

Section 11.02 Phase III and IV Improvements. If, as of November 1, 2005, Developer has failed to meet the performance deadlines in Section 5.06 of this Agreement as amended on _____, 2005, the City will begin to seek another developer for Phases III and IV. Provided in the opinion of CPED Staff, the Developer is progressing reasonably satisfactorily on Developer's activities under this Agreement, Developer and City will begin negotiations on a term sheet for Phases III and IV on or before December 31, 2005 with terms mutually agreeable to the parties, but generally parallel to the terms for this Agreement. Such term sheet shall not be presented to the Minneapolis City Council and MPHA Board of Commissioners (collectively, for purposes of this Section 11.02, the "Public Decisionmakers") until Developer has (i) commenced construction on 79 of the Units required by this Agreement, (ii) satisfactorily completed 50 of the Units required by this Agreement, (iii) Builder Pool Agreements for an additional 22 Lots/Units, and (iv) demonstrated satisfactory progress in fulfilling its obligation to construct low-income housing pursuant to Section 5.08 herein, as well as employment goals for the project. Provided terms can be reached that are mutually agreeable to the parties and Developer has, in the opinion of the CPED Staff, satisfactorily performed on this Agreement to that date, CPED Staff will prepare a report to the Public Decisionmakers recommending that Developer receive the right to develop Phases III and IV upon execution of a redevelopment contract. In no event will any proposed term sheet be presented to the Public Decisionmakers prior to January 15, 2006. If Developer has not, in the reasonable opinion of the City and MPHA, satisfactorily performed on this Agreement, there shall be no obligation for the Public Decisionmakers to approve Developer's rights to develop Phases III and IV and nothing herein shall be interpreted as providing any obligation for the Public Decisionmakers to approve entering into a redevelopment contract with Developer upon completion of the above thresholds if the Public Decisionmakers are not of the reasonable opinion that Developer has performed satisfactorily. At Developer's sole risk and expense, Developer may conduct planning & design for Phases III & IV prior to November 1, 2005. Nothing herein shall be interpreted to imply that the City must declare an Event of Default for the Public Decisionmakers to find that the Developer has not satisfactorily performed. If Developer misses any of the performance deadlines outlined in Section 5.06 as amended on _____, 2005 or if either of the Public Decisionmakers denies the rights for the Developer to develop Phases III and IV because of a reasonable determination that Developer has not satisfactorily performed on this Agreement, this Section 11.02 shall be null and void and of no effect, and no action, claim or demand may be based on any term or provision of this Section 11.02.