

**LOAN AND AFFORDABLE HOUSING
DEVELOPMENT AGREEMENT**

THIS AGREEMENT, dated the ____ day of January_____, 2024 by and between The Driftless Apartments, LLC, a Wisconsin limited liability company, with its principal office at 1295 Northland Drive, Suite 270, Mendota Heights, MN 55120-5512 hereinafter referred to as "Developer," and the City of La Crosse, Wisconsin, a municipal corporation of the State of Wisconsin, having its principal office at City Hall, 400 La Crosse Street, La Crosse, Wisconsin 54601, hereinafter referred to as the "City."

W I T N E S S E T H:

WHEREAS, the City has Affordable Housing Revolving Loan Funds (AHRLF) that include Community Development Block Grant (CDBG), where available. The CDBG funds are from the United States Department of Housing and Urban Development (HUD) for the purpose of developing affordable rental housing, pursuant to 24 CFR Part 570.208, (a)(3); and

WHEREAS, the Developer has received Low-Income Housing Tax Credits (LIHTC) administered by WHEDA, and other public and private funding sources for the development of a portion of **parcel 17-20251-20**, known as **Lot 7, River Point District Subdivision**, La Crosse, WI 54603 (the "City Parcel" or "Property"); and

WHEREAS, the City's 2020-2024 Consolidated Plan prioritized affordable multifamily rental units; and

WHEREAS, the City is willing to loan the total sum of up to One Million, One Hundred Eleven Thousand, One Hundred Eleven Dollars (\$1,111,111) of AHRLF funds to the Developer, pursuant to the following terms and conditions in this agreement (the "Loan"); and

WHEREAS, the Developer and the City have entered into a Development Agreement dated May 5, 2023 regarding the same project to which the parties remain and shall remain bound and which the terms, covenants, and obligations of same are incorporated herein by reference; and

WHEREAS, the City's loan of AHRLF funds to the Developer shall be executed concurrently by separate agreements for certain Tax Incremental Financing and ARPA SLFRF funding, all of which terms, covenants, and obligations are incorporated herein by reference upon execution of same; and

WHEREAS, prior to advancing funds to the Developer, the US Department of Housing and Urban Development and the City of La Crosse desire certain assurances as more fully set forth herein; and

WHEREAS, the loan funding is contingent upon a completed and accepted Environmental Assessment, remediation plan if needed, and the Developer securing all other sources of financing for the project.

NOW, THEREFORE, in consideration of the mutual representations and agreements contained herein, of the above recitals, which are incorporated herein by reference, and for other good and valuable consideration, the receipt of sufficiency whereof is hereby acknowledged, it is agreed as follows:

A. PROJECT SCOPE OF WORK AND USE OF FUNDS

1. **SCOPE.** The Developer will utilize the \$1,111,111 in AHRLF funds to acquire the City Parcel and develop and operate a multifamily housing project consisting of no less than 120 units. Developer anticipates renting twenty-four units to households at or below 30% of the County Median Income. The Developer will partner with the La Crosse County Veterans Service Office and shall also reach out to Couleecap, Inc. to provide supportive services, make and receive referrals. The Developer will develop the project as generally described by Exhibit B (the "Project").
2. **USE OF FUNDS.** The Developer shall use the CDBG funds (\$700,000) exclusively for non-construction costs such as acquisition of the Property, financing, architectural fees, legal fees, developer fees, furnishings, equipment, marketing, title work, accounting, appraisals, and other related "soft" costs per 24 CFR 570.201-206 (the "Eligible Costs"), and shall not use funds for any other purpose or manner, to effectuate the completion of the project as stated herein. The remainder of the funds may be used only for the purposes stated above or other construction related activities, unless ineligible per 24 CFR 570.207. Classification of costs as Eligible Costs may be determined by the City in its reasonable discretion.
3. **FINANCING TERMS.** \$1,111,111 will be an interest only loan, payable annually, at an interest rate of 1%, with the principal deferred until the earlier of (i) the date the Property is sold or transferred in whole or in part, and a balloon payment consisting of the entire amounts outstanding of interest, fees, penalties and principal made at that time; or (ii) a date 20 years from the date hereof (whether one or the other, the "Maturity Date"). The Loans will be secured by a mortgage on the Property naming the City as the mortgagee (the "Mortgage"), which shall be subordinate to the Developer's disclosed first mortgage lender, namely, WHEDA.
4. **AFFORDABILITY RESTRICTIONS.** Developer shall create an affordability and unit mix described in Exhibit C Unit Mix and Initial Rents and listed herein. Twenty-four (24) units shall be set aside for households making no more than 30% of the County Median Income (CMI), forty-eight (48) units designated as units serving household making no more than 50% of the CMI, and forty-eight (48) units designated as units servicing households making no more than 80% of the CMI. Developer shall not charge more than Fair Market Rents for comparable units in the area as established by HUD under 24 CFR 888.111. These units will also be subject to rent and income restrictions pursuant to the low-income housing tax credit program under Section 42 of the Internal Revenue Code and administration thereof by the Wisconsin Housing and Economic Development Authority in and for the State of Wisconsin ("WHEDA"). At all times, the housing activities shall not fall below requirements of 24 CFR Part 570.208, (a)(3).

B. PAYMENTS

The City of La Crosse shall disburse the Loan proceeds to reimburse the Developer for Eligible Costs incurred by Developer and identified on a statement of work, prepared by Developer and presented to the City, on a form attached hereto as Exhibit E (a "Draw Request"). When submitting a Draw Request for Loan proceeds, the Developer shall include a cover sheet that totals all the

various aspects of the Draw Request, a statement of progress to date, and evidence of progress to date signed by an inspecting licensed architect.

The Draw Requests shall also include evidence of the nature and propriety of the Eligible Costs, such as closing statements, invoices, vouchers or other official documentation, and financial management systems shall be in accordance with 24 CFR 84.1.

The City shall process Draw Requests submitted by Developer within 14 days.

C. TERMS AND CONDITIONS

1. **TIMELINE.** The Developer agrees to complete the construction of the Project and begin lease-up by **December 31, 2024**. If there are unexpected delays, Developer must first apply for a written extension from the City, which shall not be unreasonably withheld. It shall be the responsibility of the Developer to notify the City promptly in writing of any delays whether anticipated or experienced. Projects not fully completed within four years from the date of this Agreement shall be considered breach of this Agreement and the Developer must immediately repay the Loans, in addition to any other remedies of the City hereunder.
2. **SITE ACCESS.** Developer further agrees to allow and facilitate the City or its representatives' access to the Project site at all reasonable times upon reasonable prior notice to Developer for the purpose of observing Project progress. Developer shall provide, upon request, all reasonably requested information and data to determine that time schedules are being met and proposed work is being achieved.
3. **AFFORDABILITY PERIOD.** The affordability period described above will be for the term of the Loans. Developer shall guarantee its own conduct and that of its agents, employees, assigns, and parties within Developer's control, to the extent it exists, to also adhere to the following.
 - a) During the affordability period, the City of La Crosse may (if it chooses in its sole discretion) conduct on-site inspections from time to time of the financial condition of the Project and/or the Developer, compliance with applicable property standards, information maintained by property owners concerning leases, tenant incomes, rents, and assess the financial health, management capacity, and long-term viability of same, provided the City shall provide no less than two (2) days prior written notice to Development prior to such inspections.
 - b) Developer will continue to maintain the Property according to State and local codes, ordinances, and requirements and ensure that the Property is maintained in good repair (ordinary wear and tear excepted), is free of material health, environmental, and safety defects.
 - c) Developer shall income-qualify tenants based on the Part 5 (Section 8) Definition of Income or the IRS definition of adjusted gross income as defined for reporting on the applicable IRS form in accordance with the income limits and bedroom size for households at the La Crosse County Median Income Level as defined by HUD. The Developer cannot change the unit mix and income limits listed without prior written permission of the City during the period of affordability, which permission shall not be unreasonably withheld.

- d) Developer shall undertake affirmative marketing as to market the units to persons of color, persons with disabilities, persons of different faiths, and other minorities. City shall review their written affirmative marketing plan during reviews. Developer shall consistently provide for the selection of tenants from a written waiting list in chronological order of their application, insofar as is practicable.
4. **SOURCES AND USES BUDGET.** The Developer shall carry out the Project generally in accordance with sources and uses budget set forth on the attached Exhibit D, as such may be updated from time to time by written notice from Developer to the City.
 5. **BUILDING STANDARDS.** The Property must meet City of La Crosse Building Code, Wisconsin Uniform Dwelling Code, comply with zoning and multi-family design reviews, Lead Safe Housing Rules (24 CFR Part 35), Uniform Physical Condition Standards, and any other applicable building standards required by law.
 6. **LEASES.**
 - a) There must be written leases for each rented unit and each lease must be at least for one year.
 - b) Owners and property managers must follow state and local tenant landlord laws and regulations.
 - c) The leases cannot contain any of the following provisions: agreement by the tenant to be sued; agreement by the tenant that the owner may seize or sell personal property of the household members; agreement by the tenant not to hold the owner or owner's agents legally responsible for any action or failure to act; waiver of notice; waiver of legal proceedings; waiver of a jury trial; tenant chargeable with cost of legal actions regardless of outcome; or mandatory supportive services (with an exception for tenants in transitional housing).
 - d) Subject to Section 42 LIHTC rules and regulations, an increase in the tenant's income is not cause for termination or refusal to renew a lease.
 7. **ANNUAL FINANCIAL REPORTING.**

Developer shall submit annually an audited financial statement prepared by an independent third party at Developer's expense for the length of the Loan, provided, however that after the 15th year of operations of the Project, Developer may provide unaudited financial statements, certified by an officer of or manager of the Developer. Developer will submit a copy to the City of any audit produced for WHEDA within 7 days of receipt of the audit.

D. FEDERAL AWARD TERMS AND CONDITIONS

1. **CONTRACTING PROCEDURES:** Projects must comply with federal procedures for CDBG Funds for the selection of a general contractor and/or the selection of sub-contractors, for example pursuant to 24 CFR Parts 84, 85, and 12 U.S.C. 1701u ("Section 3"). Developers are encouraged but not required to use open and competitive processes for the selection of consultants such as architects and engineers. If no funds of this Loan will be used towards construction costs in this Project, competitive bidding procedures shall not be required for use of funds from this Loan. The Developer shall sufficiently document the use of funds and provide the City and any other agency disclosures regarding same from time to time as needed

to ensure compliance with competitive bidding is not required. Funds coming from ARP must conform to procurement requirements of Title 1 of Code of Federal Regulations, Part 200, particularly Section 200.318-200.327.

2. CDBG: Eligible activities include: acquisition of property, relocation, moderate or substantial rehabilitation of units, and other reasonable and necessary expenses related to the development of affordable, non-luxury rental housing.
3. ACCESSIBILITY REQUIREMENTS SECTION 504 (24 CFR PART 8 AND CFR PART 100): New construction projects with five or more units or rehabilitation projects with 15 or more units and rehab costs of more than 75% of the replacement cost of the completed facility must have a minimum of 5% of the units (but at least one unit) be accessible to mobility-impaired and an additional 2% (but at least one unit) be accessible to sensory-impaired. Units in compliance with the Uniform Federal Accessibility Standards (UFAS) are deemed in compliance with Section 504 (29 U.S.C. § 794).
4. FAIR CONTRACTING, WMBE UTILIZATION, AND SECTION 3:
Developers and their general contractors are encouraged to take actions which would increase opportunities for women and minority business enterprises (WMBEs) listed in the State directories, and locally owned business enterprises.

In addition, projects that are awarded federal funds must comply with Section 3 of the Housing and Urban Development Act of 1968, which requires that all economic opportunities generated by HUD funding be directed, to the greatest extent feasible, to low-income persons residing in the community where the Project is located¹. Developers and their contractors must complete a Section 3 plan stating numerical goals for contracting and hiring that meet federal targets and a description of the efforts they will make to achieve goals. Once construction begins, Developers will be required to report annually on progress toward meeting WMBE and Section 3 goals.

5. USE OF DEBARRED, SUSPENDED, OR INELIGIBLE CONTRACTORS
HUD maintains a list on their web site of contractors who have been barred from competing for HUD contracts. Developers seeking to procure goods and services, including professional services, in an amount of \$3,000 or greater must check EPLS prior to awarding a contract to expend federal dollars. For any contractor on the excluded parties list, the use of CDBG and HOME funds is prohibited.
6. OTHER HUD STANDARD CONTRACT TERMS AND CONDITIONS
 - a) Title VI and Title IX of the Civil Rights Act of 1964 (Public Law 88-352)(42 U.S.C. 2008d et seq.); and implementing regulations issued at 24 CFR Part 1; as amended by Executive Order 11375 and 12086, and implementing regulations at 41 CFR Chapter 60, which prohibits discrimination in any activity receiving federal financial assistance.
 - b) Title VIII of the Civil Rights Act of 1968, (Public Law 90-284)(42 U.S.C. 3601 et

¹ For purposes of this Agreement, all geographic boundaries for area median income figures and data are as determined by HUD's Office of Policy Development and Research (PD&R) currently found here: <https://www.huduser.gov/portal/datasets/il.html>

seq.); as amended, which prohibits discrimination in housing on the grounds of race, color, religion, national origin, sex, disability, or familial status.

- c) Section 109 of Title I of the Housing and Community Development Act of 1974, as amended, (42 U.S.C. 5301 et seq.) which requires that no person will on the grounds of race, color, national origin or sex, be excluded from participation in, be denied benefits of, or be subject to discrimination under any program or activity funded in whole or in part with Community Development Block Grant funds.
 - d) Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) which prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.
 - e) Section 504 of the Rehabilitation Act of 1973, (Public Law 93-112) as amended and implementing regulations when published for effect. Said regulation provides for nondiscrimination based on disability in federally-assisted programs and activities.
 - f) Fair Labor Standards Provisions, which govern responsibilities for workers employed in connection with federally-assisted construction projects. Statutory provisions include: Davis-Bacon Act (40 U.S.C. 276a-276a-5) which contains minimum wages (basic rate of pay), fringe benefits, and wage withholding. As no funds will be used towards construction-costs in this project, David-Bacon Wages will not apply.
 - g) Federal Executive Order 11246, as amended by Executive Order 12086 and regulations at 41 CFR Chapter 60, which require nondiscrimination in employment for federally-assisted contracts and assures that contractors are fully informed of affirmative action requirements.
7. **CONFLICT OF INTEREST.** No person who is an employee, agent, consultant, officer, elected official or appointed official of the City, who exercises or has exercised any functions or responsibility with respect to such funds being provided by the City or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, will obtain a personal or financial interest or benefit from the project, or have any interest in a contract, subcontract, or agreement with respect thereto, or the proceeds thereof, either for themselves or those with whom they have family or business ties, during their tenure or for one (1) year thereafter, except for approved eligible administration or personnel costs. Developer will not act or participate in furtherance of any conduct which would violate Section 2-131 of the City Ordinances or Wis. Stats. §§ 946.10-17 and agrees hereby to comply with all applicable state and local laws regarding conflicts of interest, not limited to the above.

E. OTHER PROGRAM REQUIREMENTS

- 1. **SUSPENSION AND TERMINATION.** Developer agrees that this Agreement may be terminated or suspended by the City in the event Developer fails to comply with the Project activity time frame or in any other event of default, inability, or failure to perform as required by this or any accompanying agreements. The City may take appropriate and corrective action in order to ensure compliance with this agreement. Upon termination, Developer shall transfer to the City any Community Development Block Grant funds loaned under this Agreement

pursuant to the Loans, and the City shall also have any other remedy available to it by law. Notwithstanding anything contained herein to the contrary, any act or failure by Developer shall not be an Event of Default hereunder unless City shall give written notice to Developer of such default hereunder and the Developer does not fully cure such default within thirty (30) days thereafter.

2. **INDEPENDENT STATUS.** Nothing contained herein, nor any act of the City, Developer, or any other party, shall be deemed or construed by any party, or by any other third person, to create any relationship with third party beneficiary, principal, or agent, limited or general partnership, or joint venture, or of any association or relationship involving the City. Developer is at all times considered an independent agency and not an agency or branch of the City. Developer shall undertake all affirmative steps wherever necessary to notify any third party of the same, and shall not hold itself out as in any such relationship with the City other than as contemplated in this paragraph.
3. **ANTI-LOBBYING.** Developer certifies that to the best of their knowledge and belief: No federal-appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a federal contract, grant, loan, or cooperative agreement.
4. **INDEMNIFICATION.** Developer expressly agrees to forever indemnify, defend, and hold harmless the City, its agents, officers, and employees from any and all damages to property or to persons or death of any person or persons, including employees and volunteers of the Developer, and will defend, indemnify, save harmless the City from any and all claims, demands, suits, actions, or proceedings of any kind or nature, including worker's compensation claims, of or by anyone whomsoever, arising from the performance of the work contemplated hereby, or resulting or arising out of the failure of Developer to comply with the terms of this Agreement except for where such claim is the negligent or willful acts of the City². As requested by the City, the Developer further agrees to aid and defend the City with legal counsel acceptable to the City in the event the City is named as a defendant in any action concerning the performance of the work pursuant to this Agreement, except where such suit is brought by the Developer. The provision is not intended to and shall not be interpreted to limit insurance coverage that may be available to the City or governmental immunity or other defenses that may be available to the City, each and all of which are expressly reserved by the City.
 - a) **Indemnification by Contractor(s).** The Developer shall require all contractors engaged in the construction of the Property to indemnify and hold the City and its engineers, consultants, employees, officers and agents harmless from and against any and all

² *The City does not by this provision, or by any other provision in this Agreement, waive, reduce or in any way limit any governmental immunity (whether absolute, qualified, as to intentional torts or discretionary acts or other immunity) to which it may be entitled, and hereby expressly reaffirms its right to any and all such immunity, notice of injury, notice of claim, and limitation as to damages to the full extent provided by law.*

claims, costs, suits, causes of actions, demands, and liability of every kind and nature arising from construction under this Agreement except for where such claims, costs, suits, causes of actions, demands, and liability are caused by the negligent or willful acts of the City. Such indemnification and hold harmless clause shall be reasonably approved by the City and shall be included in each contract which the Developer has with a contractor. This paragraph survives for the term of this Agreement or until two years following completion of the development, whichever is later.

5. **INSURANCE.** Developer will procure and maintain, at its cost and expense, primary and non-contributory insurance coverage with amounts sufficient for property replacement value in connection with the operations of the Developer's activity. Said insurance will provide for Commercial General Liability for \$1,000,000 for each occurrence, \$50,000 damage to rented premises, \$1,000,000 for personal injury, \$2,000,000 in the general aggregate, and \$2,000,000 for produces, completed operations coverage, and \$2,000,000 for umbrella liability, as well as property (builder's risk) insurance to cover building, improvements, and betterments, and soft costs. The Property Management Company that will maintain property upon completion will carry Workmen's Compensation and Auto Liability, as required by state law. Developer will name the City of La Crosse as additionally insured. Said insurance will be maintained and in full force and effect during the term of the Loan.
 - a) Insurance by Contractor(s). The Developer shall also require all contractors engaged in the construction under this Agreement to maintain commercially reasonable primary and non-contributory insurance coverage and completed operations coverage as additional reasonable insurance and, upon demand, furnish to the City a current certificate of insurance, with a scheduled endorsement to evidence such insurance. All such insurance shall comply with the City's contract requirements pertaining to damage claims, indemnification of the City, and insurance at not less than replacement value. The Contractor(s) so engaged are required to furnish comprehensive general liability insurance of not less than \$1,000,000.00 aggregate for any such damage sustained by two (2) or more persons in any one (1) accident. The Developer is responsible for confirming that such insurance is in place and that the City is named as an additional insured on such insurance.
 - b) All insurance policies required herein, including those by the Developer and Contractor(s), shall utilize the current applicable versions of the ISO Form CG 20 33 and CG 20 37. In addition to providing the certificate of coverage, the Developer shall furnish the actual endorsement to the City upon request as evidence of the required additional insured status.
 - c) Damage or Destruction. If the Property or improvements of the Project thereto (including machinery or equipment used in its operation) is damaged by fire or other casualty, cause or condition whatsoever, Developer and/or any assignee, current owner, or insurance award recipient with an interest in the Property and obligations under this Agreement, shall, as quickly as is reasonable, restore the same to the condition it was in prior to the damage or destruction or the condition permitted by its replacement value insurer.

F. 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:

1. **FINANCIAL STATEMENTS / NO MATERIAL CHANGE.** All copies of financial statements, documents, ownership structure, contracts and agreements which Developer has furnished to the City, or its agents are and shall remain true and correct in all material respects. 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. The Developer is required to notify the City in writing of any material change within 10 business days of its learning of same.
2. **TAXES.** Developer has paid, and shall pay prior to delinquency, all federal, state and local taxes charges and assessments, including property and transfer taxes, and shall promptly prepare and file returns for accrued taxes. If necessary, Developer shall pay prior to delinquency all payments in lieu of taxes and special charges required under the terms of this Agreement.
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 ordinances, including, without limitation, zoning and land division laws, building codes and environmental laws.
4. **PAYMENT.** All work performed and/or materials furnished for the Project, other than any Public Improvements, if any shall be handled otherwise, shall be fully paid for by Developer. Any Public Improvements that shall be so handled, shall be set forth in writing and agreed to between the Developer and the City.
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, and Developer shall immediately notify City in writing of any material change of same.
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. Developer agrees to maintain its limited liability company existence, rights, privileges, and franchises within the State of Wisconsin and qualify and remain qualified as a foreign corporation in each jurisdiction in which its present or future operations or its ownership or property require such qualification.
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/or its parents, owners, partners, shareholders, and executives, 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. Developer shall have provided City with sufficient documentation of Developer's ownership Structure prior to execution of this Agreement, and within a reasonable time upon request of the City from time to time.

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, 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.
9. **NO LITIGATION.** There is no litigation or proceeding pending or, to Developer's best knowledge, threatened against or affecting Developer or the Project that would adversely affect the Project, Developer 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.
10. **CERTIFICATION OF COSTS.** Developer shall submit a pre-construction certification of costs for the Project (the "Project Cost Breakdown"). Developer covenants the Project Cost Breakdown accurately reflects all costs of the Project (other than costs associated with any Public Improvements, if any separate cost arrangements are agreed to for same) 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. 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. Developer shall also submit a post-construction project cost certification evidencing all costs related to the Project, no later than six months following completion and prior to refinancing the construction loan.
11. **CONSTRUCTION LIENS.** Developer shall ensure that all contractors, subcontractors, and suppliers engaged in the construction of the Project are timely and duly compensated for their work and materials. The Developer shall promptly pay all invoices, satisfy all valid claims for payment related to the construction of the Project, and obtain lien waivers for same. The City reserves the right, upon reasonable prior notice to Developer, to conduct periodic inspections and review documentation related to the construction materials, methods, and progress of the Project to ensure compliance with this agreement, applicable laws, regulations, and project specifications. If the City determines, based on reasonable grounds, that there is a risk of potential construction liens or claims arising from the Project, the Developer shall promptly provide the City with relevant information, including but not limited to the identities of contractors, subcontractors, and suppliers involved, payment records, and lien waivers

obtained. The Developer shall promptly address and resolve any construction liens or claims asserted against the Project, taking all necessary steps to release, discharge or otherwise bond over such liens and ensure proper payment to contractors, subcontractors, and suppliers. Failure by the Developer to address and resolve construction liens or claims in a timely manner may be considered a default under this Agreement, subject to the remedies and enforcement provisions outlined herein. This provision does not relieve the Developer from its obligations to comply with applicable laws, regulations, and contractual obligations related to the payment of contractors, subcontractors, and suppliers.

12. 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, to Developer's best knowledge, 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.
13. 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.
14. FINANCING ACCOMMODATION.

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 Property prior to the completion of construction of the Project except as expressly provided in 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 Managing Member of the Developer having less than majority 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, and obtaining written approval of the City of the transferee(s), which approval shall not be unreasonably withheld. The City is entitled to reasonably sufficient information regarding the transferee(s) to approve or deny the proposed transferee(s) in its sole discretion. Any attempt to so act shall be void and have no effect and constitute default of this Agreement, subject only to applicable notice and cure periods herein. Notwithstanding the foregoing or anything to the contrary set forth in this Agreement, the written approval of the City shall not be required for any transfers, assignments or conveyances of the interests of any principals, shareholders, members, managers and/or partners of Developer in the Developer provided that the transferee(s) thereof are fully owned and controlled by or under common control with such transferor.

SUBORDINATION. This Agreement shall be subordinate to a first mortgage construction loan in the approximate amount of [\$21,500,000], which upon completion of the project shall convert to a first mortgage permanent loan in the approximate amount of [\$10,000,000], (the first mortgage construction and permanent loans together with any amendments, modifications, extensions and refinancings thereof shall herein be referred to as the "Senior Loan"). The City

shall execute and deliver such subordination agreements as may be required in connection with the Senior Loan. Except for the Senior Loan, The City shall not subordinate any interest it has in this Agreement for any reason, unless it is reasonably determined to be in the best interests of the City. Any requests for subordination, and all supporting documentation requested by the City, 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 ten (10) days prior to any action on said request. . Developer understands that any material, significant, non-standard terms of said request may need to be submitted to City Council for approval.

DEVELOPER FINANCING. Developer may encumber the Property in order to secure financing for the acquisition of the Real Estate and/or for construction of the Project. Said acquisition lender(s) may place a lien and/or mortgage on the Real Estate regarding the Senior Loan and any loans subordinate to the City's rights hereunder, including any renewals, extensions, replacements, modifications or refinancing. Any such lender's mortgage and/or loan may be transferred or assigned by lender in a secondary market or combined with other instruments without prior City Council approval. In the event of a foreclosure against Developer by a lender or a deed transfer in lieu of foreclosure, the 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 Agreement shall have priority over any subsequently filed lien and shall survive any foreclosure proceeding.

The terms and conditions of the Senior Loan (or any other loan or lien purporting to subordinate the City's lien interest), including its interest rate, repayment schedule, and the presence of any future advance clause, consolidation clause, or any clause which may increase the principal or interest payment on the loan, shall be subject to the approval of the City, which shall not be unreasonably withheld. The Developer shall provide the City with all reasonably necessary documentation related to the Senior Loan for review and approval. Any amendments or modifications to the Senior Loan terms which materially change the interest rate, repayments schedule, unreasonably restrict any material rights of the City to enforce its interests in and to the Real Estate, or otherwise increase the principal or interest payment of the Senior Loan shall require the prior written consent of the City which shall not be unreasonably withheld. Failure of Developer to obtain written approval from the City for Senior Loans or other priority liens as described, shall be breach and default under this Agreement, subject to applicable notice and cure periods herein.

15. Intentionally Deleted.

16. **INSPECTION OF PROJECT.** Developer shall permit the City, its inspectors and/or its construction consultant, at all reasonable times upon reasonable prior notice 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. The 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 the City. The fact that the City may make such inspections shall in no way relieve Developer from its duty to independently ascertain proper construction of the Project and Developer's compliance with this Agreement.

17. 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 may cause any representation or warranty of Developer contained in this Agreement to become untrue.
- c. Notify City and provide copies, promptly 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 an investigation, clean-up, removal, remedial action or other response by or on the part of Developer 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 regarding an alleged violation of any environmental laws, rules, regulations or ordinances.

18. 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, material 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.

19. 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, taxes not then delinquent, or the construction and operation 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 without the City's written approval which shall not be unreasonably withheld. "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. Notwithstanding the foregoing, the terms and provisions of the Mortgage Loan Rider executed by the City and Developer in connection with the Mortgage are hereby incorporated by reference.

20. CORRECTION OF DEFECTS. Developer shall, upon demand of the City (and the 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 for a period of one year after Project Completion.

21. 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 Property and the terms and conditions of this Agreement and are not for the speculation in land holdings.

G. DEFAULT

DEVELOPER'S DEFAULT.

1. **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, (ii) of Developer's material nonperformance or default of any covenant, agreement, term or condition not involving payment of money hereunder which is not cured within thirty (30) days after written notice thereof to Developer, or (iii) insolvency of Developer or its being subject to insolvency proceedings not dismissed within ninety (90) days, to the assignment for the benefit of creditors, a receiver, trustee, custodian, or other official; then the City shall have all rights and remedies available under this Agreement, in law or equity without limitation, with respect to said default. If any payment due or required is not paid which continues for fifteen (15) days after written notice to Developer, same shall also be a default for which the City has the remedies in this section. The City also reserves to itself the right to draw on a Letter of Credit or other surety provided hereunder, if any, in addition to pursuing any other available remedies. In addition, and without limitation, the City shall have the following specific rights and remedies:
 - a. With respect to matters that are capable of being corrected by the City, the City may at its option enter upon the Property for the purpose of correcting the default and the City's reasonable costs in correcting same, plus interest at one and one-half percent (1.5%) per month, shall be paid by Developer to the City immediately upon demand;
 - b. Injunctive relief, which the Developer hereby agrees is necessary to prevent further irreparable harms to the City;
 - c. Action for specific performance;
 - d. Action for foreclosure on any concurrent note or other guaranty secured against the Property by and between the City and Developer;
 - e. Action for money damages.
2. **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 and one-half percent (1.5%) per month, shall be paid by Developer to the City upon demand and shall constitute a lien secured by the Mortgage 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 in the Mortgage.
3. **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.

4. **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.

H. MISCELLANEOUS PROVISIONS

1. [Reserved].
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.
3. **NO PERSONAL LIABILITY.** Under no circumstances shall any trustee, officer, official, commissioner, director, member, partner or employee of the City or Developer, have any personal liability arising out of this Agreement, and no party shall seek or claim any such personal liability.
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, acts of God, adverse weather conditions, legally required environmental remedial actions, industry-wide shortage of materials, national or local emergencies, 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 ninety (90) days.
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.
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 written approval of the City which shall not be unreasonably withheld. 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 City's Economic Development Commission shall otherwise oversee the day-to-day operations of this Agreement.
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 Attorney
City of La Crosse
400 La Crosse Street
La Crosse, Wisconsin 54601

To the Developer: MSP Real Estate, Inc
ATTN: Mark Hammond
1295 Northland Drive, Suite 270
Mendota Heights, MN 55120

With a copy to: Foley & Lardner LLP
Attn: Katherine Rist
150 E. Gilman Street
Madison, WI 53703

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.
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, and shall follow all applicable law and regulation regarding same.
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.
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 this 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.

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.
13. MEMORANDUM OF AGREEMENT. Promptly upon its acquisition of the Property Developer agrees that the City may record a memorandum of this Agreement with the Register of Deeds for La Crosse County, Wisconsin. Any such memorandum shall be in form and substance reasonably determined by the City and reasonably acceptable to Developer, and shall not contain confidential information reasonably requested by Developer not to be recorded.
14. 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. The City may record any other document or notice in conformance with this agreement with the Register of Deeds to memorialize same.
15. 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.
16. AUTHORITY TO BIND THE CITY. The Developer acknowledges that, for any amendments, modifications, or agreements related to this Agreement, the City's consent and approval shall only be valid if provided in writing and signed by the Mayor or an authorized representative duly appointed by the City. The Developer further acknowledges and agrees that no other employee, agent, or representative of the City shall have the authority to bind or commit the City to any obligations, amendments, or modifications to this Agreement, and the Developer expressly disclaims any reliance on apparent authority of any such employee, agent, or representative.
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.
18. JURY TRIAL. THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL ON ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING FROM OR OTHERWISE RELATED TO THIS AGREEMENT. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY THE PARTIES AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE

ACCRUE. EACH PARTY IS HEREBY AUTHORIZED TO FILE A COPY OF THIS SECTION IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY THE OTHER PARTY.

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.
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.
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, this Agreement shall be deemed controlling.

EXHIBITS

Exhibit A	Legal Description
Exhibit B	Description of Project
Exhibit C	Rent and Income Mix
Exhibit D	Sources and Uses
Exhibit E	Form of Draw Request

IN WITNESS WHEREOF, the City has caused this Agreement to be executed by Mayor Mitch Reynolds and City Clerk, Nikki Elsen.

ATTEST:
CITY OF LA CROSSE, WISCONSIN

Mayor Mitch Reynolds

Nikki Elsen, Clerk

DEVELOPER:
The Driftless Apartments, LLC

By: The Driftless Apartments Managing Member, LLC
Its: Managing Member

Milo Pinkerton
Its: Manager

STATE OF WISCONSIN)
) ss.
COUNTY OF)

Personally came before me, this ____ day _____, 2023, the above named representatives of _____, known to be the persons who executed the foregoing instrument and acknowledge the same.

Notary Public, _____ County, WISCONSIN
My commission expires _____

STATE OF MINNESOTA)
) ss.
COUNTY OF)

Personally came before me, this ____ day _____, 2023, the above named Milo Pinkerton, the Manager of The Driftless Apartments Managing Member, LLC, the Managing Member of The Driftless Apartments, LLC, known to be the persons who executed the foregoing instrument and acknowledge the same.

Notary Public, _____ County, MINNESOTA
My commission expires _____

Exhibit A

Legal Description of Property

LOT 7 OF RIVER POINT DISTRICT, RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS FOR LA CROSSE COUNTY, WISCONSIN ON AUGUST 10, 2023, IN VOLUME CAB, PAGE 244A, AS DOCUMENT NO. 1810890, SAID PLAT BEING A REDIVISION OF PART OF GOVERNMENT LOT 1 AND PART OF GOVERNMENT LOT 2 LOCATED IN THE NORTHEAST 1/4, NORTHWEST 1/4, SOUTHEAST 1/4 AND SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 31, TOWN 16 NORTH, RANGE 7 WEST, IN THE CITY OF LA CROSSE, LA CROSSE COUNTY, WISCONSIN.

Exhibit B

Description of Project

“The Driftless” is a multifamily community consisting of 120 units of affordable/workforce housing. The project shall be built on the Property referenced by this agreement. The project includes units for both seniors and individuals/families to serve a mix of age groups. This project is located in the River Point District on land previously owned by the City of La Crosse Redevelopment Authority. This is a catalytic project for River Point District that will set the expectations for the rest of this area and its community. Along with increasing tax base, this project will provide needed, quality, safe and affordable housing, helping to enhance stability for lower income La Crosse area seniors and families. The Driftless is made up of five separate buildings. One building consists of four stories with 100 units of independent senior housing (age-restricted to 55+) above one story of structured parking. The independent senior building has a mix of one-bedroom and two-bedroom units. The remaining four two-story buildings consist of a total of 20 three-bedroom townhome style family units (non-age-restricted) with private entries and 12 structured parking spaces. All 120 units will be affordable to residents at or below 80% County Median Income. The project will work with La Crosse County Veterans Service Commission and Couleecap, Inc to provide supportive services and referrals.

The City reserves the right to supplement this description with any further details consistent with the paragraph above. This Exhibit incorporates the contract between the Developer and contractors, the Project’s general or other conditions, drawings, specifications, instructions to bidders, bidder’s documents, proposals, all addenda, and any changes executed pursuant to this Agreement, if any. Developer warrants and represents that Developer has received all such supplements or that the City has provided Developer with the opportunity to review the same.

Exhibit C

Unit Mix

% of Median Income Served	Number of Units or Beds	Unit Size (Number of Bedrooms)	Average Square footage of unit
30%	18	1	679
50%	20	1	679
80%	30	1	679
30%	4	2	979
50%	8	2	979
50%	2	2	1062
80%	2	2	1062
80%	16	2	1082
30%	2	3	1107
50%	2	3	1132
50%	3	3	1154
50%	7	3	1230
50%	6	3	1238

Exhibit D

Sources and Uses

EXHIBIT E

Form of Draw Request

CDBG Disaster Recovery Project Draw Request Checklist

Project Name: _____ **Award Amount:** _____
Contracted Entity: _____ **Draw Number:** _____
Contract #: _____ **Service Period From:** _____
Contract Begin Date: _____ **Service Period To:** _____
PO #: _____

Submit the following REQUIRED documentation to City of La Crosse, Attn: City Clerk. Include the supporting draw information with the request.

Applicant	INTERIM DRAW REQUESTS	TYPE
<input type="checkbox"/>	Developer Invoice	Financial
<input type="checkbox"/>	Copies of soft cost itemized invoices	Financial
<input type="checkbox"/>	Accounting for Payment	Financial
<input type="checkbox"/>	Lien Waiver Affidavit (signed by General Contractor)	Waiver
<input type="checkbox"/>	Date Down Endorsement search thru date of previous draw request	Waiver
<input type="checkbox"/>	Draw Backup Information (3 rd Party Inspection, Photos, etc.)	Support
<input type="checkbox"/>	Inspection Report	Support
<input type="checkbox"/>		
<input type="checkbox"/>		

Certification

Under penalty of perjury, the undersigned individual, by submitting this application for payment, hereby certifies that:

1. The information presented in this certification is true and accurate to the best of their knowledge;
2. Construction has been performed and satisfactorily completed in accordance with the terms and conditions of the City of La Crosse, including, but not limited to, compliance with requirements pertaining to applicable local, state, and federal requirements, pursuant to all rules and guidelines governing the CDBG Program;
3. All proceeds have been, and will be used, for CDBG eligible costs and only for the purpose specified in the CDBG Contract executed by and between the GLO or Subrecipient and the Development Owner;
4. Neither Development Owner, nor any agent of Development Owner, has been served with any notice, written or oral, that a lien will be claimed for any unpaid amount for materials delivered, labor performed, services provided, or materials provided in connection with the construction of all or any portion of the Development herein identified; and
5. To the best of the undersigned's knowledge, no basis exists for the filing of any construction liens with respect to all or any part of the real property or the Development herein identified.

Ownership/Requester Signature: _____ Date: _____

Reviewed and Approved By (Sign): _____ Date: _____

