrastructure Project is retired or such improvements are otherwise paid for, or until the termination of this Agreement, whichever shall first occur, 85 percent of the education property tax increment generated through the regular collection of State Education Fund property taxes on parcels located within the Housing Development Site.

**2.4 Compliance with VEPC Requirements.**

All obligations of increment shall comply with VEPC's CHIP guidelines, 32 V.S.A. Chapter 53, Subchapter 7, and any conditions imposed by VEPC in its approval of the Town's CHIP application.

**2.5 No Obligation Without Performance.**

The Town shall not obligate or disburse increment unless the Developer has satisfied the performance assurances and conditions for payment set forth in Section 4, below.

**2.6 Increment Not a General Obligation.**

The Town's obligation to remit portions of future property tax increments for the financing of the Housing Infrastructure Project is limited to available increment and does not constitute a pledge of the Town's full faith and credit.

**2.7 Cost Certification.**

The Developer shall provide detailed cost documentation for all components of the Housing Infrastructure Project and Related Costs for which reimbursement is sought. The Town may require an independent audit.

**2.8 Excess Increment.** In accordance with 24 V.S.A. § 1910c(d), excess increment in any tax year, being any amount of increment received in excess of the amounts the Town shall pay to the Sponsor, may, with Developer's reasonable discretion in its capacity as Sponsor, be:

1. used to prepay debt;
2. placed in the Town's special revenue fund and used for future financing payments; or
3. used for defeasance of the financing.

Excess increment remaining as of the Final Repayment Date must be returned to taxing authorities in the appropriate proportions.

## SECTION 3 — PROHIBITION OF NON-PRIMARY RESIDENCES

**3.1 Primary Residence Requirement.**

Housing units created as part of the Developer's Housing Development shall be used exclusively as primary residences through the Final Repayment Date, whether owner-occupied or long-term rental, pursuant to 24 V.S.A. § 1909(a)(4).

**3.2 Prohibition on Short-Term Rentals.**

Units shall not be used as short-term rentals, vacation homes, or seasonal residences. The Developer shall incorporate deed restrictions, lease provisions, or other enforceable mechanisms to ensure compliance. Rental units in the 35-unit multi-family building will be leased for terms of no less than six months, per the Developer's internal policies.

**3.3 Monitoring and Reporting.**

Per VEPC requirements, the Developer shall provide a landlord certificate every two years confirming that all units in the 35-unit multi-family building continue to be rented as primary residences until the Final Repayment Date.

In addition, the Developer will incorporate deed restrictions on all for-sale units requiring such units be used as primary residences until the Final Repayment Date. The Developer further agrees to include language in their deed restrictions that require future owners of for-sale units to submit homestead declarations every two years until the Final Repayment Date.

The Town may conduct inspections or request documentation as necessary, and Developer shall respond to such requests for inspections or documentation within a reasonable time at its own cost and expense. Should Developer not respond to such a request within thirty (30) days, or such other reasonable extended period of time as the Parties may otherwise agree assuming Developer is pursuing a cure with reasonable diligence, then the Town may terminate this Agreement and may proportionally suspend or terminate increment payments, require proportionate repayment of previously disbursed funds, or seek other remedies permitted by law as a result of Developer's default.

### 3.4 Remedies for Non-Compliance.

If units are found to be used as non-primary residences as a result of Developer's failure to incorporate appropriate deed restrictions or other enforceable mechanisms to ensure compliance, the Town may terminate this Agreement and may proportionally suspend or terminate increment payments, require proportionate repayment of previously disbursed funds, or seek other remedies permitted by law.

## SECTION 4 — PERFORMANCE ASSURANCES AND CONDITIONS FOR PAYMENT

### 4.1 Sponsor Assurance(s)

Sponsor shall provide performance assurances acceptable to the CHIP lender to reasonably secure the obligations under the housing infrastructure agreement in the event that the tax increment generated by the housing development project falls short of the financing of the CHIP debt.

### 4.2 Conditions Precedent to Payment.

The Town shall not issue the first disbursement of Project Increment until:

- VEPC has issued final approval of the Town's CHIP application;
- The Developer has secured financing for construction of the Housing Infrastructure Project;
- The Developer has obtained all required permits;
- The Developer's submission on an invoice for payment; and
- The Developer has secured and furnished to the Town a notice to proceed under a construction contract for both the Housing Development Project and the Housing Infrastructure Project.

### 4.3 Ongoing Payments.

Following the initial disbursement of Project Increment, and for a term of up to 20 years or until all debt for the Housing Infrastructure Project is retired or such improvements are otherwise paid for, whichever shall first occur, the Town shall make no additional disbursements of Project Increment unless:

- The Town has verified that construction progress on the approved Housing Development Project and Housing Infrastructure Project aligns with the development schedule provided in the CHIP application or is otherwise proceeding at a rate of progress deemed acceptable by the Town.
- The Town has determined that completed improvements meet approved specifications.
- The Developer is current on all property taxes owed within the Town, including property taxes paid to the State Education Fund;
- The Developer is current in providing two-year certifications that all rental units in the Housing Development Site continue to be leased as primary residences for terms of no less than six months;

- Two-year homestead declarations are current for all owner-occupied units. In the event that any owner-occupied units are not current with their homestead declarations, the Town may make a pro-rata reduction in the disbursement of Project Increment for that year.
- The Developer, in its capacity as the Sponsor, has submitted invoices with supporting documentation verifying payments for direct and Related Costs for the Housing Infrastructure Project; and
- The Developer is in compliance with all obligations outlined in Section 8.2 of this Agreement.

**4.4 Final Completion.**

Final payment, occurring within the term of up to 20 years or until all debt for Housing Infrastructure Project is retired or such improvements are otherwise paid for, whichever shall first occur, shall not be made until the Housing Infrastructure Project is completed, all required documentation has been submitted, the Town has issued a certificate of completion, and the Developer has demonstrated compliance with Sections 2 and 8 of this Agreement.

**4.5 Failure to Perform.**

If the Developer fails to meet performance obligations or otherwise breaches the terms and conditions of this Agreement, the Town may withhold payments, require proportionate repayment of previously disbursed funds, seek other remedies permitted by law as a result of Developer's default, and/or terminate this Agreement, subject to Developer's reasonable opportunity to cure within 30 days of receiving notice from the Town of the alleged breach.

## SECTION 5 — EXPECTED OUTCOMES

**5.1 Housing Production.**

The Developer intends to construct the following number of new housing units:

___ total units; Expected overall value of housing development ___________________.

___ units affordable to households at or below ___% of Area Median Income; and

___ units designated for long-term rental or owner-occupied primary residence use.

___ % of project floor area dedicated to housing.

**5.2 Infrastructure Outcomes.**

The Housing Infrastructure Project shall enable the construction of the housing units described above, increase housing capacity within the Town, and support long-term community development consistent with the Town Plan.

**5.3 Economic and Community Benefits.**

Expected outcomes include increased availability of workforce and family housing, stabilization of housing costs, support for local employers, and improved public infrastructure.

## SECTION 6 — HOUSING INFRASTRUCTURE PROJECT

**6.1 Housing Infrastructure Project – Development Schedule.**

The elements of the Housing Infrastructure Project expected to be paid for or financed with the Project Increment provided for under this Agreement are listed in detail in Exhibit B: Housing Infrastructure Project – Development Schedule.

**6.2 Enabling the Housing Development.**

All elements of the Housing Infrastructure Project reimbursed through the Project Increment must be directly tied to enabling the Housing Development and consistent with VEPC's CHIP guidelines.

**6.3 Serving the Public Good**

All elements of the Housing Infrastructure Project reimbursed through the Project Increment must serve the public good. The public good will be considered met for Improvements that directly support the Housing Development and are:

- Publicly owned and publicly accessible; or
- Privately owned and publicly accessible; or
- Privately owned and privately accessible improvements may be eligible so long as they can demonstrate a community benefit from the CHIP supported infrastructure project. The municipality shall articulate with evidence how the community needs or desires the planned improvements and that they are mutually beneficial for the municipality and developer.

**SECTION 7 — RELATED COSTS**

**7.1 Eligible Related Costs.**

Related Costs are costs incurred by the Town, the Developer, and/or the Sponsor associated with the creation, implementation, and administration of CHIP in support of the Housing Infrastructure Project. Eligible Related Costs include, but are not limited to, the following:

- Cost of plans, studies, or reports that are specific to preparing a CHIP Plan, a Finance Plan, an application to VEPC, or a subsequent amendment required to maintain the CHIP site.
- Costs of providing public notification about, and obtaining public approval for, a CHIP Plan, a Finance Plan, and CHIP debt, CHIP application, or CHIP amendment.
- Costs such as consulting, design, architects, engineering, accounting, legal, project management, or other professional services incurred during preparation or implementation of a CHIP Plan, Finance Plan, application or amendment, and administration of the program, including administrative fees paid by the municipality.
- Application fees charged by VEPC for third-party analysis of CHIP Plans, CHIP Financing Plans, or CHIP amendments.
- the CHIP-related costs of the independent annual municipal audit; and
- municipal employee and staff costs directly related to the administration and implementation of the CHIP site. These costs may only be paid with the municipal tax increment.

**7.2 Ineligible Related Costs.**

Costs that are not eligible Related Costs or Housing Infrastructure Project include:

- Annual municipal operating costs.
- Public transportation operating costs.
- Annual maintenance or repair costs.
- Purchase of vehicles.
- Interior furnishings.
- Operating equipment or apparatus that is not part of the infrastructure improvement itself.
- other expenditures for non-capital assets, except debt service interest payments, as outlined under eligible improvement costs.

**7.3 Reimbursement of Related Costs.**

In all cases, funds used for reimbursing eligible Related Costs will be sourced from the Project Increment. No reimbursement of eligible Related Costs will be issued without appropriate documentation validating the costs for which reimbursement is sought. Appropriate documentation will be determined at the reasonable discretion of the Town.

**7.4 Annual Reporting of Related Costs.**

Per VEPC requirements, all eligible Related Costs reimbursed in a given calendar year must be included in an Annual Report submitted to VEPC no later than February 15th of the following year.

**7.5 Not-to-Exceed**

The amount of Project Increment allocated to Related Costs reimbursements in any given year must not exceed 5 percent without written consent from both the Town and the Developer in its capacity as Sponsor.

## SECTION 8 — OBLIGATIONS OF PARTIES

**8.1 Obligations of the Town**

The Town shall:

- **Administer CHIP in Accordance with VEPC Requirements.** Monitor compliance with all VEPC CHIP guidelines, TIF statutes, and any conditions imposed by VEPC in its approval of the Town's application.

- **Obligate Increment for Eligible Costs.** Allocate and disburse tax-increment revenues solely for Housing Infrastructure Project, subject to the conditions of this Agreement.

- **Provide Oversight and Verification.** Review and verify Developer and Sponsor submissions, including cost certifications, invoices, construction progress, and compliance with primary-residence requirements.

- **Manage and Disburse Funds.** Maintain a dedicated special revenue fund in which all future property tax payments for parcels in the Housing Development Site will be held and from which all disbursements of Project Increment and Retained Increment will be made. The Town will disburse Project Increment payments to the Developer, in its capacity as Sponsor, in a timely manner upon submission of invoices and once all obligations for payment have been met for a term of up to 20 years or until all debt for the Housing Infrastructure Project is retired or such improvements are otherwise paid for, whichever shall fist occur, or until the termination of this Agreement.

- **Maintain Public Ownership of Infrastructure.** Where applicable, inspect, and provided they meet Town standards, accept ownership or control of the improvements made under the Housing Infrastructure Project upon completion and the passing of any warranty period on the same,.
- **Report to VEPC.** Submit an annual report to VEPC no later than February 15 of each year that this Agreement remains in effect. The annual report must be completed on a form prescribed by VEPC and meet all VEPC requirements for annual reporting as outlined in VEPC's CHIP guidelines.
- **Coordinate Permitting and Approvals.** Process municipal permits in accordance with applicable laws and timelines, without waiving any regulatory requirements.
- **Compliance with State Appraisal Requirements.** The Town will ensure that parcels within the Housing Development Site are appraised, at a minimum, every six years to ensure that future increments reflect timely trends in market appreciation.

**8.2 Obligations of the Developer/Sponsor**

The Developer shall:

- **Construct Housing Units.** Develop the Housing Development described in Section 5 in accordance with all applicable permits, approvals, and CHIP requirements.
- **Construct Housing Infrastructure Project.** Complete the Housing Infrastructure Project and related improvements identified in Section 6 in accordance with Town standards, approved plans, and applicable laws, and continue to operate, maintain, repair and replace the same until such time as such infrastructure is accepted by the Town.
- **Ensure Primary-Residence Use.** Implement and enforce deed restrictions, lease provisions, or other mechanisms necessary to ensure compliance with Section 3.
- **Provide Documentation.** Submit cost certifications, invoices, progress reports, and any other documentation reasonably required by the Town or VEPC.
- **Ensure Timely Payment of Property Taxes.** Ensure all property taxes for housing units remaining under the ownership of the Developer are paid in a timely manner for the full term of up to 20 years or until all debt for Housing Infrastructure Project is retired or such improvements are otherwise paid for, whichever shall first occur.
- **Maintain Insurance and Bonds.** Maintain adequate insurance coverage and performance security as required under Section 4.
- **Comply with All Laws.** Adhere to all federal, state, and local laws, including environmental, labor, and land-use regulations.
- **Cooperate with Monitoring.** Allow the Town or its agents, upon reasonable advanced written notice, to inspect the Housing Development Site, review all records as reasonably requested, and verify compliance with this Agreement.

**8.3 Mutual Obligations**

Both parties agree to:

- **Act in Good Faith.** Cooperate fully to achieve the objectives of the CHIP program and the successful completion of the Housing Development project.

- **Communicate Regularly.** Participate in periodic coordination meetings and promptly notify each other of any changes, delays, or issues affecting the Housing Development.
- **Maintain Records.** Retain all project-related records for at least the period required by VEPC and make them available to the Town and VEPC upon reasonable request.

## SECTION 9 — ACKNOWLEDGEMENTS & AMENDMENTS

### 9.1 Acknowledgement of VEPC Approval

The Town and the Developer/Sponsor acknowledge that this Agreement will not go into effect until the subject CHIP application has been fully approved by VEPC.

### 9.2 Acknowledgement of Revisions Prior to VEPC Approval

The Town and the Developer/Sponsor further acknowledge that this Agreement may be subject to revisions during VEPC's 90-day application review process. During this time, the Town's legislative body permits Town staff to negotiate revisions with the understanding that a final revised version of this Agreement may be presented for approval at a future public hearing prior to final approval of the Town's CHIP application.

### 9.2 VEPC Approval for Amendments

Per VEPC requirements, any significant changes to this Agreement following the approval of the CHIP application must be reviewed and approved by VEPC. In such cases, the Town must apply for a Substantial Change Request (Amendment) by submitting a narrative explaining the desired change and rationale and providing a revised CHIP Housing Development Plan, CHIP Finance Plan, and Housing Infrastructure Agreement. These revised documents must be approved by the municipal legislative body at a properly warned hearing.

## SIGNATURES

**TOWN OF MIDDLEBURY, VERMONT**

By: ____________________________________

Name:

Title:

Date:

**SUMMIT DEVELOPMENT, LLC**

By: ____________________________________

Name:

Title:

Date: