

**TRANE PLANT 6
DEVELOPMENT AGREEMENT**

This Trane Plant 6 Development Agreement (hereafter "Agreement") is made by and among the **City of La Crosse, Wisconsin**, a Wisconsin municipal corporation with offices located at 400 La Crosse Street, La Crosse, Wisconsin, 54601 ("**City**"), and **Fifth Ward Residences, LLC**, a Wisconsin limited liability company with principal offices located at 119 North 19th Street, La Crosse, Wisconsin 54601 ("**Developer**").

WITNESSETH:

Whereas, Developer owns and proposes to develop and improve a currently underutilized property into two market rate multifamily housing structures, consisting of 144 units and fourteen townhomes as well as an activity center, defined below as the "Project," within the City of La Crosse on property Developer owns, all of which property is more particularly described in **Exhibit A** ("Real Estate");

Whereas, the goals for the Real Estate include encouraging private residential development and improvements and undertaking public improvements that promote desirable and sustainable uses, which further serve the needs of the community and visitors as well as fulfilling the aesthetic character standards of the City;

Whereas, the City finds it necessary to further redevelop an area of the City within Tax Incremental District No. 16, ("TID #16"), in order to further redevelop an area of the City, reduce underutilized property, grow the tax base and stimulate commercial and residential activity as well as provide for a place of employment and residence for citizens of the State and the City;

Whereas, Section 66.1105, Wis. Stat., empowers cities to assist redevelopment projects by lending or contributing funds as well as performing other actions of a character which the City is authorized to perform for other general purposes;

Whereas, the City has found and determined that: (1) the economic vitality of the Real Estate is essential to the economic health of the City and other taxing jurisdictions within the City; (2) the proposed development of the Real Estate through the construction of the Project is an integral part of the residential and commercial needs of City residents, local businesses and the surrounding area; and (3) the benefits to be gained by the City as a result of the Project are greater than the costs to the City under this Agreement;

Whereas, the Developer and the City agree that the Real Estate's development and improvement shall (1) result in an economic and aesthetic benefit to the City and the surrounding area, including, without limitation, growth in the tax base and job creation; and (2) be secured for the future benefit of the citizens and the community through the construction and development of the Project all in accordance with the Master Plan to be prepared by the Developer and approved by the City Plan Commission;

Whereas, the City desires the Project to proceed for the reasons set forth above and ultimately to provide increased tax revenues for the City and various taxing jurisdictions authorized to levy taxes within TID #16;

This space is reserved for recording data

Return to

City Attorney
400 La Crosse Street
La Crosse WI 54601

Parcel Identification Number/Tax Key Number

17-10289-40

Whereas, in order to induce Developer to undertake the Project, the City has agreed to pay for certain costs included in the project plan of TID #16 ("TID Project Plan") through the use of existing municipal funds and/or the use of borrowed funds and to provide other assistance to Developer as provided by this Agreement, all in accordance with the terms and conditions of this Agreement;

Whereas, the City finds and determines that certain cash grant payments as detailed in this Agreement are necessary and convenient to the implementation of the TID Project Plan;

Whereas, Developer declares that "but for" this Agreement, it would not undertake the Project to the extent of the investment proposed;

Whereas, the City and Developer wish to set forth in this Agreement their respective commitments, understandings, rights and obligations in connection with the Project as more fully described herein and to further provide for the implementation of the Project; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein exchanged, and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties hereto agree as follows:

**ARTICLE I
PURPOSE; LAND; DEFINITIONS; EXHIBITS**

1.1. Land Affected. The parties acknowledge that the Project will encompass and/or affect the following real property, all of which shall be within the boundaries of TID #16:

The Real Estate, described on **Exhibit A**, and certain public streets and rights-of-way serving the same.

1.2. Purpose of the Agreement. In order to cause the Project to occur and to induce Developer to undertake the Project, to promote community development, industry and job creation and to expand and enhance the tax base and stimulate commercial and residential activity within the City, the City intends to undertake certain project costs and public improvements, if any, necessary for the Project, all as set forth in this Agreement. The City intends to recover its costs through payments received under this Agreement including increased tax revenues generated by the Real Estate. The parties intend to enter into this Agreement to record the understandings and undertakings of the parties and to provide a framework within which the Project may proceed. Developer and the City plan to work together to undertake the Project on the Real Estate all as more fully described herein and in the Master Plan and as approved by the City Plan Commission.

1.3. Certain Definitions. In addition to the words and phrases elsewhere defined in this Agreement, the following words and phrases, when having an initial capital letter, shall have the following meanings:

- a. "Agreement" means this Trane Plant 6 Development Agreement by and between the City and the Developer, as amended and supplemented from time to time.
- b. "City" means the City of La Crosse, Wisconsin, a Wisconsin municipal corporation.
- c. "Construction Schedule" means the construction timetable set forth on **Exhibit F**.
- d. "Contribution" means the contribution or cash grant that is made through this Agreement to incent Developer to undertake the development and assist the Project and for which the Monetary Obligation is incurred.
- e. "Developer" means Fifth Ward Residences, LLC, a Wisconsin limited liability company.

- f. "Master Plan" means the Master Plan for the Real Estate prepared by the Developer and approved by the City Plan Commission as well as all subsequent revisions thereto that are prepared by Developer and approved by the City Plan Commission.
- g. "Monetary Obligation" means a limited and conditional monetary obligation of the Tax Increment generated from the Project in a maximum aggregate amount of Three Million Seven Hundred Eighty-eight Thousand Two Hundred Thirty-five and 99/100 Dollars (\$3,788,235.99), that is incurred, in one or more installments, and that is payable over the time not to exceed the duration of the TID #16; more specifically:
- (1) Calculation. Effective September 1, 2023, the City shall be obligated to pay a Contribution calculated as the Tax Increment resulting from an increase in real property tax base from the Project not to exceed the lesser of: (a) an aggregate Three Million Seven Hundred Eighty-eight Thousand Two Hundred Thirty-five and 99/100 Dollars (\$3,788,235.99), or (b) the actual Tax Increment resulting from an increase in the real property tax base from the Project for tax years 2023-2033 as further defined in Section 3.1 of this Agreement. The difference, if any, between the actual Tax Increment resulting from an increase in the real property tax base from the Project for any tax year for which a Contribution would be paid and the aggregate maximum Three Million Seven Hundred Eighty-eight Thousand Two Hundred Thirty-five and 99/100 Dollars (\$3,788,235.99), shall be retained by the City. The amount of Three Million Seven Hundred Eighty-eight Thousand Two Hundred Thirty-five and 99/100 Dollars (\$3,788,235.99) is based upon the Developer obtaining financing at three and one-half percent (3.5%) or greater. If Developer obtains financing at less than 3.5%, then the Monetary Obligation shall be recalculated based upon the lower percentage rate and the City shall not be obligated to pay higher than the recalculated amount as further defined in Section 3.1 of this Agreement.
 - (2) Disbursement Date. After determining compliance with this Agreement and the actual applicable Tax Increment, the City shall make its Contribution of the Monetary Obligation annually on or before September 1 until payment of the maximum amounts defined herein or until closure of TID #16 by law, whichever occurs first.
 - (3) Conditions. The City's obligation to make Contributions on the Monetary Obligations is conditioned on:
 - (a) The determination by the City Assessor of compliance with the tax guarantee in Section 2.6(b) of this Agreement;
 - (b) The timely payment of taxes when due by Developer;
 - (c) Substantial Completion of the Project in accordance with the Master Plan, Project Cost Breakdown and Construction Schedule;
 - (d) Submission by Developer of verifiable costs, invoices, lien

waivers, proof of financing costs and any other supporting documentation as requested by the Finance Director and Economic Development Commission. Said submissions shall be in form and content acceptable to the Finance Director and Economic Development Commission and demonstrate Substantial Completion and payments for costs for which reimbursement is being requested in accordance with Section 3.1 and the other provisions of this Agreement;

- (e) Continued compliance with the provisions of this Agreement by Developer and any other agreement between the Developer and City related to the Project; and
 - (f) The use of the Contribution for eligible project costs under the Tax Incremental Law; and
 - (g) Continued compliance with any and all applicable federal, state and local laws, regulations and ordinances by Developer.
- (4) **Example Exhibit.** An example of the Monetary Obligation is attached as **Exhibit G-1**.
- (5) **Not General Obligation.** For purposes of the Tax Increment Law, this Agreement is an evidence of indebtedness; that is, it fully evidences the City's obligation to pay the Monetary Obligation. No negotiable instrument is being prepared to separately evidence the Monetary Obligation. The Monetary Obligation shall not, however, be included in the computation of the City's constitutional debt limitation, because the Monetary Obligation is limited and conditional, and no taxes have been or will be levied for its payment or pledged to its payment. Nothing in this Agreement shall be deemed to change the nature of the City's obligation from a limited and conditional obligation to a general obligation. No Tax Increments are pledged to the payment of the Monetary Obligation. In the event of an interpretation of this Agreement that would require the City's obligation to change from a limited and conditional obligation to that of a general obligation, then the City's Contribution and/or Monetary Obligation shall be subject to annual appropriation by the City Council.
- (6) **No Acceleration.** Notwithstanding any other provision of this Agreement, Developer has no right to accelerate the payment of the Monetary Obligation. The only remedy of Developer in the event of nonpayment shall be legal proceedings to collect the amount of the Monetary Obligation that is due and payable. Developer may only institute legal proceedings after filing a claim with the City and complying with any other applicable provisions of this Agreement.
- (7) **Limitations.** The City has no obligation to make payments of the Monetary Obligation in excess of the amount of the Tax Increments that have been collected, and allocated from the Project in TID #16 under the Tax Increment Law and the provisions of this Agreement. The City has no obligation to make payments of the Monetary Obligation if this

Agreement terminates. In the event Developer fails to comply with any provision of this Agreement, the City may withhold any Contribution that is due and payable and may further seek the recovery of any Contribution that has already been paid or disbursed, which shall become immediately due and payable.

- h. "Plans and Specifications" means the plans and specifications developed for the Project.
- i. "Project" means the development and improvement of the Real Estate by constructing (i) two market-rate multifamily housing structures, consisting of 144 units; (ii) fourteen townhomes (hereafter the "Townhome Project") on the Real Estate all as described in more detail on **Exhibit B** and in accordance with the Master Plan; and (iii) the activity center. Subject to the terms and conditions of this Agreement, uses for the Project, Multifamily Project and Townhome Project shall be determined by zoning. The terms, "Project," "Multifamily Project," and "Townhome Project" exclude personal property and land.
- j. "Project Cost Breakdown" means the minimum construction costs of the Project and consists of the cost breakdown of construction and non-construction cost items (i.e., a line-item budget), clearly identifying development, construction, financing, contingency and all other direct and indirect costs of construction of the Project, all as described in more detail on **Exhibit E** and in accordance with the Master Plan.
- k. "Public Improvements" means the public infrastructure improvements, if any, to be constructed by the City in connection with the Project, which are set forth on **Exhibit D**.
- l. "Real Estate" means the real property described in **Exhibit A**.
- m. "Signature Date" has the same meaning as provided in Section 8.22 of this Agreement.
- n. "Substantial Completion" means the completion of the improvements to the Real Estate pursuant to the Plans and Specifications, (except for punch list items, exterior painting, and landscaping) and the issuance by the Project architect of a certificate of substantial completion and the issuance of a certificate of occupancy from the City. Subject to unavoidable delays beyond the control of the Developer, any such incomplete items shall be fully completed within a reasonable time after the date of Substantial Completion, but not to exceed ninety (90) days thereafter except site improvements such as landscaping shall be completed no later than two hundred forty (240) days after the date of Substantial Completion if weather or other conditions beyond the control of Developer prevent completion of the same.
- o. "Tax Increment" means the tax increment or increase in real property taxes received by the City with respect to the Real Estate which is generated by TID #16.
- p. "Tax Incremental Law" means Section 66.1105, Wis. Stats., as amended and superseded.
- q. "TID #16" means the Tax Incremental Financing District Number 16 of the City of La Crosse.

- r. "TID Project Plan" means the plan, created in accordance with the Tax Incremental Law, for the financial development or redevelopment of TID #16, including all approved amendments thereto.

1.4. **Exhibits.** The following exhibits are hereby attached to and incorporated into this Agreement:

- a. **Exhibit A.** Real Estate
- b. **Exhibit B.** Description of Project
- c. **Exhibit C.** Restrictive Covenant
- d. **Exhibit D.** Description of Public Improvements
- e. **Exhibit D-1.** Hagar Street Specifications
- f. **Exhibit E.** Project Cost Breakdown
- g. **Exhibit F.** Construction Schedule
- h. **Exhibit G-1.** Monetary Obligation Example
- i. **Exhibit G-2.** 15 Year Cash Flow Example
- j. **Exhibit G-3.** Proforma Example **Exhibit AA.** Hagar Street Cost Breakdown
- l. **Exhibit Z.** Form Promissory Note

ARTICLE II DEVELOPER OBLIGATIONS

2.1. **Acquire the Real Estate.** Prior to executing this Agreement, Developer has acquired fee simple title to the Real Estate.

2.2. **Develop the Real Estate.** Developer agrees to develop and improve the Real Estate by undertaking the Project, all in accordance with the Master Plan, the Project Cost Breakdown and the Construction Schedule.

- a. **Site Preparation.** Developer shall prepare the Real Estate for construction of the Project, including, without limitation, any necessary demolition or other removal of improvements or preparation currently located on the Real Estate.
- b. **Construction Schedule.** Developer shall commence or cause other entities to commence construction on the Project, as described in **Exhibit B**, on or before April 1, 2022 with Substantial Completion on or before September 1, 2024, all in accordance with the Construction Schedule set forth on **Exhibit F**.
- c. **Guaranty of Minimum Construction Costs.** Developer agrees that acquisition costs, construction costs, professional services costs, financial costs, developer's fee and cash accounts / escrow / reserves associated with the Project shall have an aggregate minimum construction cost of not less than Twenty-three Million Forty Thousand Four Hundred

Sixty-nine and 00/100 Dollars (\$23,040,469.00). The Project Cost Breakdown is provided on **Exhibit E**.

- d. **Rights of Access.** Developer shall permit the representatives of the City to have access to the Project at all reasonable times during and following the construction when the City deems access necessary to ensure compliance with the terms and conditions of this Agreement including, but not limited to, access for inspection of all work being performed in connection with the Project as set forth in the Master Plan. No compensation shall be payable nor shall any charge be made in any form by any party for the access provided in this Agreement.
- e. **Property for Public Streets and Public Improvements.** Except for Hagar Street, Developer shall dedicate and/or transfer or convey all public streets, public rights-of-way and all necessary public sewer and water utilities within the Real Estate, as depicted in the Master Plan, as finalized, to the City at no cost to the City. Ownership of the future location of Hagar Street shall transfer to the City before construction commences.
- f. **Master Plan.** Prior to obtaining any building or other permits and/or commencing any construction or development on the Real Estate, Developer shall submit a Master Plan setting forth all the details of construction and development to the City Plan Commission for review and approval. Said Master Plan shall conform in all material respects to the provisions of this Agreement, all applicable federal, state and local laws, ordinances, rules and regulations and shall include preliminary and final building, site and operational Plans and Specifications, including, without limitation: (1) building plans and specifications; (2) architectural plans, renderings and specifications; (3) building material plans and specifications; (4) preliminary and final site plans; (5) landscaping plans; (6) stormwater and erosion control plans; (7) lighting plans; (8) traffic and circulation plans for pedestrians, bicyclists, transit riders, truck and delivery vehicles, and automobiles; (9) signage plans and specifications; (10) water and sewer plans; and (11) any other preliminary or final plans, specifications or other requirements as determined by the City Planner. The City Planner may determine, in his sole and absolute discretion, whether one or more of the above requirements is applicable to the Project's Master Plan.

2.3. Local Subcontractors. It is agreed by Developer that Developer shall engage local subcontractors, workers as well as local suppliers for material. The term subcontractor is as defined in Section 66.0901(1)(d), Wis. Stat. The word, "local," shall mean that the subcontractors and suppliers of material have their principal place of business within the City of La Crosse or within a seventy-five (75) mile radius of the City of La Crosse, Wisconsin. The Developer further agrees to provide to the City Engineer a list of all subcontractors and it further agrees that eighty percent (80%) of all work performed by subcontractors for construction shall be performed by subcontractors located within the City or seventy-five (75) miles of the City of La Crosse. In determining whether the eighty percent (80%) threshold has been met, the parties shall measure based upon the dollar values of said work. If Developer does not meet this requirement, it may request a waiver from the City Engineer providing reasons for the request of the same. This Section does not apply to fixtures, furnishings and equipment.

2.4. Compliance with Planning and Zoning; Use. Developer, at its own expense, shall obtain all approvals, permits and licenses as may be required by any governmental or non-governmental entity in connection with the Project. Any conditions imposed on Developer to obtain any approval, permit or license must be acceptable to the City. Developer will not initiate, approve, consent to or participate in any change or modification of the zoning in effect for the Real Estate or any portion thereof, without the City's prior written consent. No property within the Real Estate shall be used for any use other than as set forth in the Master Plan and this Agreement and as approved by the City, including any conditions attendant with such approval, unless such use is further approved by the City under its normal zoning, review and approval procedures.

2.5. Maintenance and Repair. Developer agrees that at all times after construction of the Project, it will keep and maintain the Real Estate and the Project in good condition and repair.

2.6. Taxes. It is understood that the land, improvements and personal property resulting from the Project shall be subject to property taxes. Developer shall pay when due all federal, state and local taxes in connection with the Real Estate and all operating expenses in connection with the Real Estate and Project.

- a. **Annual PILOT.** In the event that some or all of the Real Estate or personal property is or becomes exempt from general property taxes under Chapter 70, Wis. Stat., as amended or superseded, or by any other statute, provision or reason, then Developer shall make an annual payment to the City in lieu of taxes ("Annual PILOT") for the services, improvements or facilities furnished to the Real Estate by the City and other taxing jurisdictions. The amount of the Annual PILOT shall be computed and determined by the City Assessor by multiplying the fair market value (using tax assessment definitions, rules and procedures) of the tax-exempt portion of such property by the total tax rate of all taxing jurisdictions as shown on tax bills issued to taxpayers in the City. Developer or the then current owner of the tax-exempt property, its successors or assigns shall pay the Annual PILOT within sixty (60) days of receipt. Developer shall have the right to appeal the determination of the City Assessor to the City Council. Any appeal shall specifically state the reasons, in writing, why the amount due as provided by the City Assessor is in error. The parties agree that the Annual PILOT shall survive for a period of twenty (20) years or the life of the TID #16, whichever is longer. Notwithstanding, the Developer or its successors shall not be responsible for any Annual PILOT resulting from the Real Estate or a portion thereof becoming tax exempt due to the use of eminent domain by the United States or some other governmental entity.
- b. **Guarantee.** As an additional inducement and in consideration for the City entering into this Agreement, Developer guarantees faithful performance and compliance with all the terms, covenants, conditions and obligations to be kept and performed by Developer contained in this Agreement, including, without limitation, the obligation that the Multifamily Project shall have an assessed value of not less than Thirteen Million Six Hundred Twenty-five Thousand Dollars (\$13,625,000.00) beginning in tax year 2025 and for a period of twenty (20) years or the life of TID #16, whichever is longer. Developer agrees that this minimum assessed value on the Multifamily Project shall remain a lien on the Real Estate and shall run with the land for a period of twenty (20) years or the life of TID #16, whichever is longer. Additionally, Developer guarantees that the Multifamily Project shall have an assessed value of not less than Five Million Four Hundred Fifty Thousand Dollars (\$5,450,000.00) beginning in tax year 2023 and Ten Million Nine Hundred Thousand Dollars (\$10,900,000.00) beginning in tax year 2024.
- c. **Deficiency PILOT.** In the event the assessed value of the Multifamily Project is less than Five Million Four Hundred Fifty Thousand Dollars (\$5,450,000.00) as of January 1, 2023, Ten Million Nine Hundred Thousand Dollars (\$10,900,000.00) as of January 1, 2024, or Thirteen Million Six Hundred Twenty-five Thousand Dollars (\$13,625,000.00) as of January 1, 2025 or for any tax year thereafter for a period of twenty (20) years or the life of TID #16, whichever is longer, then the Developer or the then current owner, or its successors or assigns agrees to pay a Deficiency PILOT to the City within sixty (60) days of receipt. Said Deficiency PILOT shall be calculated by first determining the difference between the guaranteed assessed value of the Multifamily Project as provided in Section 2.6(b) of this Agreement less the actual assessed value of the Multifamily Project for the tax year at issue, and multiplying said difference by the total tax rate of all taxing jurisdictions as shown on tax bills issued to taxpayers in the City. This requirement shall

be a lien running with the land for a period of twenty (20) years or the life of TID #16, whichever is longer.

- d. **Special Charge.** In the event there is a lack of compliance for payment of the Annual PILOT or Deficiency PILOT, then the City, in addition to any other remedy available at law or in equity, may levy a special charge or assessment under Section 66.0627, Wis. Stat., prior to any first mortgage lien on the property for the delinquent amount as calculated herein to enable the City to enforce performance of the Developer's obligations. The owners of the Real Estate and their successors and assigns further agree that they waive any objection to the City making said special charge or assessment; however, they still retain their right to object to the accuracy and amount of the special charge or assessment.
- e. **Reconciliation.** In the event a Deficiency PILOT is owed and paid by the Developer to the City for tax years 2023-2033, then eighty-five percent (85%) of such payment shall be made available by the City for purposes of calculating the Monetary Obligation and Contribution to the Developer up to the maximum amount allowed under this Agreement. In the event a Deficiency PILOT is owed by the Developer for tax years 2033-2042, then Developer shall owe and pay to the City an additional amount of Twenty-five Thousand Dollars (\$25,000.00) for each year of deficiency. The payment of such Twenty-five Thousand Dollar (\$25,000.00) deficiency or deficiencies shall occur in the final year of this Agreement.

2.7. Transfer or Sale of Real Estate.

- a. **Notice of Intent to Transfer.** No property within the Real Estate may be sold, transferred, or otherwise conveyed unless the Developer first provides to the City written notice of intent to transfer the property at least forty-five (45) days before the sale, transfer or conveyance is to occur. This Section shall not apply to nor restrict a transfer to Developer's financing entity, e.g. placing a mortgage on the Real Estate nor a residential or commercial lease agreement for individual residential living units, individual commercial lease spaces, parking spaces and any single-family residence to be owned in fee title simple by the purchaser.
- b. **No Transfer to Exempt Entities.** No property within the Real Estate may be sold, transferred or conveyed to, or leased or owned by any entity or used in any manner which would render any part of the Real Estate exempt from property taxation, unless the purchaser, transferee, lessee or owner first executes a written agreement satisfactory to the Economic Development Commission providing for payments in lieu of taxes to the City.
- c. **Assignees and Transferees Bound by Agreement.** Any assignee or purchaser or transferee of any portion of the Real Estate shall be bound by the terms and conditions of this Agreement, which shall run with the land and be binding upon all such assignees, purchasers and transferees. The Developer shall not sell or transfer any portion of the Real Estate to any entity unless and until the Developer has provided the City with written evidence satisfactory to the Economic Development Commission that such assignee or entity has agreed in writing to be bound by the terms of this Agreement. Any such sale, transfer or conveyance of any portions of the Real Estate shall not relieve the Developer of its obligations hereunder.
- d. **Subdivision.** Property within the Real Estate shall not be further subdivided without approval of the City.

- e. **Restrictive Covenant.** Developer shall place a restrictive covenant on the Real Estate prohibiting the Real Estate from being exempt from property taxes in substantially the same form as **Exhibit C**. Likewise, Developer shall place a restrictive covenant on any condominium unit or townhome prohibiting it from being exempt from property taxes in substantially the same form as **Exhibit C**.

2.8. Easements. Developer shall grant the City or any public utility such easements as reasonably necessary for public improvements, infrastructure, ingress or egress, utilities, lighting or landscaping or any other need necessary to effectuate development of the Real Estate in accordance with the Master Plan at no cost to the City.

2.9. Insurance. For a period of twenty (20) years or the life of TID #16, whichever is longer, Developer shall maintain, and shall require that any purchasers or transferees of any portion of the Real Estate maintain, insurance in such amounts and against such risks both generally and specifically with respect to the Real Estate, as are customarily insured against in developments of like size, kind and character, including customary builders risk insurance during construction and customary casualty, property and liability insurance, with deductibles in accordance with reasonable industry practice. Notwithstanding, Developer shall carry casualty insurance for the Project at not less than the replacement value and further agrees and covenants to apply, and to require any purchasers or transferees of any portion of the Real Estate to apply, any and all insurance proceeds to rebuild the Project, maintain the Project and Real Estate and to name the City as an additional insured to the extent of this covenant provided in this Section. Developer shall provide to the City certificates of all such insurance. Any lender who holds a lien on the Project shall agree to these obligations to rebuild the Project.

2.10. Indemnity. Developer shall indemnify and hold harmless the City, its officers, employees and authorized representatives, ("Indemnified Party"), from and against any and all liabilities, including, without limitation, remediation required by any federal or state agency having jurisdiction, losses, damages, costs, and expenses, including reasonable attorney fees and costs, arising out of any third-party claims, causes of action, or demands made against or suffered by the Indemnified Party on account of this Agreement, unless such claims, causes of action, or demands: (a) relate to the Indemnified Party failing to perform its obligations to Developer; or (b) arise out of any willful misconduct of the Indemnified Party. At the Indemnified Party's request, Developer shall appear for and defend the Indemnified Party, at Developer's expense, in any action or proceeding to which the Indemnified Party may be made a party by reason of any of the foregoing.

2.11. Utilities.

- a. **Other Utilities.** Developer shall be responsible for, pay for and cause electrical power, telephone facilities, cable TV lines, and natural gas facilities to be installed in such a manner as to make proper and adequate service available to each building in the Project, as described in the Master Plan. Plans indicating the proposed location of each such utility to service the Project shall be shown on the Master Plan and construction plans to be provided to the City Plan Commission for approval prior to the installation of the utility.
- b. **Water and Sewer.** Except as provided elsewhere in this Agreement, Developer shall be solely responsible for and shall pay all costs of connecting water and sewer service from the public streets, alley, right of way, or other approved infrastructure to the buildings within the Real Estate.

2.12. Restrictions. Developer agrees to neither use nor allow a third-party to use the Real Estate for adult entertainment, pawnshops, mini-warehouses, car title loan business, payday lenders, tattoo parlors, and/or off-premise signs for a period of twenty (20) years or the life of TID #16, whichever is longer. "Payday lenders" and

"car title loan business" shall exclude banks and credit unions. This shall be a deed restriction against the Real Estate and shall run with the land.

2.13. Record Retention. Developer understands and acknowledges that the City is subject to the Public Records Law of the State of Wisconsin. As such, Developer agrees to retain all records as defined by Wisconsin Statute § 19.32(2) applicable to this Agreement for a period of not less than seven (7) years. Likewise, Developer agrees to assist the City in complying with any public records request that it receives pertaining to this Agreement. Additionally, Developer agrees to indemnify and hold the City, its officers, employees and authorized representatives harmless for any liability, including without limitation, reasonable attorney fees relating to or in any way arising from Developer's actions or omissions which contribute to the Indemnified Party's inability to comply with the Public Records Law. In the event Developer decides not to retain its records for a period of seven (7) years, then it shall provide written notice to the City whereupon the City shall take custody of said records assuming such records are not already maintained by the City. This provision shall survive termination of this Agreement.

2.14. Repair and/or Replacement of Infrastructure. Developer shall repair and/or replace any damaged City infrastructure or other City property that may occur as a result of the Project, including, without limitation, sidewalks, landscaping, asphalt and light poles. Said repair and/or replacement shall be to the satisfaction of the Board of Public Works.

2.15. Grants. Developer shall timely apply for an Idle Sits grant through the WEDC for up to \$500,000. Likewise, Developer shall apply for the La Crosse County Neighborhood Revitalization Acquisition and Demolition grant for up to \$150,000.

2.16. Developer Rate of Return. Developer shall provide documentation, as requested by the City at no cost, in order to allow the City, or its consultant, to review and analyze the cash grant described in Section 3.1(a) in accordance with Section 3.1(f).

2.17. Disclosure of Loan. Within thirty (30) days of the Signature Date of this Agreement, Developer shall close on its private loan for the Project and share all loan documentation as requested by the City at no cost in order to verify its eligibility for the cash grant described in Section 3.1(a) in accordance with Section 3.1(e).

ARTICLE III CITY OBLIGATIONS

3.1. Project Assistance. Developer has requested and the City may be required to make Contributions to Developer up to an aggregate maximum Three Million Seven Hundred Eighty-eight Thousand Two Hundred Thirty-five and 99/100 Dollars (\$3,788,235.99). This aggregate amount stems from two separate cash grant requests. Each request is subject to future recalculation based on various conditions. More specifically,

- a. **Cash Grant Based on Improvements.** The Developer has requested a cash grant from TID #16 of up to an amount of three million one hundred thousand dollars (\$3,100,000.00), subject to change based on the provisions of this Agreement, with funds to be made available upon verification of the Tax Increment increase as defined herein. The City shall disburse its Contribution as required by its Monetary Obligation to Developer in accordance with this Agreement.
- b. **Cash Grant Based on Interest.** Developer has also requested a cash grant from TID #16 of up to an amount of Six Hundred Eighty-eight Thousand Two Hundred Thirty-five and 99/100 Dollars (\$688,235.99), subject to change based on the provisions of this Agreement, with funds to be made available upon verification of the Tax Increment increase as defined herein. The purpose of this cash grant is to

cover interest costs for it to borrow money for the Project. The City shall disburse its Contribution as required by its Monetary Obligation to Developer in accordance with this Agreement.

- c. **Illustrative Example.** An illustrative example of the payment of cash grants is attached as **Exhibit G-1**.
- d. **Review of Project Assistance.** The financial assistance to the Developer under this Agreement is based on certain assumptions regarding likely costs and expenses associated with constructing the Project. The City and Developer agree that those assumptions will be reviewed at the times described in this Section, and that the amount of the Contribution provided under this Agreement will be adjusted accordingly.
- e. **Recalculation of Cash Grant on Interest.** The amount in Section 3.1(b) is calculated as the fixed interest costs to borrow \$3,100,000.00 over 11 years at 3.5% interest. If the Developer obtains a loan at a fixed rate less than 3.5% or any other loan that results in interest costs less than the cash grant amount requested in subsection 3.1(b), then the maximum Contribution to be paid by the City for Section 3.1(b) shall be lowered to the actual interest cost for the loan. If the Developer obtains a loan at a higher interest cost, the maximum Contribution to be paid by the City for Section 3.1(b) shall remain unchanged. If the Developer fails to provide the appropriate loan documentation to the City to verify that a loan has occurred or to recalculate the interest as provided in this Section, then the City has no obligation to pay any Contribution based upon Section 3.1(b).
- f. **Review of Developer's Rate of Return.** On the Calculation Date, the amount of the Contribution in Section 3.1(a) provided pursuant to this Agreement will be subject to adjustment based on a targeted annual Cash-on-Cash Return in excess of ten percent (10%), measured on a cumulative basis over the anticipated term of tax years 2023-2033. By the Calculation Date, the Developer must deliver to the City, or its consultant, evidence of its Cash-On-Cash Return. The Cash-On-Cash Return shall be calculated by the City, or its consultant, based on the Developer's financial statement, prepared pursuant to generally accepted industry standards and submitted to the City, or its consultant (to be calculated in substantially the same manner and form as the sample attached hereto as **Exhibit G-2**). Developer may also submit to the City, or its consultant, a completed pro forma in the form of the Pro Forma attached hereto as **Exhibit G-3** to illustrate its calculation of the Cash-On-Cash Return on the Calculation Date, subject to the City's, or its consultant's, review. If the Multifamily Project has not reached Stabilization as of the Calculation Date, the calculation shall assume Stabilization has occurred.

If the actual cumulative Cash-On-Cash Return exceeds ten percent (10%), then the Contribution in Section 3.1(a) will be reduced by fifty percent (50%) of the amount that results in a Cash-On-Cash Return equal to ten percent (10%) over tax years 2023-2033.

If the Developer fails to provide the documentation at the City's request to allow it to perform the Cash-On-Cash Return analysis, then the City has no obligation to pay any Contribution based upon Section 3.1(a).

- g. Definitions.** For purposes of this Section, the following terms have the following meanings:

“Calculation Date” means the sixty (60) days after the earliest of: (i) the date of Stabilization of the Multifamily Project; or (ii) three (3) years after the certificate of occupancy has been issued.

“Cash-On-Cash Return” means the cumulative Net Cash Flow divided by Developer cash, which includes all “Other Sources” listed on Exhibit E and excludes any grants or City, federal or state funds received by the Developer.

“Net Cash Flow” means the total annual income and other project-derived annual revenue, including payments under TID #16, less Operating Expenses in accordance with the pro forma for the Multifamily Project, less first mortgage debt service.

“Operating Expenses” means reasonable and customary expenses incurred in operating the Multifamily Project in accordance with the pro forma, including deposits to capital replacement reserves.

“Stabilization” means the date on which the Multifamily Project has achieved ninety-five percent (95%) occupancy.

3.2. Certificate of Completion. Upon completion of the improvements by the Developer and review of the improvements by the City, the City shall provide the Developer, upon request, with an appropriate recordable instrument certifying that the improvements have been made in accordance with this Agreement and the Master Plan, and any amendment or modifications thereto.

3.3. Assistance with Zoning Changes. If necessary, the City Planning Department shall initiate the process in accordance with the City’s zoning code to attempt to provide appropriate zoning for the Real Property being developed by Developer so that the zoning for the Project is in accordance with the City’s comprehensive plan for the area.

3.4. City Performance Subject to Required Government Approvals. The Developer acknowledges that various of the specific undertakings of the City described in this Article III may require approvals from the City Council (and other City bodies) and other public bodies, some of which approvals may require public hearings and other legal proceedings as conditions precedent thereto. The City’s agreements under this Article III are conditioned upon the obtaining of all such approvals in the manner required by law. The City cannot assure that all such approvals will be obtained; however, it agrees to use good faith efforts to obtain them on a timely basis.

3.5. Subsequent Phases. Any subsequent development of the Real Estate will be addressed in a separate development agreement.

3.6. Public Improvements. Subject to annual appropriation, the City shall, at its sole cost and expense, construct the Public Improvements identified in Exhibit D. The City may determine, in its sole and absolute discretion, to not award a public bid for Hagar Street and/or to commence the public bidding process for Hagar Street again. Further Hagar Street specifications are provided in Exhibit D-1. The anticipated cost breakdown for Hagar Street is provided in Exhibit AA. In order to construct Hagar Street, the City shall provide Developer a fully executed promissory note in the amount of the costs of the improvements identified in Exhibit Z, subject to any cost adjustments for changes to the improvements/specifications. The promissory note shall be for a term of sixty (60) months at the initial interest rate of zero percent (0%). Said interest rate shall increase to 3.5% on

June 1, 2023 and 4.0% on June 1, 2026. The promissory note shall provide for prepayment at any time without penalty.

ARTICLE IV CONDITIONS PRECEDENT TO CITY OBLIGATIONS

The City's obligations under this Agreement are conditioned upon the provisions contained herein. If all conditions contained in this Article are satisfied, or if the City waives in writing said conditions, on or before December 31, 2021, then the conditions shall be deemed satisfied. Otherwise, the City, at its option, in its absolute and sole discretion, may at any time thereafter terminate this Agreement by giving notice in writing thereof to Developer. In such event, this Agreement shall be terminated and no party shall have any further liability or obligation to the other hereunder. All submissions given by Developer to the City to satisfy the conditions contained in this Article must be satisfactory in form and content to the City.

4.1. Existence. Developer shall have provided a certified copy of Developer's formation documents and a good standing certificate issued by the appropriate governmental authority of the state of Developer's incorporation.

4.2. Incumbency; Due Authorization. Developer shall have provided a certificate of incumbency and resolutions, which resolutions shall provide that Developer has been duly authorized to enter into this Agreement and all other agreements, documents and contracts required to be executed in connection with the transactions which are the subject of this Agreement.

4.3. No Violation or Default. Developer shall not be in violation of any of its governing documents or other contracts. Developer shall not be in material default under the terms of any other agreement or instrument to which Developer is a party or an obligor. Developer shall be in material compliance with all provisions of this Agreement.

4.4. Financing Commitment. Developer shall obtain and provide to the City: (1) a written financial commitment from a conventional lender, (2) written construction contract to construct and finance the Project, (3) other written proof of financial resources to construct the Project, or (4) any combination thereof. Said documents shall demonstrate sufficient funds for the construction, furnishing, equipping and installation of the Project in an amount not less than Twenty-three Million, Forty Thousand, Four Hundred Sixty-nine Dollars (\$23,040,469.00). Said documents shall be acceptable in all respects to City, in the sole and absolute discretion of the Finance Director and Economic Development Commission. Developer shall have closed the loan, or be prepared to close the loan, which is the subject of the financing commitment and in connection therewith, Developer shall have provided copies of the documents to be executed in connection with the construction loan to the City.

4.5. Plans and Specifications. Developer shall have provided the Master Plan, which Master Plan must be acceptable in all respects to the City and shall have been approved by the City Plan Commission with input, if any, from the Board of Public Works.

4.6. Survey. Developer shall provide an ALTA survey of the Real Estate certified to the City by a Wisconsin registered land surveyor, showing the location of all improvements now prior to commencing construction and to be located thereon after said improvements are built pursuant to the Master Plan, all easements, pathways, exterior boundary lines, walkways, private and public streets, adjoining public streets and alleys, utilities, exits and entrances, all curbs, gutters, sidewalks, medians and lighting. The survey must show a state of facts acceptable to the Board of Public Works.

4.7. Insurance. Developer shall have delivered to the City certificates of all insurance required under this Agreement showing the City as a named insured. Said insurance shall not be cancelled, non-renewed nor have any material changes without providing thirty (30) days advanced written notice to the City.

4.8. Amendment of TID #16 and TID Project Plan. The amendment of TID #16 and TID Project Plan shall be approved by the appropriate governmental entities, if necessary.

4.9. Financial Statements. As part of City's Development Agreement due diligence process, Developer presented (but did not leave a copy) with the City's Finance Director representative financial statements prepared by a certified public accountant for Developer and each of the members of Developer.

4.10. Intentionally omitted.

4.11. Approvals and Permits. The Developer shall at its expense have obtained all approvals and permits necessary to undertake the Project on the Real Estate, including but not limited to, site plan review, zoning approvals, and any other local, state or federal approvals or permits.

4.12. Compliance with Law. Developer shall comply in all material respects with any and all applicable federal, state and local laws, regulations and ordinances.

4.13. Compliance with Agreements. Developer shall be in compliance with this Agreement and all other agreements it may have with the City.

ARTICLE V CONDITIONS PRECEDENT TO DEVELOPER'S OBLIGATIONS

Developer's obligations under this Agreement are conditioned upon the following:

5.1. Financing. Developer obtaining financing for the Project, upon terms acceptable to Developer, in Developer's sole and absolute discretion.

5.2. Amendment of TID #16 and TID Project Plan. The amendment of TID #16 and TID Project Plan shall be approved by the appropriate governmental entities, if necessary.

ARTICLE VI REPRESENTATIONS, WARRANTIES AND COVENANTS

Developer represents and warrants to and covenants with the City, and the City represents and warrants to and covenants with Developer as respectively follows:

6.1. Financial Statements / No Material Change. All copies of financial statements, documents, contracts and agreements which Developer has furnished to the City, or its agents are true and correct. There has been no material change in the business operations of Developer since the date of the last financial statement furnished to the City except pursuant to the conduct of its ordinary business.

6.2. Taxes. Developer has paid, and shall pay when due, all federal, state and local taxes, and shall promptly prepare and file returns for accrued taxes. If necessary, Developer shall pay when due all payments in lieu of taxes and special charges required under the terms of this Agreement.

6.3. Compliance with Zoning. Developer covenants that the Real Estate, upon completion of the Project, will conform and comply in all respects with applicable federal, state, local and other laws, rules, regulations and ordinance, including, without limitation, zoning and land division laws, building codes and environmental laws.

6.4. Payment. All work performed and/or materials furnished for the Project, other than the Public Improvements, shall be fully paid for by Developer.

6.5. Certification of Facts. No statement of fact by Developer contained in this Agreement and no statement of fact furnished or to be furnished by Developer to the City pursuant to this Agreement contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary in order to make the statements herein or therein contained not misleading.

6.6. Good Standing. Developer is a limited liability company duly formed and validly existing and in good standing under the laws of the State of Wisconsin and has the power and all necessary licenses, permits and franchises to own its assets and properties and to carry on its business. Developer is duly licensed or qualified to do business and in good standing in the State of Wisconsin and all other jurisdictions in which failure to do so would have a material adverse effect on its business or financial condition.

6.7. Due Authorization. The execution, delivery and performance of this Agreement and all other agreements requested to be executed and delivered by Developer hereunder have been duly authorized by all necessary corporate action of Developer and constitute valid and binding obligations of Developer, in accordance with their terms, subject only to applicable bankruptcy, insolvency, reorganization, moratorium, general principles of equity, and other similar laws of general application affecting the enforceability of creditors' rights generally. The City represents and warrants to Developer that it has the power, authority and legal right to enter into all of the transactions and to perform all of the covenants and obligations required to be entered into or performed by City under this Agreement.

6.8. No Conflict. The execution, delivery, and performance of Developer's obligations pursuant to this Agreement will not violate or conflict with Developer's Articles of Organization or Operating Agreement or any indenture, instrument or material agreement by which Developer is bound, nor will the execution, delivery, or performance of Developer's obligations pursuant to this Agreement violate or conflict with any law applicable to Developer.

6.9. No Litigation. There is no litigation or proceeding pending or threatened against or affecting Developer or the Project or any guarantor that would adversely affect the Project, Developer or any guarantor or the priority or enforceability of this Agreement, the ability of Developer to complete the Project or the ability of Developer to perform its obligations under this Agreement.

6.10. Certification of Costs. Developer covenants that as of the date provided to the City, the Project Cost Breakdown accurately reflects all costs of the Project (other than costs associated with the Public Improvements, if any) that will be incurred by Developer in the completion and construction of the Project, and the City shall be entitled to rely on the Project Cost Breakdown submitted by Developer. Other than current economic circumstances, Developer knows of no circumstances presently existing or reasonably likely to occur which would or could result in a material adverse variation or deviation from the Project Cost Breakdown.

6.11. No Default. No default, or event which with the giving of notice or lapse of time or both would be a default, exists under this Agreement, and Developer is not in default (beyond any applicable period of grace) of any of its obligations under any other material agreement or instrument to which Developer is a party or an obligor.

6.12. Fees and Commissions. The City shall not be liable for any broker fees or commissions incurred by the Developer in connection with any transactions contemplated by this Agreement.

6.13. Financing Accommodation.

- a. **No Assignment.** Developer, its successors, assigns and transferees will not transfer, assign, convey or encumber, nor will Developer, its successors, assigns or transferees agree to or permit the transfer, assignment, conveyance or encumbrance of the Project or any of the Real Estate except as provided in Sections 2.7 and 8.1 of this Agreement. The principals, shareholders, members, managers and/or partners of Developer, its

successors, assigns and transferees will not transfer, assign, convey or encumber their respective interests in Developer, its successors, assigns or transferees, as the case may be, if such anticipated transfer, assignment, conveyance or encumbrance would result in the original members of the Developer having less than majority voting control of the Developer, without providing written notification thereof to the City at least forty-five (45) days prior to the date the proposed transfer, assignment, conveyance or encumbrance is to take effect. Any attempt to so act shall be void and have no effect.

- b. **No Subordination.** The City shall not subordinate any interest it has in this Agreement for any reason, unless it is determined to be in the best interests of the City. Any requests for subordination shall be submitted, in writing, explaining why the request is in the best interests of the City. Said request shall be received by the City not less than forty-five (45) days prior to any City Council action on said request. Said subordination may only be approved by the City Council.
- c. **Developer Financing.** Notwithstanding this Section 6.13, Developer may transfer, assign or encumber the Real Estate in order to secure financing for the acquisition of the Real Estate and/or for construction of the Project. Said lender may place a lien and/or mortgage on the Real Estate, including any renewals, extensions, replacements, modifications or refinancing. Lender's mortgage and/or loan may be transferred or assigned by lender in a secondary market without prior City Council approval. In the event of a foreclosure against Developer by lender or a deed transfer in lieu of foreclosure, lender shall assume the duties, obligations and rights of Developer under this Agreement. In such a circumstance, lender may transfer or assign this Agreement and its accompanying duties, obligations and rights, to another developer without prior City Council approval. In any circumstance, lender shall provide reasonable notice to City of such actions. This Section shall survive any foreclosure proceeding.

6.14. Commencement and Completion. Developer shall commence and complete construction of the Project in accordance with Section 2.2 above.

6.15. Compliance with Plans. Developer will cause the Project to be constructed in accordance with the Master Plan and will promptly correct any defects in construction or deviations from the Master Plan.

6.16. No Changes. Developer shall not, without City's prior written consent: (i) consent to any amendments to any documents delivered to City pursuant to this Agreement; (ii) approve any changes in the Project or the Master Plan or permit any work to be done pursuant to any changes; (iii) modify or amend the Project Cost Breakdown.

6.17. Inspection of Project. Developer shall permit City, its inspectors and/or its construction consultant, at all reasonable times and at no cost: (a) to inspect the Project and all matters relating to the development thereof, and (b) on reasonable notice, to inspect all of Developer's books and records pertaining to the Project. City assumes no obligation to Developer for the sufficiency or adequacy of such inspections, it being acknowledged that such inspections are made for the sole and separate benefit of City. The fact that City may make such inspections shall in no way relieve Developer from its duty to independently ascertain that the construction of the Project and Developer's compliance with this Agreement is being completed in accordance with the approved Master Plan and the terms and conditions of this Agreement.

6.18. Notification. Developer shall:

- a. As soon as possible and in any event within five (5) business days after the occurrence of any default, notify City in writing of such default and set forth the details thereof and the action which is being taken or proposed to be taken by Developer with respect thereto.
- b. Promptly notify City of the commencement of any litigation or administrative proceeding that would cause any representation and warranty of Developer contained in this Agreement to be untrue.
- c. Notify City and provide copies, immediately upon receipt, of any notice, pleading, citation, indictment, complaint, order or decree from any federal, state or local government agency or regulatory body, asserting or alleging a circumstance or condition that requires or may require a financial contribution by Developer or any guarantor or an investigation, clean-up, removal, remedial action or other response by or on the part of Developer or any guarantor under any environmental laws, rules, regulations or ordinances or which seeks damages or civil, criminal or punitive penalties from or against Developer or any guarantor for an alleged violation of any environmental laws, rules, regulations or ordinances.

6.19. Unrelated Activity. It is the intention of Developer and City that the sole business of Developer shall be the construction, ownership and operation of the Project, and Developer shall take no action inconsistent with such intention, including without limitation the acquisition by Developer of real or personal property unrelated to the Project, investment by Developer in the assets or stock of any other person, joining by Developer with any other person in any partnership or joint venture, or the creation or incurring of indebtedness by Developer unrelated to the Project.

6.20. No Indebtedness. Except in the ordinary course of business and except for funds borrowed to provide the financing for the purchase of the Real Estate or the construction of the Project, Developer shall not incur, create, assume, permit to exist, guarantee, endorse or otherwise become directly or indirectly or contingently responsible or liable for any indebtedness. "Indebtedness" shall mean any liability or obligation of Developer: (a) for borrowed money or for the deferred purchase price of property or services (excluding trade obligations incurred in the ordinary course of business); (b) as lessee under leases that have been or should be capitalized according to generally accepted accounting principles; (c) evidenced by notes, bonds, debentures or similar obligations; (d) under any guaranty or endorsement (other than in connection with the deposit and collection of checks in the ordinary course of business), and other contingent obligations to purchase, provide funds for payment, supply funds to invest in any entity, or otherwise assure a creditor against loss; or (e) secured by any security interest or lien on assets of Developer, whether or not the obligations secured have been assumed by Developer.

6.21. Correction of Defects. Developer shall, upon demand of City (and City may rely on the advice of its inspector and shall not be liable for any errors in such advice), correct any material defect, structural or otherwise, in the Project or any departure from the Master Plan.

6.22. Not for Speculation. Developer represents and warrants that its acquisition of the Real Estate and its undertakings pursuant to this Agreement shall be for the sole and express purpose of the redevelopment of the Real Estate consistent with the Master Plan and the terms and conditions of this Agreement and are not for the speculation in land holdings.

ARTICLE VII DEFAULT

7.1 Developer's Default.

- a. **Remedies.** In the event (i) any representation or warranty of Developer herein or in any agreement or certificate delivered pursuant hereto shall prove to have been false in any

material respect when made or (ii) of Developer's default hereunder which is not cured within one hundred twenty (120) days after written notice thereof to Developer, the City shall have all rights and remedies available under law or equity with respect to said default. In addition, and without limitation, the City shall have the following specific rights and remedies:

- (1) With respect to matters that are capable of being corrected by the City, the City may at its option enter upon the Real Estate, through legal process, for the purpose of correcting the default and the City's reasonable costs in correcting same, plus interest at one percent (1%) per month, shall be paid by Developer to the City immediately upon demand;
 - (2) Injunctive relief;
 - (3) Action for specific performance;
 - (4) Action for money damages;
 - (5) Repayment by Developer of any incentives and damages via special assessment or special charge under Section 66.0627, Wis. Stat., prior to any first mortgage lien on the property. The owners of the Real Estate and their successors and assigns further agree that they waive any objection to the City making said special charge or assessment; however, they still retain their right to object to the accuracy of the amount of the special charge or assessment;
 - (6) Any other remedy in this Agreement.
- b. **Reimbursement.** Any amounts expended by the City in enforcing this Agreement and the obligations of Developer hereunder, including reasonable attorney's fees, and any amounts expended by the City in curing a default on behalf of Developer, together with interest at one percent (1%) per month, shall be paid by Developer to the City upon demand and shall constitute a lien against the Real Estate until such amounts are reimbursed or paid to the City, with such lien to be in the nature of a mortgage and enforceable pursuant to the procedures for foreclosure of a mortgage.
- c. **Remedies are Cumulative.** All remedies provided herein shall be cumulative and the exercise of one remedy shall not preclude the use of any other or all of said remedies.
- d. **Failure to Enforce Not a Waiver.** Failure of the City to enforce any provision contained herein shall not be deemed a waiver of the City's rights to enforce such provision or any other provision in the event of a subsequent default.

7.2 City's Default.

- a. **Remedies.** In the event of the City's default hereunder which is not cured within one hundred twenty (120) days after written notice thereof to the City, Developer shall have all rights and remedies available under law or equity with respect to said default. In addition, and without limitation, Developer shall have the following specific rights and remedies:
- (1) Injunctive relief;
 - (2) Action for specific performance; and

(3) Action for money damages.

- b. **Reimbursement.** Any amounts expended by Developer in enforcing this Agreement and the obligations of the City hereunder, including reasonable attorney's fees, and any amounts expended by Developer in curing a default on behalf of the City, together with interest at one percent (1%) per month, shall be paid by the City to Developer upon demand.
- c. **Remedies are Cumulative.** All remedies provided herein shall be cumulative and the exercise of one remedy shall not preclude the use of any other or all of said remedies.
- d. **Failure to Enforce Not a Waiver.** Failure of Developer to enforce any provision contained herein shall not be deemed a waiver of Developer's rights to enforce such provision or any other provision in the event of a subsequent default.

7.3. Mediation of Disputes Required. Unless the parties agree otherwise, prior to litigation and as a condition precedent to bringing litigation, any party deeming itself aggrieved under this Agreement shall be obligated to request nonbinding mediation of the dispute. Mediation shall proceed before a single mediator. The parties shall split the costs of mediation equally. In the event of impasse at mediation, the aggrieved party may then commence an action. However, the parties shall be bound to agree to alternative dispute resolution as ordered by the Court.

ARTICLE VIII MISCELLANEOUS PROVISIONS

8.1. Assignment. Except as provided in Sections 2.7 and 6.13, Developer may not assign its rights or obligations under this Agreement without the prior written consent of the City. Developer shall provide not less than forty-five (45) days advance written notice of any intended assignment.

8.2. Nondiscrimination. In the performance of work under this Agreement, Developer agrees not to discriminate against any employee or applicant for employment nor shall the development or any portion thereof be sold to, leased or used by any party in any manner to permit discrimination or restriction on the basis of race, religion, marital status, age, color, sex, sexual orientation, physical condition, disability, national origin or ancestry and that the construction and operation of the Project shall be in compliance with all effective laws, ordinances and regulations relating to discrimination on any of the foregoing grounds.

8.3. No Personal Liability. Under no circumstances shall any trustee, officer, official, commissioner, director, member, partner or employee of the City, have any personal liability arising out of this Agreement, and no party shall seek or claim any such personal liability.

8.4. Force Majeure. No party shall be responsible to any other party for any resulting losses and it shall not be a default hereunder if the fulfillment of any of the terms of this Agreement is delayed or prevented by revolutions or other civil disorders, wars, acts of enemies, strikes, fires, floods, pandemic, acts of God, adverse weather conditions, legally required environmental remedial actions, industry-wide shortage of materials, or by any other cause not within the control of the party whose performance was interfered with, and which exercise of reasonable diligence, such party is unable to prevent, whether of the class of causes hereinabove enumerated or not, and the time for performance shall be extended by the period of delay occasioned by any such cause; provided however that any such event of Force Majeure shall not be the basis of a delay of more than three hundred sixty-five (365) days.

8.5. Parties and Survival of Agreement. Except as otherwise expressly provided herein, this Agreement is made solely for the benefit of the parties hereto and no other person, partnership, association or corporation shall acquire or have any rights hereunder or by virtue hereof. All representations, warranties, and indemnifications contained herein shall survive the termination or expiration of this Agreement.

8.6. Implementation Schedule and Time of the Essence. All phases and schedules which are the subject of approvals, or as set forth herein, shall be governed by the principle that time is of the essence, and modification or deviation from such schedules shall occur only upon approval of the City. The Mayor, or in the Mayor's absence, the Council President, shall have the ability to postpone any deadline listed herein, up to a maximum ninety (90) days. The Economic Development Commission shall otherwise oversee the day-to-day operations of this Agreement.

8.7. Notices. Any notice, demand, certificate or other communication under this Agreement shall be given in writing and deemed effective: (a) when personally delivered; (b) three (3) days after deposit within the United States Postal Service, postage prepaid, certified, return receipt requested; or (c) one (1) business day after deposit with a nationally recognized overnight courier service, addressed by name and to the party or person intended as follows:

To the City: Attn: City Clerk
 City of La Crosse
 400 La Crosse Street
 La Crosse, Wisconsin 54601

with a copy to: Attn: City Planner
 City of La Crosse
 400 La Crosse Street
 La Crosse, Wisconsin 54601

To the Developer: Attn: Managing Member
 Fifth Ward Residences, LLC
 1243 Badger Street
 La Crosse, WI 54601

8.8. Governing Law. This Agreement shall be governed by the laws of the State of Wisconsin and shall be deemed to have been drafted through the combined efforts of parties of equal bargaining strength. Any action at law or in equity relating to this Agreement shall be instituted exclusively in the courts of the State of Wisconsin and venued in La Crosse County. Each party waives its right to change venue.

8.9. Conflict of Interest. Developer shall avoid all conflicts of interest or the appearance of a conflict of interest in the performance of this Agreement. Developer is familiar with the City's prohibition against the acceptance of any gift by a City officer or designated employee, which prohibition is found in Section 2-133 of the City of La Crosse Municipal Code. Developer agrees not to offer any City officer or designated employee any gift prohibited by said Code. The offer or giving of any prohibited gift shall constitute a material breach of this Agreement by Developer. In addition to any other remedies the City may have in law or equity, the City may immediately terminate this Agreement for such breach. No member, officer or employee of the City shall have any personal financial interest, direct or indirect, in this Agreement, nor shall any such member, officer or employee participate in any decision relating to this Agreement.

8.10. Execution in Counterparts. This Agreement may be executed in several counterparts, each which may be deemed an original, and all of such counterparts together shall constitute one and the same agreement.

8.11. Disclaimer Relationships. Developer acknowledges and agrees that nothing contained in this Agreement or any contract between Developer and the City or any act by the City or any third parties shall be deemed or construed by any of the parties or by third persons to create any relationship or third party beneficiary, principal or agent limited or general partnership or joint venture or of any association or relationship involving the City. It is understood and agreed that Developer, in the performance of the work and services of these Project shall not act as an agent or employee of the City and neither the Developer nor its officers, employees, agents, licensees, sublicensees, subcontractors shall obtain any rights to retirement benefits or the benefits which accrue to the City's employees and Developer hereby expressly waives any claim it may have to any such rights. Each party shall be responsible for its own separate debts, obligations and other liabilities.

8.12. Severability. Should any part, term, portion or provision of this Agreement or the application thereof to any person or circumstance be in conflict with any state or federal law or otherwise be rendered unenforceable, it shall be deemed severable and shall not affect the remaining provisions, provided that such remaining provisions can be construed in substance to continue to constitute the agreement that the parties intended to enter into in the first instance.

8.13. Termination. Except for Sections 2.10 (Indemnity), 2.6(a) (Annual PILOT), 2.7(e) (Restrictive Covenant), 2.13 (Record Retention) and 8.5 (Survival), which shall survive the termination of this Agreement, this Agreement and all obligations hereunder, shall terminate after twenty (20) years or the life of TID #16, whichever is longer. This Agreement may also be terminated as provided in Article IV (Conditions Precedent to City), Article V (Conditions Precedent to Developer Obligations) and Section 8.9 (Conflict of Interest) hereof.

8.14. Memorandum of Agreement. Promptly upon full execution of this Agreement and prior to the recording of any mortgage or other security instrument against any portion of the Real Estate, the Developer agrees that the City may record this Agreement, or a memorandum thereof, with the Register of Deeds for La Crosse County, Wisconsin. Any such memorandum shall be in form and substance reasonably acceptable to the City and the Developer.

8.15. Covenants Running with Land. All of the covenants, obligations and promises of Developer set forth herein shall be deemed to encumber the Development and run with the land described in Exhibit A and shall bind any successor, assignee or transferee of Developer until such time as this Agreement is terminated.

8.16. Amendments. No agreement or understanding changing, modifying or extending this Agreement shall be binding upon either party unless in writing, approved and executed by the City and Developer.

8.17. Time Computation. Any period of time described in this Agreement by reference to a number of days includes Saturdays, Sundays, and any state or national holidays. Any period of time described in this Agreement by reference to a number of business days does not include Saturdays, Sundays or any state or national holidays. If the date or last date to perform any act or to give any notices is a Saturday, Sunday or state or national holiday, that act or notice may be timely performed or given on the next succeeding day which is not a Saturday, Sunday, or state or national holiday.

8.18. Intentionally omitted.

8.19. Construction. This Contract shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument to be drafted. The headings, table of contents and captions contained in the Agreement are for convenience only and in no way define, limit or describe the scope or intent of any of the provisions of this Agreement. All terms and words used in this Agreement, whether singular or plural and regardless of the gender thereof, shall be deemed to include any other number and any other gender as the contest may require. In the event that any of the provisions, of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provisions or portions thereof shall not be affected.

8.20. **Incorporation of Proceedings and Exhibits.** All motions adopted, approvals granted, minutes documenting such motions and approvals, and plans and specifications submitted in conjunction with any and all approvals as granted by the City, including but not limited to adopted or approved plans or specifications on file with the City and further including but not limited to all exhibits as referenced herein, are incorporated by reference herein and are deemed to be the contractual obligation of Developer whether or not herein enumerated.

8.21. **Entire Agreement.** This writing including all Exhibits hereto, and the other documents and agreements referenced herein, constitute the entire Agreement between the parties with respect to the Project and all prior letters of intent or offers, if any, are hereby terminated. This Agreement, however, shall be deemed and read to include and incorporate such minutes, approvals, plans, and specifications, as referenced in this Agreement, and in the event of a conflict between this Agreement and any action of the City, granting approvals or conditions attendant with such approval, the specific action of the City shall be deemed controlling.

8.22. **Execution of Agreement.** Developer shall sign, execute and deliver this Agreement to the City on or before the close of regular City Hall business hours ninety (90) days after its final adoption by the City, whichever occurs later. Developer's failure to sign, execute and cause this Agreement to be received by the City within said time period shall render the Agreement null and void, unless otherwise authorized by the City. After Developer has signed, executed and delivered the Agreement, the City shall sign and execute the Agreement. The final signature date of the City shall be the signature date of Agreement ("Signature Date").

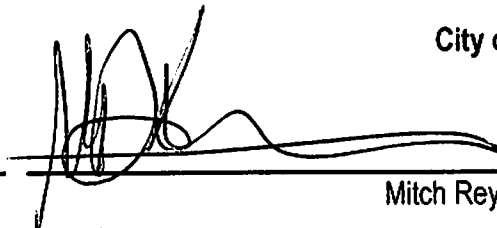
IN WITNESS HEREOF, the parties have executed and delivered this Agreement effective the date set forth next to the City's signature below.

Dated this 8 day of November, 2021

Dated this 10th day of Nov., 2021

Fifth Ward Residences, LLC

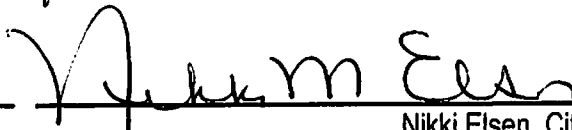
City of La Crosse



Marvin W. Wanders, Member

Mitch Reynolds, Mayor

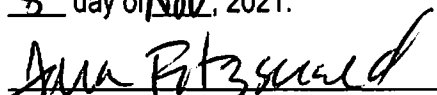
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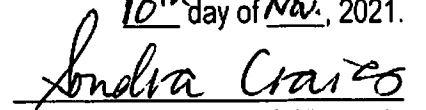


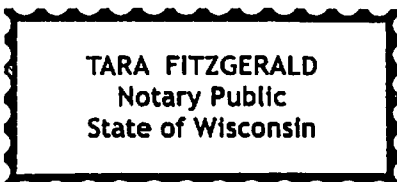
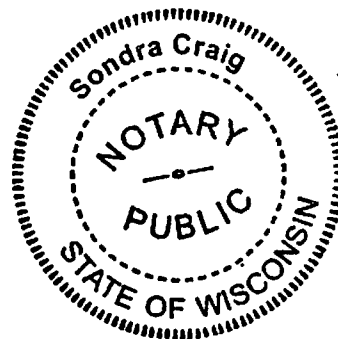
Nikki Elsen, City Clerk

Subscribed and sworn to before me this 8 day of Nov., 2021.

Subscribed and sworn to before me this 10th day of Nov., 2021.


Notary Public, State of Wisconsin
My Commission: 5/1/2022


Notary Public, State of Wisconsin
My Commission: 11/11/2021



This Document Was Drafted By:
Stephen F. Matty, City Attorney
City of La Crosse
400 La Crosse Street
La Crosse, Wisconsin 54601
608.789.7511

EXHIBIT AA: HAGAR STREET CONSTRUCTION ESTIMATE

Trane Plant 6 Development Agreement

	<u>Uses</u>	<u>Remarks</u>
Land Cost	\$171,000	
Engineering Survey, Design, & Bidding	\$39,240	
Construction Inspection & Administration	\$29,430	
Street Construction	\$490,495	Includes all water and sanitary sewer mains and appurtenances through the development
15% Construction Contingency	\$73,574	
Total	\$803,739	

EXHIBIT B

Description of Project

In 2013, STIZO Development, LLC purchased the former Trane Plant 6 site from LIPCO. After multiple end users have failed to materialize including submitted proposals from two separate Low Income Housing Tax Credit (LIHTC) developers and the recently proposed STAR center, as well as two different grocery stores, a proposed hockey arena and a convenience store, the owners have drafted up a mixed use, residential focused project. The proposed project will be a combination of multi-family housing, office, and owner-occupied homes on the lower north side of La Crosse.

Phase one of the proposed re- development will occur on the north four acres of the existing site and will consist of 146 market rate apartments with a focus on work-force housing, fourteen (14) owner occupied condos for sale and a centrally located activity center. The activity center will consist of a leasing office, fitness studio, lounge, gathering rooms, 5 incubator offices for lease and indoor and outdoor gathering space. The diversity of residences in phase one will be combined with a complimentary use of phase two.

There will be a total of five buildings constructed in phase one of the project. The buildings will all address and utilize universal design principles, exceed accessibility requirements, and have a unique focus on installing natural landscaping as a food source for the residents in the neighborhood. The monthly rent of the residences in the 72-unit buildings will range from \$799/month to \$1,250/month. The owner-occupied condos will consist of two-bedroom ranch (one-level) style and three-bedroom two-story style and will be for sale starting at \$229,000.

This development also proposes to connect the Lower Northside neighborhood to the marsh trails from Red Cloud park. This connector would allow residents in the neighborhood to access UW-La Crosse and downtown Riverside Park without having to cross a road.

Project Highlights:

Current Assessed Value: \$1,377,800

Current Tax Revenue: \$35,282.30

Projected Assessed Value: \$18,929,511.86

Projected Tax Revenue: \$447,928.40

Project Cost: \$23,199,526.34

Number of Residences: 160

Number of Bedrooms: 212

Number of Parking Spaces: 175

Garage/Enclosed: 102

Surface: 73

EXHIBIT C

Restrictive Covenant

Commencing at the northeast corner of said Section 29; thence South 89 degrees 22 minutes 41 seconds West, assumed bearing, on the north line of said Northeast Quarter, 2623.15 feet to the northwest corner of said Northeast Quarter; thence South 00 degrees 51 minutes 42 seconds East on the west line of said Northwest Quarter, 2244.42 feet; thence North 89 degrees 37 minutes 08 seconds East, 43.93 feet to the east right of way line of George Street, said point being the point of beginning; thence North 00 degrees 01 minutes 46 seconds East on said east right of way line, 47.41 feet; thence North 88 degrees 53 minutes 13 seconds East, 95.70 feet; thence North 00 degrees 51 minutes 11 seconds West, 52.54 feet; thence North 89 degrees 00 minutes 15 seconds East, 38.73 feet; thence North 00 degrees 48 minutes 45 seconds West, 298.17 feet to the south right of way line of St. Cloud Street; thence easterly on said south right of way line on the following three courses; 1) thence North 89 degrees 29 minutes 37 seconds East, 59.42 feet; 2) thence South 04 degrees 26 minutes 56 seconds East, 5.46 feet; 3) thence North 89 degrees 28 minutes 22 seconds East, 432.64 feet; thence South 00 degrees 50 minutes 29 seconds East, 395.55 feet; thence South 89 degrees 37 minutes 08 seconds West, 627.71 feet to the point of beginning.

Subject to the following Restrictive Covenant: Regardless of the owner, occupant, tenant, or use of the Property, the real property (as defined in § 70.03, Wis. Stat.) shall remain subject to the general property tax pursuant to Chapter 70 of the Wisconsin Statutes for a minimum period commencing at the date of this deed and concluding on December 31, 2042. No owner, occupant, or tenant of the Property shall apply for the real property to be exempt from taxation as provided in § 70.11, Wis. Stat., for any tax year prior to tax year January 1, 2043.

This covenant shall run with the land and any future conveyance of the Property shall be subject to the covenant. The City of La Crosse may enforce this covenant using any available legal or equitable remedies permitted by the laws of Wisconsin, including injunctive relief, reasonable attorney's fees and the costs of enforcement of this covenant, and liquidated damages equal to the amount of real estate taxes for the duration of the restrictive covenant time period ending December 31, 2042 that the violator would have paid but for the granting of the tax exemption for the Property.

EXHIBIT D

Description of Public Improvements

The City shall provide the following public improvements in accordance with the Master Plan and as further determined by its capital improvement budget process, subject to annual appropriation of the Common Council:

1. Hagar Street improvements and Hagar Street decorative lighting. The Hagar Street Public Improvement shall be outside the capital improvement budget process and separately funded by promissory note and TID #16.
2. Installation of decorative lighting on St. Andrew and George Street, with lighting to match Hagar Street lighting.
3. Installation of a bike / pedestrian access route to Red Cloud Park along St. Andrew Street.
4. Trail connecting Red Cloud Park to the City Marsh Trails.



THIS DOCUMENT IS THE PROPERTY OF I & G GROUP
 AND SHALL BE KEPT IN CONFIDENCE AND NOT
 TO BE REPRODUCED OR DISTRIBUTED
 WITHOUT PRIOR WRITTEN CONSENT

PROJECT NO. _____
 FILE NAME _____
 DRAWN BY _____
 CHECKED BY _____
 ORIGINAL ISSUE DATE _____
 CLIENT PROJECT NO. _____

CITY _____ STATE _____
 DATE _____

**HAGAR STREET
 QUANTITY
 TAKEOFFS**

1

EXHIBIT D-1

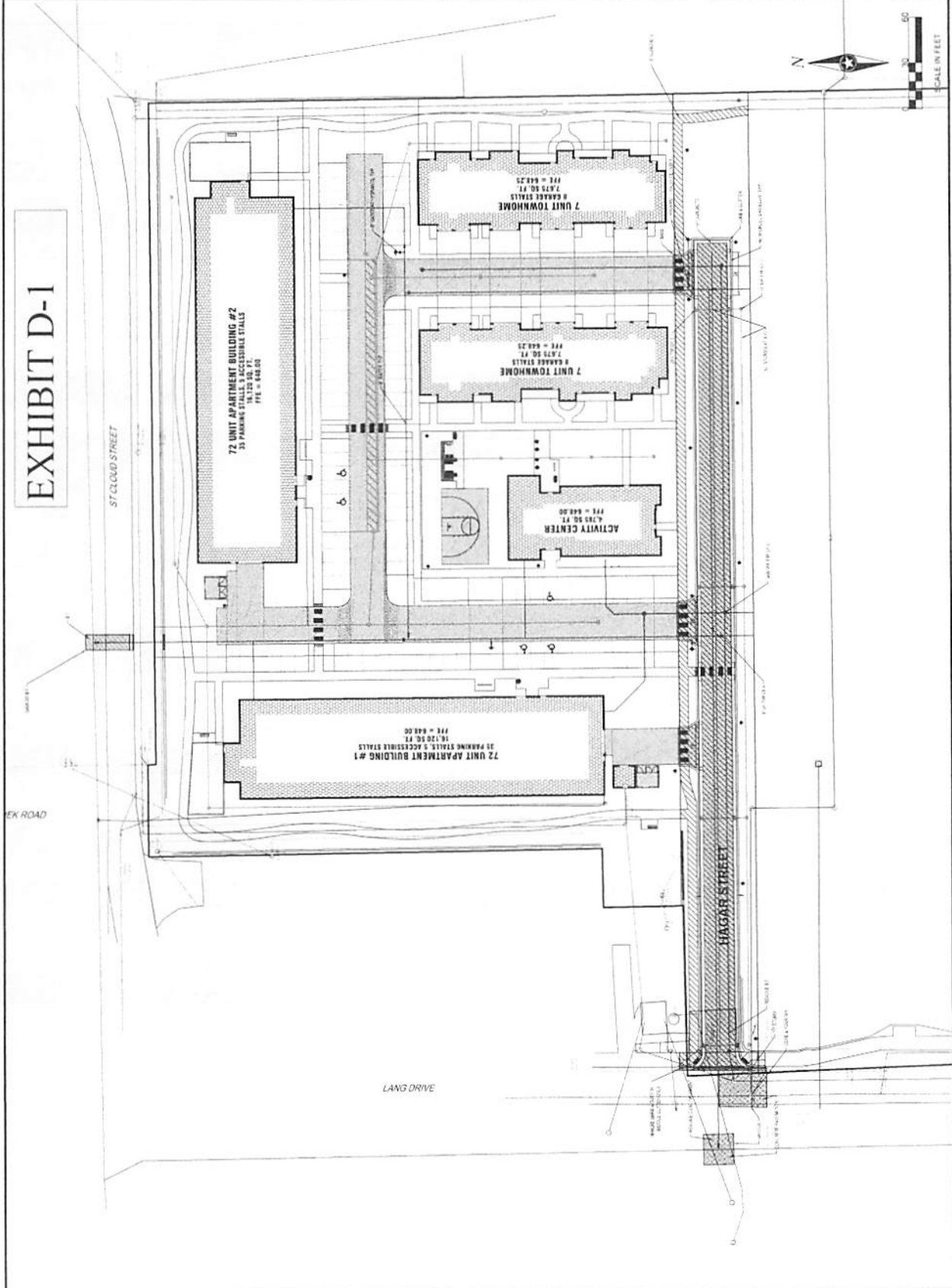


Exhibit E

Project Cost Breakdown

SOURCES				
Debt		Amount	Percent	Per Unit
Debt A:	First Mortgage	14,553,576	63.2%	101,067
Debt B:	TIF Note	3,100,000	13.5%	21,528
Subtotal		17,653,576	76.6%	122,594
Other Sources			Amount	Percent
Category	Sources	S&U Detail		Per Unit
Equity	Investor Cash		3,686,475	16.0%
Equity	Developer Services		1,050,418	4.6%
Local_Grant	Grants		650,000	2.8%
Subtotal			5,386,893	23.4%
TOTAL SOURCES			23,040,469	100.0%
				160,003

USES				
		Amount	% of Cost	Per Unit
ACQUISITION COSTS		952,138	4.1%	6,612
Land Cost	n/a psf	952,138	4.1%	6,612
CONSTRUCTION COSTS		19,648,704	85.3%	136,449
Residential Building		17,820,670	77.3%	123,755
Community Center		808,500	3.5%	5,615
On-site Work		1,019,534	4.4%	7,080
PROFESSIONAL SERVICES		827,078	3.6%	5,744
Architectural & Engineering Fees		277,510	1.2%	1,927
FF&E		130,000	0.6%	903
Soft Cost Contingency		419,568	1.8%	2,914
FINANCING COSTS		447,731	1.9%	3,109
Construction Period Interest		397,731	1.7%	2,762
Real Estate Taxes During Construction		50,000	0.2%	347
DEVELOPER FEE		1,050,418	4.6%	7,295
Developer Fee		1,050,418	4.6%	7,295
CASH ACCOUNTS/ESCROWS/RESERVES		114,400	0.5%	794
Management Startup/Leasing		14,400	0.1%	100
Operating Reserves		100,000	0.4%	694
TOTAL USES		23,040,469	100%	160,003

EXHIBIT F

Red Cloud Phase I proposed construction schedule

June 28, 2021

Seven Plex – Building one	- Start April 2022 – Completion January 2023
Seven Plex – Building two	- Start June 2022 – Completion March 2023
72 Unit Apartment Building – Building one	- Start April 2022 – Completion March 2023
72 Unit Apartment Building – Building two	- Start April 2023 – Completion March 2024
Activity Center	- Start June 2022 – Completion December 2022

Note: It is our goal to start all the Phases of this development sooner if we are able to get the designs completed, permits in place, and building materials are available. We would like to start the two seven-plex units and the first 72 Unit Apartment Building during the fall of 2022.

EXHIBIT G-1: MONETARY OBLIGATION EXAMPLE

CASH GRANT SCHEDULE

Trane Plant 6 Development Agreement

Tax Year (Valuation Date)	Guarantees				1/1/2026	1/1/2027	1/1/2028	1/1/2029	1/1/2030	1/1/2031	1/1/2032	1/1/2033
	Base 1/1/2021	40% 1/1/2023	80% 1/1/2024	100% 1/1/2025								
Base Value of Property												
New construction 2022		6,850,000	6,918,500	6,987,685	7,057,562	7,128,137	7,199,419	7,271,413	7,344,127	7,417,568	7,491,744	7,566,662
New construction 2023			6,781,500	6,849,315	6,917,808	6,986,986	7,056,856	7,127,425	7,198,699	7,270,686	7,343,393	7,416,827
New construction 2024				3,288,000	3,320,880	3,354,089	3,387,630	3,421,506	3,455,721	3,490,278	3,525,181	3,560,433
Total Assessed Value (Value Increment) 1% Inflation	0	6,850,000	13,700,000	17,125,000	17,296,250	17,469,213	17,643,905	17,820,344	17,998,547	18,178,533	18,360,318	18,543,921
Mill Rate	0.02560	0.02560	0.02560	0.02560	0.02560	0.02560	0.02560	0.02560	0.02560	0.02560	0.02560	0.02560
Tax Increment		175,360	350,720	438,400	442,784	447,212	451,684	456,201	460,763	465,370	470,024	474,724
Cash Grants												
City's Proration (15% per ordinance)		26,304	52,608	65,760	66,418	67,082	67,753	68,430	69,114	69,806	70,504	71,209
City's Allocation of Tax Increment		26,304	52,608	65,760	66,418	67,082	67,753	68,430	69,114	69,806	70,504	71,209
City's Cumulative Cash Grants (\$694,986 Max.)		26,304	78,912	144,672	211,090	278,171	345,924	414,354	483,469	553,274	623,778	694,986
Developer's Cash Grants												
Developer's Proration (85% per ordinance)		149,056	298,112	372,640	376,366	380,130	383,931	387,771	391,648	395,565	399,521	403,516
Developer's Cash Grants		149,056	298,112	372,640	376,366	380,130	383,931	387,771	391,648	395,565	399,521	403,516
Developer's Cumulative Cash Grants (\$3,788,235.99 Max.)		149,056	447,168	819,808	1,196,174	1,576,304	1,960,236	2,348,007	2,739,655	3,135,220	3,534,740	3,788,236
Payment Date		9/1/2025	9/1/2025	9/1/2025	9/1/2026	9/1/2027	9/1/2028	9/1/2029	9/1/2030	9/1/2031	9/1/2032	9/1/2033

NOTE 1: Assumes 1% appreciation

NOTE 2: Assumes base value of property is zero.

NOTE 3: Assumes maximum grant amount at fixed 3.5% over 11 years.

NOTE 4: Assumes Cash-On-Cash Return does not reduce Contribution amount.
6/18/2021

Exhibit G-2

15-Year Cashflow

Stabilized	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038
Income															
Rental Income															
Gross Potential Rent	1,896,391	1,934,319	1,973,005	2,012,465	2,052,715	2,093,769	2,135,644	2,178,357	2,221,925	2,266,363	2,311,690	2,357,924	2,405,063	2,453,184	2,502,248
Less: 5.0% Stabilized Vacancy	(94,820)	(96,716)	(98,650)	(100,623)	(102,636)	(104,688)	(106,782)	(108,918)	(111,096)	(113,318)	(115,585)	(117,896)	(120,254)	(122,659)	(125,112)
Total Rental Income	1,801,572	1,837,603	1,874,355	1,911,842	1,950,079	1,989,081	2,028,862	2,069,440	2,110,828	2,153,045	2,196,106	2,240,028	2,284,828	2,330,525	2,377,135
Other Residential Income															
Structured Parking	126,346	128,873	131,451	134,080	136,761	139,496	142,286	145,132	148,035	150,995	154,015	157,096	160,238	163,442	166,711
Surface Parking	28,965	29,544	30,135	30,738	31,352	31,979	32,619	33,271	33,937	34,616	35,308	36,014	36,734	37,469	38,218
Activity Fee	8,739	8,914	9,092	9,274	9,460	9,649	9,842	10,039	10,240	10,444	10,653	10,866	11,084	11,305	11,531
Late Fees	9,526	9,716	9,910	10,109	10,311	10,517	10,727	10,942	11,161	11,384	11,612	11,844	12,081	12,322	12,569
Utility Fees Reimbursement	17,978	18,336	18,704	19,079	19,460	19,849	20,246	20,651	21,064	21,486	21,915	22,352	22,797	23,250	23,722
Miscellaneous	20,879	21,297	21,723	22,157	22,601	23,053	23,514	23,984	24,464	24,953	25,452	25,961	26,480	27,010	27,550
Less: Vacancy	(10,622)	(10,834)	(11,051)	(11,272)	(11,497)	(11,727)	(11,962)	(12,201)	(12,445)	(12,694)	(12,948)	(13,207)	(13,471)	(13,740)	(14,014)
Total Other Residential Income	201,812	205,848	209,965	214,164	218,448	222,817	227,273	231,818	236,455	241,184	246,007	250,928	255,946	261,065	266,286
Net Residential Income (NRI)	2,003,383	2,043,451	2,084,320	2,126,007	2,168,527	2,211,897	2,256,135	2,301,258	2,347,283	2,394,229	2,442,113	2,490,955	2,540,775	2,591,590	2,643,422
Commercial Income	24,000	24,480	24,970	25,469	25,978	26,498	27,028	27,568	28,120	28,682	29,256	29,841	30,438	31,047	31,667
Less: Commercial Vacancy - 5.0%	(1,200)	(1,224)	(1,248)	(1,273)	(1,298)	(1,325)	(1,351)	(1,378)	(1,406)	(1,434)	(1,463)	(1,492)	(1,522)	(1,552)	(1,582)
Net Commercial Income	22,800	23,256	23,721	24,196	24,679	25,173	25,677	26,190	26,714	27,248	27,793	28,349	28,916	29,494	30,084
Effective Gross Income (EGI)	2,026,183	2,066,707	2,108,041	2,150,202	2,193,206	2,237,070	2,281,812	2,327,448	2,373,997	2,421,477	2,469,906	2,519,304	2,569,691	2,621,084	2,673,506
Expenses															
Rental Unit Expenses															
Operating Expenses	443,758	452,634	461,687	470,921	480,339	489,946	499,745	509,740	519,934	530,333	540,940	551,759	562,794	574,050	585,531
Management Fee: 5.0% of EGI	97,188	99,132	101,114	103,137	105,199	107,303	109,449	111,638	113,871	116,149	118,472	120,841	123,258	125,723	128,237
Property Taxes	296,320	304,000	311,800	319,720	327,760	335,920	344,200	352,600	361,120	369,760	378,520	387,400	396,400	405,520	414,760
Reserves: \$135 PUPY	19,438	19,438	19,438	19,438	19,438	19,438	19,438	19,438	19,438	19,438	19,438	19,438	19,438	19,438	19,438
Total Rental Unit Expenses	856,705	855,204	856,239	857,495	858,976	860,687	862,532	864,519	866,649	868,919	871,332	873,890	876,594	879,454	882,376
Total Expenses	856,705	855,204	856,239	857,495	858,976	860,687	862,532	864,519	866,649	868,919	871,332	873,890	876,594	879,454	882,376
NET OPERATING INCOME	1,169,478	1,211,503	1,251,802	1,292,707	1,334,230	1,376,383	1,419,280	1,462,929	1,507,348	1,552,548	1,608,574	1,665,414	1,723,097	1,781,635	1,841,130
Tax Increment Financing Revenue	385,792	385,792	385,792	385,792	385,792	385,792	385,792	385,792	385,792	385,792	385,792	385,792	385,792	385,792	385,792
NET CASH FLOW	1,555,270	1,597,295	1,637,594	1,678,499	1,719,022	1,760,175	1,802,072	1,844,721	1,887,840	1,931,540	1,975,866	2,020,806	2,066,389	2,112,627	2,169,522
Expenses Paid from Net Cash Flow															
Asset Management Fee	38,512	39,282	40,068	40,869	41,686	42,520	43,371	44,238	45,123	46,025	46,946	47,885	48,842	49,819	50,811
Subtotal	38,512	39,282	40,068	40,869	41,686	42,520	43,371	44,238	45,123	46,025	46,946	47,885	48,842	49,819	50,811
NET CASH FLOW AVAILABLE FOR DISTRIBUTION	1,516,758	1,558,013	1,597,526	1,637,630	1,677,336	1,717,655	1,758,705	1,800,483	1,843,717	1,887,515	1,931,920	1,976,860	2,022,307	2,068,208	2,124,711
RENTAL UNIT RESERVE															
Net Cash to Developer	302,509	243,764	273,277	303,380	334,086	365,405	397,351	429,936	463,173	497,074	485,808	521,079	557,055	593,751	631,181
Net Cash to Developer (w/o assistance)	302,509	243,764	273,277	303,380	334,086	365,405	397,351	429,936	463,173	497,074	485,808	521,079	557,055	593,751	631,181
CASH ON CASH ANNUAL RETURN	8.4%	8.4%	8.5%	8.4%	8.3%	8.2%	8.1%	8.0%	7.9%	7.8%	7.7%	7.6%	7.5%	7.4%	7.3%
Cash on Cash Average Annual Return	8.4%	8.4%	8.5%	8.4%	8.3%	8.2%	8.1%	8.0%	7.9%	7.8%	7.7%	7.6%	7.5%	7.4%	7.3%

Exhibit G-3

Project Proforma

Residential Income						
Rental Unit Income Unit Type	Rent	Monthly Rent	Unit Count	Annual Revenue	Size Sq. Ft.	Rent/ Sq. Ft.
Studio	Market Rate	\$799	48	\$460,224	498	\$1.60
1BR	Market Rate	\$1,099	8	\$105,504	781	\$1.41
1BR	Market Rate	\$1,099	48	\$633,024	785	\$1.40
2BR	Market Rate	\$1,300	16	\$249,600	1,069	\$1.22
2BR	Market Rate	\$1,300	24	\$374,400	1,074	\$1.21
Gross Potential Rent		151,896	144	\$1,822,752	110,712	\$1.37
Other Residential Income		# of Stalls (if available)		Annual Revenue	\$ Per Stall Per Month	
Structured Parking		88		\$121,440		
Surface Parking		58		\$27,840	\$40	
Activity Fee				\$8,400		
Late Fees				\$9,156		
Utility Fees Reimbursement				\$17,280		
Miscellaneous				\$20,069		
Total Other Income				\$204,184		
Total Residential Income				\$2,026,936		
Residential Vacancy		Percent		Annual Loss		
Total Residential Income		5.0%		(\$101,347)		
Total Vacancy				(\$101,347)		
Net Residential Income				\$1,925,590		
Commercial Income						
Commercial Space		Per Sq/Ft		Rent Revenue		
1. Business Incubator #1		\$3.79		\$6,000	132	
2. Business Incubator #2		\$4.50		\$6,000	111	
3. Business Incubator #3		\$4.63		\$6,000	108	
4. Business Incubator #4		\$3.52		\$6,000	142	
Total Commercial Rent				\$24,000	493	
Commercial Vacancy/Expenses		Percent		Annual Loss	Per	
Commercial Vacancy		5.0%		(\$1,200)	(2.43)	
Total Commercial Vacancy/Expenses				(\$1,200)	(2.43)	
Net Commercial Income				\$22,800		
Effective Gross Income (EGI)				\$1,948,390		
Expenses						
Apartment Operating Costs			Amount		Per	
Administrative			\$25,200			
Payroll			\$50,625			
Marketing			\$7,800			
Utilities			\$91,080			
Insurance			\$19,800			
Maintenance			\$173,222			
Other			\$58,800		\$408	
Total Operating Costs			\$426,527		\$2,962	
Apartment Management, Taxes, & Reserves			Amount		Per Unit	
Management Fees			\$97,188	4.99% of EGI		
Property Taxes			\$384,000			
Replacement Reserves			\$19,438		\$135	
Total Management and Other Costs			\$500,626		\$3,477	
Total Expenses				\$927,153		
Net Operating Income (NOI)				\$1,021,237		
Tax Increment Financing				\$385,792		
Net Operating Income (with Assistance)				\$1,407,029		

EXHIBIT Z

PROMISSORY NOTE

\$

_____ (date)

FOR VALUE RECEIVED, the City of La Crosse, a Wisconsin municipality ("Borrower") promises to pay to Fifth Ward Residences, LLC, a Wisconsin limited liability company ("Lender") the sum of _____ Dollars (\$) with interest at the rate of zero percent (0%) per annum on the unpaid balance until June 1, 2023. Commencing June 1, 2023, the interest rate shall be three and one-half percent (3.5%) on the unpaid balance. On June 1, 2026, the interest rate shall be four percent (4%) on the unpaid balance. Principal and interest shall be payable in five (5) consecutive, annual installments of _____ Dollars (\$) each. The first installment is due _____ and on the _____ day of _____ of each year thereafter until fully paid.

Interest is computed for the actual number of days principal is unpaid on the basis of a 360-day year.

Each maker and endorser hereby waives presentment, demand, notice of dishonor and protest and consents to any and all extensions and renewals hereof without notice thereof. Prepayment is permitted at any time without penalty.

All unpaid principal and accrued interest bear interest after maturity of this Promissory Note, whether occurring through lapse of time or acceleration, at the rate of ten percent (10%) per year until paid. If any payment is not made on or before the 15th day after its due date, Lender may collect a delinquency charge of five percent (5%) of the unpaid installment due.

If Borrower fails to make a payment under this Promissory Note when due, and the default continues for twenty (20) days, Lender, by written notice to Borrower, may declare the entire balance of principal and accrued interest to be immediately due and payable.

In the event of Borrower's default, to the extent permitted by law, Borrower shall pay to Lender all reasonable costs and expenses before and after judgment, including without limitation, attorney's fees incurred by Lender in enforcing its rights under this Promissory Note.

This Promissory Note shall be binding on the heirs, successors and assigns of the parties herein.

CITY OF LA CROSSE

EXHIBIT – DO NOT SIGN

By: _____
Name: Mitch Reynolds
Title: Mayor

EXHIBIT – DO NOT SIGN

By: _____
Name: Nikki Elsen
Title: City Clerk