

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40

**DEVELOPMENT AGREEMENT**

*December*

This Development Agreement (this "Agreement") is entered into as of ~~September~~ \_\_\_\_\_, 2023 by and between **3LP WEST ALLIS LLC**, a Wisconsin limited liability company ("Developer"), and the **CITY OF WEST ALLIS**, a Wisconsin municipal corporation ("City"). The City and the Developer are each referred to herein as a party or together as "Parties."

**RECITALS**

City and Developer acknowledge the following:

A. Pursuant to Section 66.1105, Wis. Stat. (the "Tax Increment Law"), the City has created Tax Increment District No. 19 (the "District") and approved a project plan for redevelopment within the District (the "TID Project Plan"). The real property described on **Exhibit A** ("Property") is located within the boundaries of the District.

B. Subject to the City's providing the assistance set forth herein, Developer has acquired the Property at 8530-56 W. National Avenue (Tax Key Parcel: 478-998-003), consisting of not less than 3.1900 acres (the "Project Site") to demolish existing improvements and to develop a 247-unit multi-story, multifamily market rate development with estimated development budget of \$67,215,000. The Project will have 295 underground parking stalls, dog park, community and fitness rooms, grill stations, balconies etc. (the "Project"). The Plan Commission approved the site plan on October 26, 2022, and the Plan is attached hereto as **Exhibit B** (the "Development Plan"). The Development Plan is consistent with the TID Project Plan.

C. The projected aggregate equalized valuation for the Project, when fully developed, is anticipated to be approximately \$48,165,000, as shown on the TIF Model prepared by Ehlers hereby attached hereto as **Exhibit C** (the "TIF Model").

D. The City desires to encourage economic development, expand its tax base, and create quality new housing to attract residents and grow the City, within the District and upon the Property. The redevelopment shall be in the furtherance of and in compliance with the TID Project Plan. The City finds that redevelopment of the Property and the fulfillment of the terms and conditions of this Agreement are in the vital and best interests of the City and its residents and serve a public purpose in accordance with state and local law.

E. The Project of redevelopment of the Property would not occur without the financial assistance provided herein.

*December*

F. The City, pursuant to City Council action dated ~~September~~ \_\_\_\_\_, 2023, has approved the terms of this Agreement and authorized the execution of this Agreement by the proper City officials on the City's behalf.

G. The Developer has approved this Agreement and authorized its execution by appropriate representatives on Developer's behalf.

H. All terms that are capitalized but not defined in this Agreement and that are defined under the Tax Increment Law shall have the definitions assigned to such terms by the Tax Increment Law.

**AGREEMENTS**

In consideration of the Recitals, which are hereby incorporated as if fully set forth herein, and the terms and considerations set forth herein, the parties agree, and covenant as follows:

41  
42

**ARTICLE I  
THE PROJECT AND DEVELOPER OBLIGATIONS**

43  
44

A. Subject to satisfaction of the conditions set forth in this Agreement, Developer shall perform the following:

45  
46  
47  
48

i. On or before October 1, 2023, in coordination with the City as under described under Recital B., receive City approval for a demolition permit to demolish the existing improvements located on the Property in a manner that supports the orderly implementation of the Project.

49  
50  
51

ii. Prior to execution of this Agreement, the Developer shall demonstrate that the Project has secured the financial commitments necessary to complete the Project, net of the City's financial obligations set forth herein.

52

iii. Invest no less than \$16,777,950 in equity toward the costs of Project.

53

iv. Provide the value increment guaranties as set forth herein.

54  
55  
56

B. Developer shall perform its development obligations in accordance with the development budget approved by the City (the "Development Budget"), which is set forth on the first page of the sources and uses schedule attached hereto as **Exhibit D** ("Budget").

57  
58

C. Developer's obligation to perform under this Agreement shall be subject to satisfaction of the following conditions:

59  
60  
61  
62

i. Developer, in cooperation with the City, obtaining all appropriate approvals and entitlements for the Project, including without limitation zoning, conditional use permits, certified survey maps, site plan, lighting, architectural, landscaping, traffic and off-site improvements.

63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74

D. Within thirty (30) days after the City's issuance of the building permit for the Project (the "Building Permit"), Developer shall commence construction of the Project in accordance with the final plans and specifications (including landscaping and lighting plans) approved by the City at the time of or prior to granting of the Building Permit (the "Final Plans and Specifications"). Copies of the Final Plans and Specifications will be retained at the City's Planning Program, located at the West Allis City Hall. Subject to a Force Majeure Event (as hereinafter defined), the Developer shall substantially complete the Project in compliance with the Final Plans and Specifications not later as set forth in the schedule attached here to as **Exhibit E**. – Schedule of Project. The Project shall be deemed to be substantially complete on the date that the City building inspector issues a certificate of occupancy for the entire Project (the "Completion Date"). The City building inspector shall not issue the certificate of occupancy if the Project does not materially conform to the Final Plans and Specifications, subject to any changes to such Final Plans and Specifications that may have been requested by the Developer and approved by the City.

75  
76  
77

E. Provide the City of West Allis the necessary environmental information to demonstrate site eligibility in order that the City is authorized from the U.S. EPA to issue a commitment for a \$500,000 U.S. EPA Revolving Loan.

78  
79

**ARTICLE II  
CITY OBLIGATION**

80  
81

A. At execution of this Agreement, and subject to satisfaction of all the preconditions set forth in Article I, the City shall:

82  
83  
84

i. Cooperate with Developer throughout the development and construction of the Project and shall promptly review and/or process all submissions, applications and permits in accordance with applicable City ordinance.



136 collected on the schedule attached to the Municipal Revenue Obligation, together with such additional  
137 amounts, if any, deferred from prior years as may be payable on the Payment Date as provided under the  
138 terms of the Municipal Revenue Obligation, that has been appropriated for that purpose by the City of West  
139 Allis Common Council in accordance with the requirements for revenue obligations.  
140

141 3. The City covenants and agrees that Actual Tax Increment held by the City in any  
142 given year as of a given Payment Date shall not be appropriated for any use not identified on the Municipal  
143 Revenue Obligation amortization schedule or identified in the Project Plan, if not appropriated for the  
144 Municipal Revenue Obligation due as of such Payment Date, until the earliest to occur of the following: (a)  
145 the City has paid the Municipal Revenue Obligation payment due on the Payment Date in that year  
146 (including the scheduled payment amount plus any additional amounts deferred from prior years and  
147 payable on that Payment Date); (b) until said Municipal Revenue Obligation has been paid; or, (c) by  
148 October 1<sup>st</sup> of that year. The District shall not be terminated until the first of the following to occur: (i) the  
149 Municipal Revenue Obligation has been paid in full; (ii) completion of the twenty-seven (27) tax year  
150 collection following the issuance date of the Municipal Revenue Obligation; or, (iii) until the District must be  
151 terminated by law.  
152

153 4. Any amount of the Municipal Revenue Obligation due and owing that is unpaid in  
154 one year shall carry over to the next year; however, any obligation to repay any amount that is unpaid after  
155 the completion of the twenty seventh (27) tax year collection following the issuance date of the Municipal  
156 Revenue Obligation shall be extinguished, and no further amount shall be due from City under this  
157 Agreement or otherwise.  
158

159 5. Developer may assign the Municipal Revenue Obligation to any lender providing  
160 financing to the Project, or to a successor owner of the Project, and upon notice of such assignment, the  
161 City shall pay directly to such lender or successor the scheduled payment amounts due on account on the  
162 Municipal Revenue Obligation. Any such assignment shall be subject to the terms contained in this  
163 Agreement.  
164

165  
166 B. THE MUNICIPAL REVENUE OBLIGATION SHALL BE A SPECIAL, LIMITED REVENUE  
167 OBLIGATION OF THE CITY PAYABLE ONLY FROM ACTUAL TAX INCREMENT THAT IS  
168 APPROPRIATED BY THE COMMON COUNCIL FOR THAT PURPOSE. No property or other asset of the  
169 City, except Actual Tax Increment appropriated to make payments with respect to the Municipal Revenue  
170 Obligation, is or shall be a source of payment of the City's obligations thereunder. The Municipal Revenue  
171 Obligation shall not constitute a debt or obligation of the City, the County in which it is located, the State of  
172 Wisconsin or any political subdivision thereof within the meaning of any State constitutional provision,  
173 statutory limitation, or charter provision or limitation thereof and shall not be a charge against their general  
174 credit or taxing powers.  
175

176 C. THE CITY MAKES NO REPRESENTATION OR COVENANT, EXPRESS OR IMPLIED,  
177 THAT THE ACTUAL TAX INCREMENT, IF APPROPRIATED, WILL BE SUFFICIENT TO PAY, IN WHOLE  
178 OR IN PART, THE AMOUNTS WHICH ARE OR MAY BECOME DUE AND PAYABLE UNDER THE  
179 MUNICIPAL REVENUE OBLIGATION.  
180

181 D. The City shall have no obligation to make payments on the Municipal Revenue Obligation  
182 while the Developer is in default of any of its obligations under this Agreement or if no Actual Tax Increment  
183 is available.  
184

185  
186 **Article V**  
187 **ASSESSED VALUE GUARANTY**

188 A. In consideration of the issuance of the Municipal Revenue Obligation, Developer hereby  
189 guaranties that commencing in the first calendar year following the Completion Date and for each calendar  
190 year thereafter that this guaranty remains in place, the assessed valuation of the Property for real property  
191 tax purposes (the "Assessed Value") shall not be less than Forty Million and 00/100 Dollars

192 (\$40,000,000.00) (the "Guaranteed Value"). If in any year during the term of this guaranty the Assessed  
 193 Value is less than the Guaranteed Value, then the Developer shall make an Assessed Value Shortfall  
 194 Payment (as defined below) to the City as provided herein. An "Assessed Value Shortfall Payment" shall  
 195 mean the difference between: (a) the amount of property taxes that would have been assessed against  
 196 the Property in the applicable year had the Assessed Value been equal to the Guaranteed Value; and  
 197 (b) the actual amount of property taxes assessed against the Property for such year. Developer shall  
 198 make the Assessed Value Shortfall Payment to the City not later than thirty (30) days following the date  
 199 that the property tax bill for the Property is issued. As an example of calculating an Assessed Value  
 200 Shortfall Payment, assume: (w) the Assessed Value in 2026 is \$31,500,000 million; and (x) the City's  
 201 property tax rate (all taxing jurisdictions included) for 2026 is 2.8%. In such instance, Developer would  
 202 owe an Assessed Value Shortfall Payment to the City equal to \$238,000.00 [(\$40,000,000 million minus  
 203 \$31,500,000 million) x 2.8%] payable on or before thirty (30) days following the issuance of the 2026  
 204 property tax bill for the Property.

205 B. Assessed Value Shortfall Payments made by the Developer will be treated by the City as  
 206 contingent non-interest-bearing loans, repaid out of available Surplus Tax Increment after payment in full  
 207 of all accrued interest and principal on the Municipal Revenue Obligation. If the un-extended statutory term  
 208 of the District expires prior to full repayment to Developer of any Assessed Value Shortfall Payments, then  
 209 the outstanding balance of such Assessed Value Shortfall Payments shall be forgiven, and the City shall  
 210 have no further obligations to repay same.

211 C. The assessed valuation guaranty set forth in this Article shall expire upon the closure of  
 212 the District. Until such expiration, this valuation guaranty shall constitute a covenant running with the land,  
 213 binding upon any and all owners of the Property and their successors and assigns, including any mortgagee  
 214 that acquires title through foreclosure or a deed in lieu thereof, and any purchaser or assignee of such  
 215 mortgagee. The City is hereby empowered and authorized by the Developer to levy a special assessment  
 216 lien against the Property to collect any unpaid Assessed Value Shortfall Payment, which lien shall be a first  
 217 priority lien. Any and all notice and hearing requirements which may be required under the law for such  
 218 special assessment or special charge are hereby waived by the Developer.

219 D. Shortfall Payments (as defined in the Increment Guaranty, hereby attached as **Exhibit H**)  
 220 made by the guarantor will be treated by the City as contingent non-interest-bearing loans, repaid out of  
 221 available Tax increments generated by the applicable tax parcel after all debt incurred by the City to fund  
 222 the entire Initial Funding has been fully repaid. Any payments due to the guarantor shall, unless otherwise  
 223 agreed upon by all affected parties, be subordinated to payments due from the City to other parties under  
 224 any other Increment Guaranty. If the unextended statutory term of the District expires prior to full repayment  
 225 to the guarantor of any Shortfall Payments, then the outstanding balance of such Shortfall Payments shall  
 226 be forgiven, and the City shall have no further obligation to repay same.

227

228

229

230

**Article VI**  
**Cost Savings, Profit Sharing (Promote)**

231

A. Cost Savings.

232

i. West Allis and the Developer have agreed on a final Project Budget for the Project  
 233 substantially in the form attached as **Exhibit D** (the "Project Budget"). West Allis will  
 234 be engaging, at its expense, a construction cost consultant to review the Project  
 235 Budget, review the allocation of site costs, and to monitor final costs. The Developer  
 236 agrees to cooperate with the consultant and provide such information. Notwithstanding  
 237 the foregoing, the Developer shall not be required by West Allis to pay any  
 238 administration, consultant or review fees that exceed the amounts for such fees set  
 239 forth in the Project Budget.

240 ii. The Developer's Budget is incorporated into this Agreement as Exhibit D and any funds  
241 remaining from activities set forth in the Development Construction Budget at  
242 Completion will be treated as Cost Savings. (the "Completion Date"). Certain costs  
243 that are incurred or funded after substantial completion will be excluded from this  
244 calculation, these include the Working Capital Reserves, Interest Reserves, Owner's  
245 and Contractor's Contingency, the Developer Fee and cost segregation. If the actual  
246 cost of such activities is less than \$61,310,348 as set forth in the Development Budget  
247 (subject to Developer's ability to reallocate cost savings as permitted by the  
248 construction loan documents and the Developer's Operating Agreement, such  
249 differential, if any, is defined as Cost Savings"). Any Cost Savings shall be shared by  
250 the City and Developer on a 50/50 basis, respectively. The Developer shall provide  
251 the City with quarterly reconciliation statements showing actual expenditures incurred  
252 compared to the Project Budget (in addition to such documentation as may be required  
253 by the Public Improvements Agreement) and a final reconciliation statement within  
254 ninety (90) days following the Completion Date. The Developer shall provide to the  
255 City any and all back up information and documentation with respect to the quarterly  
256 and final reconciliation statements as the City or its representative/consultant may  
257 reasonably request.

258 B. Promote Sharing. As outlined in the Developer's financial model, the Developer has  
259 agreed to provide the City with profit sharing interest in the distributions to General Partnership from the  
260 cash flow promote structure.

261 i. Per the financial model, the cash flow "Waterfall" outlines the distribution of project  
262 level cash flow based on a promote structure. The following outlines the how Promote  
263 would be calculated:

264 a. First, subject to distributions from a Capital Event (Disposition of Project  
265 Site) and only until each Class A Member's (other than City) Unreturned initial Capital  
266 Contributions are reduced, then, with respect to a given Fiscal Year, eighty-five percent  
267 (85%) to the Developer and fifteen percent (15%) to the City until an amount equal to fifteen  
268 percent (15%) as an internal rate of return for the Developer's aggregate Unreturned  
269 Capital Contributions of the Class A Members, payable to the Class A Members pro rata  
270 with respect to their Class A Percentage Interests.; and.

271 b. Second, in such instance where Distributions pursuant to Article VI,  
272 Section B(a) are no longer applicable, (1) eighty percent (80%) to the Developer and twenty  
273 percent (20%) to the City until an amount equal to twenty-five percent (25%) as an internal  
274 rate of return for the Developer's aggregate Unreturned Capital Contributions of the Class  
275 A Members (other than City), payable to the Class A Members (other than City) pro rata  
276 with respect to their Class A Percentage Interests.; and

277 c. Third, in such instance where Distributions pursuant to Article VI, Section  
278 B(a) and (b) are no longer applicable, (1) seventy percent (70%) to the Developer and thirty  
279 percent (30%) to the City on the amount above twenty-five percent (25%) as an internal  
280 rate of return for the Developer's aggregate Unreturned Capital Contributions of the Class  
281 A Members (other than City), payable to the Class A Members (other than City) pro rata  
282 with respect to their Class A Percentage Interests, as set forth in the Developer's Operating  
283 Agreement.

284

285 Once the Developer's Operating Agreement is in final form, the Developer will share the applicable  
286 Distributions language from the Developer Operating Agreement.

287 d.

- 288 C. Promote Structure:
- 289 i. Tier 1: 85% GP/15% City up to a 15% GP IRR
- 290 ii. Tier 2: 80% GP/20% City up to a 25% GP IRR
- 291 iii. Tier 3: 70% GP/30% City above a 25% IRR.

292 D. GP IRR Calculation

293 a. The GP IRR will be calculated based on the General Partner's initial capital  
 294 account subject to required overall GP equity as determined by the Developer's  
 295 Operating Agreement.

296  
 297

298 **Article VII**  
 299 **PAYMENT OF TAXES; PAYMENT IN LIEU OF TAXES**

300 A. Throughout the life of the District, the Developer will pay (or cause to be paid) all ad valorem  
 301 property taxes properly assessed against any portion of the Project Site owned by the Developer before  
 302 such taxes become delinquent. The foregoing shall not prohibit the Developer from contesting, in good  
 303 faith, the assessed value of any portion of the Project Site.

304 B. In the event that any portion of the Project Site becomes exempt from ad valorem taxes  
 305 during the statutory life of the District, then for the remaining life of the District (the "PILOT Term"), the  
 306 owner of such exempt portion of the Project Site shall make (or cause to be made) annual payments in lieu  
 307 of taxes in amounts equal to what the ad valorem property taxes would have been for such portion of the  
 308 Project Site (as determined by the City assessor, subject to the owner's right to contest such determination)  
 309 had it not been exempt. Notice of such assessment shall be given in the same manner and timeframe as  
 310 if the exempt portion of the Project Site was not exempt. Such payment in lieu of taxes shall be due and  
 311 payable at the same time and in the same manner as the ad valorem taxes would have been due and  
 312 payable for such year. If the then-owner fails to make a payment in lieu of taxes when due, the City may,  
 313 in addition to all other remedies available to it, levy a special assessment against the exempt portion of the  
 314 Project Site owned by such owner in the amount of the unpaid payments provided any recoveries are limited  
 315 to the amount then due. Notwithstanding the levying of such special assessment, the payment obligation  
 316 under this Article V shall be the personal obligation of the then-owner of the exempt portion of the Project  
 317 Site. The covenant contained in this Article VII shall be deemed to be a covenant running with the land and  
 318 shall be binding upon the then-owners of any portion of the Project Site for the duration of the PILOT Term.  
 319 The City is hereby expressly declared to be a beneficiary of such covenant and entitled to enforce the same  
 320 against all of the then-owners of an exempt portion of the Project Site. The covenants and obligations set  
 321 forth in this Article may be embodied in a separate document and recorded against the Property as provided  
 322 herein.

323 **Article VIII**  
 324 **NO PARTNERSHIP OR VENTURE**

325 Developer and its contractors or subcontractors shall be solely responsible for the completion of all  
 326 of Developer's obligations set forth in this Agreement. Nothing contained in this Agreement shall create or  
 327 effect any partnership, venture or relationship between the (i) City and (ii) Developer, or any contractor or  
 328 subcontractor employed by Developer.

329  
330

**Article IX  
CONFLICT OF INTEREST**

331  
332  
333

No elected official, member, officer, or employee of the City, during his/her tenure or for one year thereafter, will have or shall have had any interest, direct or indirect, in this Agreement or any proceeds thereof.

334  
335

**Article X  
WRITTEN NOTICES**

336  
337  
338  
339  
340  
341  
342

All notices required or permitted by this Agreement shall be in writing and shall be deemed to have been given (i) upon delivery to an officer of the City (as to the City) or to an officer of Developer (as to Developer), if hand delivered; (ii) two business days following deposit in the United States mail, postage prepaid, or (iii) upon delivery if delivered by a nationally recognized overnight commercial carrier that will certify as to the date and time of such delivery; and each such communication or notice shall be addressed as follows, unless and until any of such parties notifies the other in accordance with this Article of a change of address:

343  
344  
345  
346  
347  
348

If to the City: City of West Allis  
West Allis City Hall  
7525 W. Greenfield Avenue  
West Allis, WI 53214  
Attn: City Clerk

349  
350  
351  
352  
353  
354

With a copy to: Economic Development  
Economic Development Executive Director  
7525 W. Greenfield Avenue  
West Allis, WI 53214  
Attention: Patrick Schloss

355  
356  
357  
358  
359

With a copy to: City Attorney  
7525 W. Greenfield Avenue  
West Allis, WI 53214  
Attention: Kail Decker

360  
361  
362  
363  
364

If to the Developer: 3LP West Allis LLC  
c/o Three Leaf Partners  
504 W Juneau Ave.  
Milwaukee, WI 53203  
Attn: Matthew Burow and Derek Taylor

365  
366  
367  
368  
369

c/o Land Quest  
4419 Washington Rd.,  
Kenosha, WI 53144  
Attn: Ryan Douglas

370  
371

**Article XI  
DEFAULT**

372  
373

A. The occurrence of any one or more of the following events shall constitute a default ("Default") hereunder:

374  
375  
376

i. Developer shall fail to pay any amounts when due under this Agreement or any guaranty by Developer and further fails to pay such amounts on or before five days following written notice of such failure; or

377 ii. Any material representation or warranty made by Developer pursuant to this  
378 Agreement shall prove to have been false in any material respect as of the time when  
379 made or given; or

380 iii. Developer shall materially breach or fail to perform timely or observe timely any of its  
381 covenants or obligations under this Agreement (other than relating to the payment of  
382 money), and such failure shall continue for thirty days following notice thereof from the  
383 City (or such longer period of time as is otherwise expressly set forth herein or as is  
384 reasonably necessary to cure the default as long as Developer has commenced the  
385 cure of the default within the thirty-day period, is diligently pursuing the cure of the  
386 default and as long as the default is cured not later than one hundred eighty days  
387 following the notice thereof from the City or such longer period of time as is reasonably  
388 agreed to by the City); or

389 iv. Developer defaults under any guaranty by Developer beyond any applicable grace  
390 period; or

391 v. City shall materially breach or fail to perform timely or observe timely any of its  
392 covenants or obligations under this Agreement, and such failure shall continue for thirty  
393 days following notice thereof from Developer (or such longer period of time as is  
394 otherwise expressly set forth herein or as is reasonably necessary to cure the default  
395 as long as the City has commenced the cure of the default within the thirty-day period,  
396 is diligently pursuing the cure of the default and as long as the default is cured not later  
397 than one hundred eighty days following the notice thereof from Developer or such  
398 longer period of time as is reasonably agreed to by the Developer); or

399 vi. Developer:

400 a. becomes insolvent or generally does not pay, or is unable to pay, or admit  
401 in writing its inability to pay, its debts as they mature; or

402 b. makes a general assignment for the benefit of creditors or to an agent  
403 authorized to liquidate any substantial amount of its/his assets; or

404 c. becomes the subject of an "order for relief" within the meaning of the  
405 United States Bankruptcy Code, or files a petition in bankruptcy, for reorganization or to  
406 affect a plan or other arrangement with creditors; or

407 d. has a petition or application filed against it in bankruptcy or any similar  
408 proceeding, or has such a proceeding commenced against it and such petition, application  
409 or proceeding shall remain undismissed for a period of ninety days or Developer shall file  
410 an answer to such a petition or application, admitting the material allegations thereof; or

411 e. applies to a court for the appointment of a receiver or custodian for any of  
412 its assets or properties, with or without consent, and such receiver shall not be discharged  
413 within ninety days after his appointment; or

414 f. adopts a plan of complete liquidation of its/his assets; or

415 g. shall cease to exist.

416 B. Upon the occurrence of any Default, without further notice, demand or action of any kind  
417 by the non-defaulting party, the non-defaulting party may, at its option, pursue any or all rights and  
418 remedies available at law and/or in equity. Notwithstanding the foregoing, the City's rights shall be limited  
419 to, temporary suspension of any payment of the Municipal Revenue Obligation, provided that any  
420 suspended payments shall remain due and shall become payable upon the cure of any Default by  
421 Developer.

422 1. Except as set forth in the previous paragraph, no remedy shall be exclusive of any other remedy  
423 and each and every remedy shall be cumulative and shall be in addition to every other remedy given under  
424 this Agreement, and/or now or hereafter existing at law or in equity. No failure or delay on the part of any  
425 party in exercising any right or remedy shall operate as a waiver thereof nor shall any single or partial  
426 exercise of any right preclude other or further exercise thereof or the exercise of any other right or remedy.

427 2. In the event of a default by either party, all reasonable fees, costs and expenses incurred by  
428 the non-defaulting party, including reasonable attorneys' fees, in connection with the enforcement of this  
429 Agreement shall be paid by the defaulting party, including without limitation the enforcement of the non-  
430 defaulting party's rights in any bankruptcy, reorganization or insolvency proceeding.

431 **Article XII**  
432 **TAX CONTEST**

433 In consideration of the City issuing the Municipal Revenue Obligation outlined in Article II of this Agreement,  
434 Developer, its successors, assigns, or affiliates agree to not challenge any property tax assessment levied  
435 against the Project prior to the termination of the District, except that any or all of them may contest any  
436 such property tax assessment but only in good faith and only if and to the extent any such property tax  
437 assessment is in excess of the Guaranteed Value of the Property in any tax year following the Completion  
438 Date.

439 To the extent in compliance with applicable law, if any tax, assessment or like charge is imposed on or  
440 assessed against the Project or the use and operations thereof or income therefrom, as an alternative to,  
441 a replacement of, or as supplemental to, any or all of the property taxes that are intended by the parties  
442 hereto to constitute the Tax Increments, or increment or like revenues under the Tax Increment Law or any  
443 equivalent, then such taxes, assessments, and charges shall be deemed to be Tax Increments hereunder  
444 and shall be disbursed as set forth in this Agreement. Notwithstanding the foregoing, special assessments  
445 and special charges levied by the City for permitted purposes, such as to pay for improvements and  
446 services, shall not be included as Tax Increments.  
447  
448

449  
450 **Article XIII**  
451 **MISCELLANEOUS**

452 A. Developer shall have in effect at all times all permits, approvals and licenses as may be required  
453 by any governmental authority or non-governmental entity in connection with Developer's development,  
454 construction, management and operation of the Project.

455 B. Developer shall maintain or cause to be maintained the following insurance policies (the  
456 "Insurance Policies") issued by insurers licensed in the State of Wisconsin, with ratings and in the financial size  
457 category as requested by the City, covering loss by perils, hazards, liabilities and other risks and casualties and  
458 in such amounts as may be reasonably required by the City:

459 1. Following completion of construction of all components of the Project, "all risks" property insurance  
460 insuring against such risks as are insured against by owners of similar improvements, in amounts  
461 equal to 100% replacement cost of all such improvements with an extended replacement cost  
462 endorsement.

463 2. During the construction, builder's risk insurance in form and amounts reasonably satisfactory to the  
464 City.

465 3. During the term of this Agreement, commercial general liability insurance covered under a  
466 comprehensive general liability policy including contractual liability in amounts maintained by  
467 owners of similar projects, and insuring against bodily injury, including personal injury, death and  
468 property damage; and

469 4. Other insurance may be reasonably requested by City.

470 5. Each Insurance Policy shall require the insurer to provide at least thirty (30) days prior written notice  
471 to the City of any material change or cancellation of such policy. The City shall be named as an  
472 additional insured/loss payee on all policies of insurance except worker's compensation insurance.

473 C. If the Developer does not commence construction of the Project by December 31, 2023  
474 (subject to extension pursuant to Paragraph G, below), then the City may, in its sole discretion and only  
475 prior to commencement of construction, terminate this Agreement upon written notice to the Developer.  
476 The City shall thereafter have no further obligations under this Agreement.

477 D. Developer hereby indemnifies, defends, covenants not to sue and holds the City harmless  
478 from and against all loss, liability, damage and expense, including attorneys' fees, suffered or incurred by  
479 the City by reason of the following: (a) the failure of Developer or its contractors, subcontractors, agents,  
480 employees, or invitees to comply with any environmental law, rule, regulation or ordinance, or any order of  
481 any regulatory or administrative authority with respect thereto; (b) any release by Developer or its  
482 contractors, subcontractors, agents, employees, or invitees of petroleum products or hazardous materials  
483 or hazardous substances on, upon or into the Property; (c) any and all damage to natural resources or real  
484 property or harm or injury to persons resulting or alleged to have resulted from any failure by the Developer  
485 and/or its contractors, subcontractors and/or agents to comply with any law, rule, regulation or ordinance  
486 or any release of petroleum products or hazardous materials or hazardous substances as described in  
487 clauses (a) and (b) above; (d) any violation by Developer or at the Project of any environmental law, rule,  
488 regulation or ordinance; (e) claims arising in connection with the Project under the Americans With  
489 Disabilities Act, and any other laws, rules, regulations or ordinances; (f) the failure by Developer to comply  
490 with any term or condition of this Agreement; (g) injury to or death of any person at the Project or injury to  
491 any property caused by or at the Project; and (h) the failure of Developer to maintain, repair or replace, as  
492 needed, any portion of the Project. The foregoing indemnity shall not apply to any claims or damages  
493 arising under clauses (a) through (h) of the previous sentence to the extent such claims or damages are  
494 attributable to the negligence or willful misconduct of the City.

495 The terms "hazardous substances" means any flammable explosives, radioactive materials,  
496 hazardous wastes, toxic substances, or related materials, including without limitation, any substances  
497 defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous  
498 materials," "toxic substances" under any applicable federal or state or local laws or regulations.

499 E. Time is of the essence of each, and every obligation or agreement contained in this  
500 Agreement.

501 F. If Developer is delayed or prevented from timely commencing or completing construction  
502 of the Project, by reason of fire, earthquake, war, flood, material shortages, riot, strikes, labor disputes,  
503 governmental restrictions, judicial order, public emergency, or other causes beyond the reasonable control  
504 of the party obligated to perform ("Force Majeure Event"), performance of such act shall be excused for the  
505 period of such delay and the time for the performance of any such act shall be extended for a period  
506 equivalent to such delay.

507 G. A memorandum of this Agreement shall be recorded in the office of the Register of Deeds  
508 of Milwaukee County, Wisconsin, prior to the recording of the mortgage securing any mortgage on the  
509 Project Site, it being understood by the parties that this Agreement will run with the land and will be binding  
510 upon the Project Site and any owner and/or lessee and/or mortgagee of all or any portions of the Project  
511 Site and their successors and assigns.

512 H. Nothing contained in this Agreement is intended to or has the effect of releasing Developer  
513 from compliance with all applicable laws, rules, regulations and ordinances in addition to compliance with  
514 all terms, conditions and covenants contained in this Agreement.

515 I. All financial reports and information required to be provided by Developer to the City under  
516 this Agreement shall be provided to the City's outside financial consultant for review on behalf of the City.

517 The Developer warrants and represents the accuracy of its financial reports and information in all material  
518 respects. The parties acknowledge that some of the financial information to be provided to the City may  
519 qualify as proprietary or as "trade secrets" and that disclosure of same would have an adverse impact upon  
520 Developer and certain tenants of the Project. When financial information is provided to the City, the provider  
521 of such financial information shall identify the information that is proprietary or constitutes a trade secret  
522 and the City shall take reasonable steps to protect such trade secrets as allowed by law. The foregoing  
523 shall not apply to the Project Budget or Developer's final actual costs for purposes of determining whether  
524 an adjustment to the Municipal Revenue Obligation is required under Article IV nor shall it apply to  
525 information relating to the disbursement of payment under the Municipal Revenue Obligation.

526 J. This Agreement may not be assigned by the Developer without the City's consent, which  
527 may be granted or withheld in the City's reasonable discretion, except that the Developer may collaterally  
528 assign this Agreement to Developer's construction lender or to other lenders for the Project without the  
529 City's consent. In the event that such construction lender or any other lender forecloses on its collateral  
530 and succeeds to ownership any portion of the Project Site, the City shall fulfill its obligations hereunder  
531 provided that such construction lender or other lender assumes in writing all of the obligations of Developer  
532 hereunder.

533 K. Developer shall not be released from any of its obligations hereunder by any sale,  
534 foreclosure or other conveyance of all or any portion of the Project Site, either before or after completion of  
535 the Project, without the written consent of the City.

536 L. Subject to applicable laws, Developer and the City shall work together expeditiously and in  
537 good faith to obtain appropriate project entitlements, including, without limitation, approvals for zoning (PUD  
538 overlay), site plan, architectural, landscaping, traffic, and offsite improvements.

539 M. Subject to applicable laws, Developer and the City shall work together expeditiously and in  
540 good faith in support of optimizing the overall economic efficiency of the Project through appropriate  
541 structuring of such matters as site infrastructure financing and construction, etc.

542 N. This Agreement contains the entire agreement between the City and Developer with  
543 respect to the subject matter of this Agreement and may be amended or modified only by subsequent  
544 written agreement duly signed by both parties hereto.

545 **ARTICLE XIV**  
546 **TERMINATION; CERTIFICATE OF COMPLETION**

547 O. Developer shall have the right to terminate this Agreement immediately upon written notice  
548 to the City in the event that Developer determines that it will not be able to satisfy the City's preconditions  
549 set forth in Article I.

550 P. This Agreement shall automatically terminate and be of no further force or effect upon the  
551 last to occur of all of the following:

- 552 i. Timely completion of all of Developer's activities set forth on **Exhibit E**.
- 553 ii. Payment in full of the Municipal Revenue Obligation, including all accrued interest.
- 554 iii. Payment in full by Developer to the City of any sums due in connection with a demand  
555 or claim that has been made by the City upon Developer in connection with a Default  
556 in its obligations under this Agreement.
- 557 iv. Payment in full by the City to the Developer of any sums due pursuant to Articles II or  
558 IV or in connection with a demand or claim that has been made by Developer upon the  
559 City in connection with a Default in other obligations of the City under this Agreement.
- 560 v. The expiration of the PILOT Term.

561           Upon the occurrence of all of the foregoing, the City agrees to execute and record in the Office of  
562 the Register of Deeds for Milwaukee County a memorandum of termination of this Agreement.

563           Q.       In the event that items 1 through 4 of Paragraph Q, above, have occurred, and provided  
564 that there are then no outstanding unsatisfied claims by the City against Developer under this Agreement,  
565 then upon the request of Developer:

566                   i.     The City and Developer shall execute and record with the Register of Deeds a  
567 restrictive covenant encumbering the Project Site with the restrictions and conditions  
568 set forth in Article V that shall run for the duration of the PILOT Term; and

569                   ii.    The City shall execute and record with the Register of Deeds a memorandum of  
570 termination of this Agreement with respect to its application to any purchaser, lender  
571 or other party claiming or obtaining an interest in the Project Site.

572

573

**[Signatures on following page]**

574

575



616

3LP West Allis LLC

617

618

619

620

621

622

623

624

625

626

627

628

STATE OF WISCONSIN )  
 ) ss.  
MILWAUKEE COUNTY )

By: [Signature]

By: Matthew Burow, Manager

629

630

631

632

Personally appeared before me this 1st day of December, 2023, the above-named Member and Manager of 3LP West Allis LLC, the manager of 3LP West Allis LLC, to me known to be the person who executed the foregoing agreement on behalf of said limited liability company and by its authority and acknowledged the same.

633

634

635

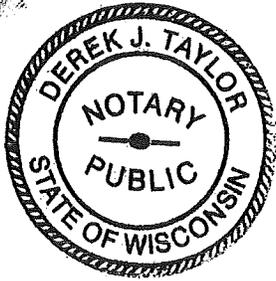
636

637

638

639

640



[Signature]  
Name: Derek J. Taylor  
Notary Public, State of Wisconsin  
My Commission expires: Permanent

641

SCHEDULE OF EXHIBITS

642 EXHIBIT A

The Property

643 EXHIBIT B

Development Plan

644 EXHIBIT C

TIF Model

645 EXHIBIT D

Project Budget

646 EXHIBIT E

Project Schedule

647 EXHIBIT F

MRO

648 EXHIBIT G

Certificate of Completion

649 EXHIBIT H

Increment Guaranty

650

651

EXHIBIT A

652

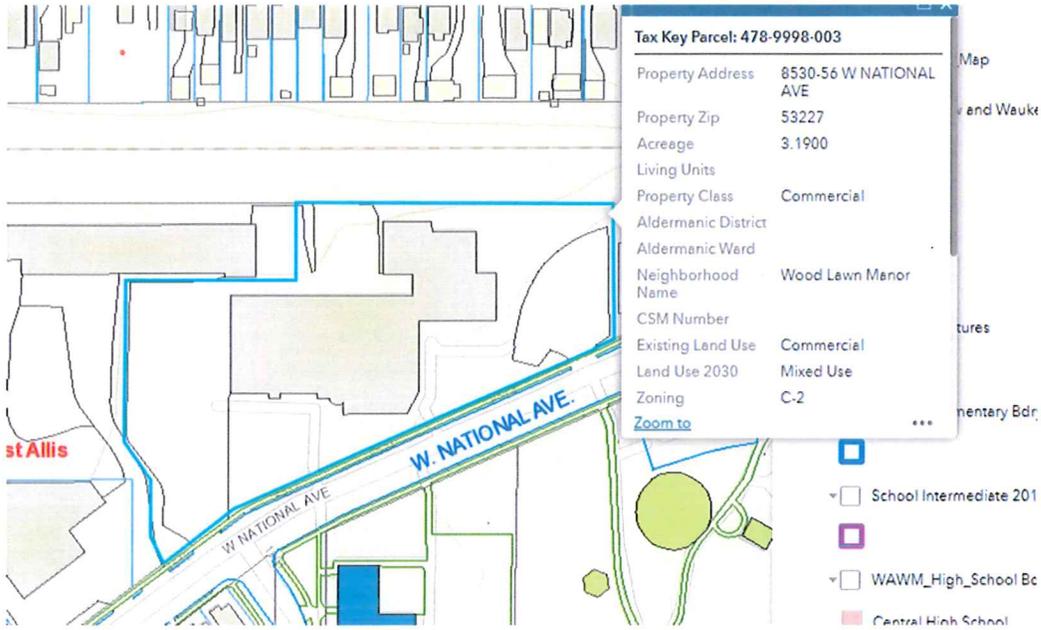
The Property

653

654 Legal Description

655 COM 25.93 FT S OF NE COR SW 4 6 21 TH W 727.22 FT S 86.22 FT WLY 195.88 FT S 189.22 FT  
656 SELY 53 FT S 64.08 FT SELY 35.41 FT NELY 5.03 FT S TO C/L W NATL AVE NELY ON C/L W NATL  
657 AVE TO E LI SD 1/4 TH N TO BEG EX C PT FOR AVE & EXC CSM NO 5161

658



659



660

### EXHIBIT B

661

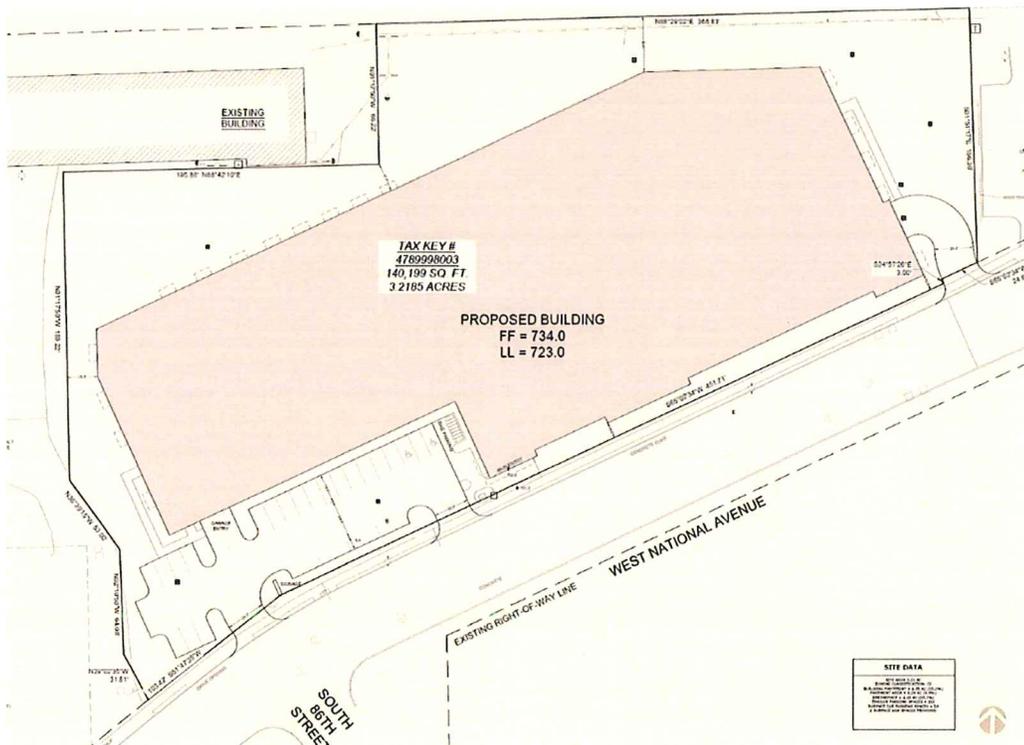
### The Project

662



663

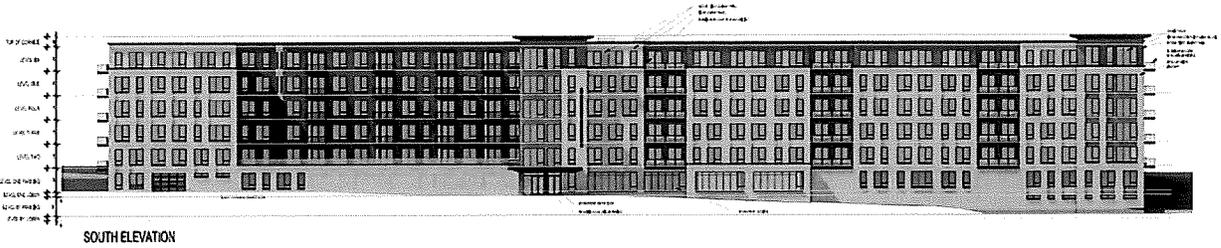
664



665



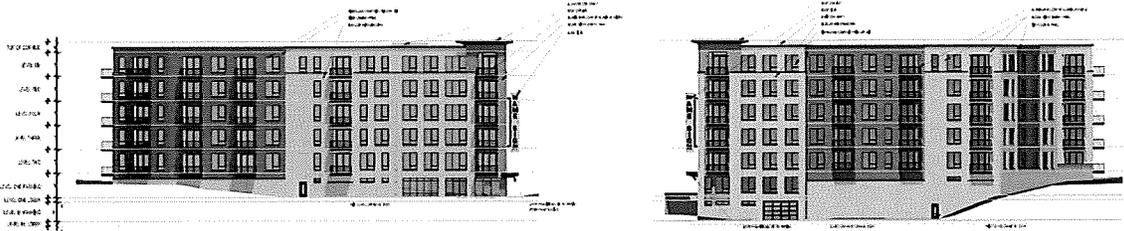
667



SOUTH ELEVATION



NORTH ELEVATION



WEST ELEVATION

EAST ELEVATION

- 668
- 669
- 670
- 671
- 672
- 673
- 674
- 675
- 676
- 677
- 678
- 679
- 680
- 681
- 682

683

EXHIBIT C

684

TIF MODEL

Cash Flow Projection										
Year	Projected Revenues			Expenditures			Balances			Year
	Tax Increments	Interest Earnings/ (Cost)	Total Revenues	PAYGO Develop. Incentive <sup>1</sup>	Admin. & Prof. Services	Total Expenditures	Annual	Cumulative	PAYGO Note Balance	
2023			0		45,000	45,000	(45,000)	(45,000)	0	2023
2024			0		25,000	25,000	(25,000)	(70,000)	28,782,156	2024
2025	0		0	0	25,000	25,000	(25,000)	(95,000)	28,782,156	2025
2026	1,000,052		1,000,052	880,052	25,000	905,052	95,000	0	27,902,105	2026
2027	1,010,052		1,010,052	985,052	25,000	1,010,052	0	0	26,917,052	2027
2028	1,020,153		1,020,153	995,153	25,000	1,020,153	0	0	25,921,900	2028
2029	1,030,354		1,030,354	1,005,354	25,000	1,030,354	0	0	24,916,545	2029
2030	1,040,658		1,040,658	1,015,658	25,000	1,040,658	0	0	23,900,888	2030
2031	1,051,064		1,051,064	1,026,064	25,000	1,051,064	0	0	22,874,823	2031
2032	1,061,575		1,061,575	1,036,575	25,000	1,061,575	0	0	21,838,248	2032
2033	1,072,191		1,072,191	1,047,191	25,000	1,072,191	0	0	20,791,058	2033
2034	1,082,913		1,082,913	1,057,913	25,000	1,082,913	0	0	19,733,145	2034
2035	1,093,742		1,093,742	1,068,742	25,000	1,093,742	0	0	18,664,403	2035
2036	1,104,679		1,104,679	1,079,679	25,000	1,104,679	0	0	17,584,724	2036
2037	1,115,726		1,115,726	1,090,726	25,000	1,115,726	0	0	16,493,998	2037
2038	1,126,883		1,126,883	1,101,883	25,000	1,126,883	0	0	15,392,115	2038
2039	1,138,152		1,138,152	1,113,152	25,000	1,138,152	0	0	14,278,963	2039
2040	1,149,534		1,149,534	1,124,534	25,000	1,149,534	0	0	13,154,429	2040
2041	1,161,029		1,161,029	1,136,029	25,000	1,161,029	0	0	12,018,400	2041
2042	1,172,639		1,172,639	1,147,639	25,000	1,172,639	0	0	10,870,761	2042
2043	1,184,366		1,184,366	1,159,366	25,000	1,184,366	0	0	9,711,396	2043
2044	1,196,209		1,196,209	1,171,209	25,000	1,196,209	0	0	8,540,186	2044
2045	1,208,171		1,208,171	1,183,171	25,000	1,208,171	0	0	7,357,015	2045
2046	1,220,253		1,220,253	1,195,253	25,000	1,220,253	0	0	6,161,762	2046
2047	1,232,456		1,232,456	1,207,456	25,000	1,232,456	0	0	4,954,307	2047
2048	1,244,780		1,244,780	1,219,780	25,000	1,244,780	0	0	3,734,526	2048
2049	1,257,228		1,257,228	1,232,228	25,000	1,257,228	0	0	2,502,298	2049
2050	1,269,800		1,269,800	1,244,800	25,000	1,269,800	0	0	1,257,498	2050
2051	1,282,498		1,282,498	1,257,498	25,000	1,282,498	0	0	0	2051
<b>Total</b>	<b>29,527,156</b>	<b>0</b>	<b>29,527,156</b>	<b>28,782,156</b>	<b>745,000</b>	<b>29,527,156</b>				<b>Total</b>

<b>PAYGO NPV @ 6%</b>	<b>13,105,500</b>	<b>Projected TID Closure</b>
-----------------------	-------------------	------------------------------

Notes:  
<sup>1</sup>Developer has requested incentive payments to be made over time with a present value of \$13,105,500 using a 6% discount rate.

685

686

687

688

**EXHIBIT D**

689

**Development Budget**

690

**[See attached]**

West Allis - National Ave Apartments				
Source & Uses				
247 Units				
Source		Construction	Post Construction	Permanent
First Mortgage - Mini Perm	53.35%	-	36,000,000	36,000,000
Deferred Sponsor Equity Contribution	2.92%	1,967,050	-	1,967,050
TIF Bridge Loan	17.41%	11,750,000	-	11,750,000
EPA Revolving Loan	0.74%	500,000	-	500,000
Standard Equity - Upfront	13.13%	8,860,000	-	8,860,000
Letter of Credit Equity	10.82%	7,300,000	-	7,300,000
USC	0.00%	-	-	-
Deferred Developer Fee (Sponsor Creati	1.63%	1,100,000	-	1,100,000
Construction Loan		36,000,000	(36,000,000)	-
<b>Total</b>	<b>100.00%</b>	<b>67,477,050</b>	<b>-</b>	<b>67,477,050</b>
273,186/unit				
Uses		Construction	Post Construction	Permanent
<b>Acquisition Costs &amp; Improvements</b>				
Land		3,767,050	-	3,767,050
Closing Costs		25,000	-	25,000
Other Acquisition Costs		-	-	-
<b>Construction Costs</b>				
Residential & Parking		48,258,916	-	48,258,916
Pre-Demolition Building Abatement (Asbestos)		168,650	-	168,650
Signage/Utility/Site Prep Contingency		55,000	-	55,000
Soil Remediation Cost		500,000	-	500,000
Site Utilities / Connection & Metering		50,000	-	50,000
<b>GC Fees &amp; Contingency</b>				
Contingency - GC & Owner	4.81%	2,319,239	-	2,319,239
<b>Architectural &amp; Engineering</b>				
Design	2.52%	1,293,000	-	1,293,000
Survey		7,100	-	7,100
Survey - As Complete		3,000	-	3,000
Engineering - Civil		-	-	-
Geotech		12,276	-	12,276
Other Contingency		-	-	-
<b>Construction Interest &amp; Fees</b>				
Interest - Construction Loan*		2,431,707	-	2,431,707
Interest - EPA Revolving Loan		18,125	-	18,125
PRE DEV Interest - USC		140,000	-	140,000
Interest - TIF Bridge Loan		1,247,186	-	1,247,186
Loan Origination - Construction Loan	0.30%	108,000	-	108,000
Loan Origination - TIF Loan	0.50%	58,750	-	58,750
Loan Origination - USC Loan	1.00%	37,000	-	37,000
Lender Legal		50,000	-	50,000
Builder's Risk Insurance	1.04%	500,000	-	500,000
General Liability Insurance		1,631	-	1,631
Title and Recordings	215/unit	53,105	-	53,105
Lender 3rd Party Reports		25,000	-	25,000
Building Permits		-	-	-
Equity Arrangement Costs		300,000	-	300,000
Draw & Bank Inspection Fees	1500/draw	34,500	-	34,500
Debt Arrangement Fee - Const + TIF Lo	0.75%	423,125	-	423,125
Debt Arrangement Fee - USC Loan (Lar	0.75%	27,750	-	27,750
<b>Other Financing</b>				
Construction Loan Extension Fee	0.20%	72,000	-	72,000
TIF Legal		15,000	-	15,000
TIF Administrative Loan Fee		550	-	550
TIF Application Fee		5,000	-	5,000
<b>Soft Costs</b>				
Appraisal		8,700	-	8,700
Market Study		22,132	-	22,132
Travel Expenses		536	-	536
Accounting (Cost Seg + Tax)		21,200	-	21,200
GP Outside Counsel		140,000	-	140,000
Environmental		38,869	-	38,869
FF&E		140,000	-	140,000
Other General / Consulting Fees		21,153	-	21,153
USC Broker Fee - PCG		47,000	-	47,000
City Fees (Entitlements)		20,000	-	20,000
Traffic Impact Assessment		7,500	-	7,500
Soft Cost Contingency		-	-	-
<b>Developer Fee</b>				
Developer Fee	6.00%	3,819,456	-	3,819,456
Development Overhead Soft Costs		134,691	-	134,691
<b>Reserves**</b>				
Owner WC Account	3.28 mos OPEX	127,580	-	127,580
Pre-Opening / Start-Up Capital	250/unit	61,750	-	61,750
RE Tax Reserves Escrow		760,024	-	760,024
Property Insurance Escrow (1st Year)	25%	24,700	-	24,700
Leasing Commissions	300/unit	74,100	-	74,100
<b>Total</b>		<b>67,477,050</b>	<b>-</b>	<b>67,477,050</b>

691

EXHIBIT E

692

Project Schedule

693

		YEAR 1											
Month - Year		Jan-24	Feb-24	Mar-24	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24	Oct-24	Nov-24	Dec-24
Month #		1	2	3	4	5	6	7	8	9	10	11	12
Event	Construction Start												
Construction													
Lease Up													
Leases Signed		-	-	-	-	-	-	-	-	-	-	-	-
Cumulative		-	-	-	-	-	-	-	-	-	-	-	-
Occupancy		-	-	-	-	-	-	-	-	-	-	-	-

		YEAR 2											
Month - Year		Jan-25	Feb-25	Mar-25	Apr-25	May-25	Jun-25	Jul-25	Aug-25	Sep-25	Oct-25	Nov-25	Dec-25
Month #		13	14	15	16	17	18	19	20	21	22	23	24
Event						Pre-Leasing Commences	1st Delivery of Units				Construction Completion		
Construction													
Lease Up													
Leases Signed		-	-	-	-	-	-	49	20	20	20	15	15
Cumulative		-	-	-	-	-	-	49	69	89	109	124	138
Occupancy		0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	20.0%	28.0%	36.0%	44.0%	50.0%	56.0%

		YEAR 3											
Month - Year		Jan-26	Feb-26	Mar-26	Apr-26	May-26	Jun-26	Jul-26	Aug-26	Sep-26	Oct-26	Nov-26	Dec-26
Month #		25	26	27	28	29	30	31	32	33	34	35	36
Event								Stabilized Occupancy					
Construction													
Lease Up													
Leases Signed		10	10	12	15	15	20	15	-	-	-	-	-
Cumulative		148	158	170	185	200	220	235	235	235	235	235	235
Occupancy		60.0%	64.0%	69.0%	75.0%	81.0%	89.0%	95.0%	95.0%	95.0%	95.0%	95.0%	95.0%

- Note: All debt proceeds will be fully drawn by month 20, with interest/operating reserves covered by the letter of credit equity capital.

694

Exhibit F – Completion Guaranty

**CERTIFICATE  
OF COMPLETION**

Recording Area

Name and Return Address

Parcel Identification Number (PIN)

Tax Key Parcel: 478-998-003)

Property Address	8530-56 W. National Avenue (Tax Key Parcel: 478-998-003),
Developer:	3LP West Allis LLC, a Wisconsin limited liability company
Development Agreement	Date Signed _____
Legal Description:	See attached Attachment "A"

THIS IS TO CERTIFY that the undersigned, on behalf of the City of West Allis, a municipal corporation, (the "City"), caused the inspection of the above-described real estate and physical improvements constructed thereon, and that construction of said physical improvements has been substantially completed in accordance with the final plans and specifications approved by the City's Plan Commission and in accordance with the Development Agreement dated as of \_\_\_\_\_, 2023.

Construction was deemed by City to be timely completed.

THIS CERTIFICATE, when signed and bearing the seal of City shall constitute a conclusive determination of satisfaction and termination of Developer's covenants and agreements set forth in the Development Agreement with respect to the Project, including, without limitation, any provision related to (a) the obligation of Developer to complete the Project (as defined in the Development Agreement), and (b) the required date for completion of the Project.

Upon recording of this CERTIFICATE, the real estate described above shall specifically be "released" of record from the Development Agreement and the restrictions against the real estate set forth therein; provided, however, that Developer's obligations pursuant to Article V of the Development Agreement shall continue in effect until otherwise satisfied pursuant to the Development Agreement.

[Signature page follows]

1 Dated at West Allis, Wisconsin, this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

2

3 STATE OF WISCONSIN )

4 ) ss.

5 MILWAUKEE COUNTY )

6 Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_\_\_,  
7 \_\_\_\_\_, \_\_\_\_\_ of the City of West Allis, to me known to be the  
8 persons who executed the foregoing instrument, and to me known to be such \_\_\_\_\_,  
9 and acknowledged that they executed the foregoing instrument as such officers as the deed of said City y  
10 its authority.

(SEAL)

\_\_\_\_\_  
Name:  
Notary Public, State of Wisconsin  
My Commission expires:

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53

Attachment A to the Completion Guaranty

The Property

Legal Description

COM 25.93 FT S OF NE COR SW 4 6 21 TH W 727.22 FT S 86.22 FT WLY 195.88 FT S 189.22 FT  
SELY 53 FT S 64.08 FT SELY 35.41 FT NELY 5.03 FT S TO C/L W NATL AVE NELY ON C/L W NATL  
AVE TO E LI SD 1/4 TH N TO BEG EX C PT FOR AVE & EXC CSM NO 5161

54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100  
101  
102

Exhibit G – MRO

Municipal Revenue Obligation

**CITY OF WEST ALLIS**

**MUNICIPAL REVENUE OBLIGATION SERIES \_\_\_\_\_**

**\$ \_\_\_\_\_**

THIS MUNICIPAL REVENUE OBLIGATION (the "Obligation") is issued pursuant to Wis. Stat. § 66.0621 this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by the City of West Allis, Milwaukee County, Wisconsin (the "City") to **3LP WEST ALLIS LLC**, a Wisconsin limited liability company, its successors and assigns ("Developer").

WITNESSETH:

A. The City and Developer have entered into an Agreement dated September \_\_\_\_\_, 2023 (the "Development Agreement").

B. This Obligation is issued by the City pursuant to the Development Agreement.

C. Terms that are capitalized in this Obligation that are not defined in this Obligation and that are defined in the Development Agreement shall have the meanings assigned to such terms by the Development Agreement.

1. Promise to Pay. The City shall pay to Developer the principal amount of \_\_\_\_\_ 00/100 DOLLARS (\$ \_\_\_\_\_), together with interest thereon at a rate of Six Percent (6.0%) per annum, solely from Actual Tax Increment, in Scheduled Payments in accordance with Schedule 1 attached hereto and made a part hereof. Interest shall accrue beginning on the date on which this Obligation is issued. To the extent that on any Payment Date the City is unable to make a payment from Actual Tax Increment at least equal to the Scheduled Payment due on such date as a result of having received, as of such date, insufficient Actual Tax Increment, or as the result of the Common Council not having appropriated sufficient Actual Tax Increment, such failure shall not constitute a default under this Obligation and, except as hereinafter provided, the City shall have no obligation under this Obligation, or otherwise, to subsequently pay any such deficiency unless the deficiency is the direct result of the failure of Milwaukee County to timely remit the proper amount of Tax Increment, in which case, such deficiency shall be paid promptly upon remittance by Milwaukee County. Any payments on the Municipal Revenue Obligation, which are due on any Payment Date, shall be payable solely from and only to the extent that, as of such Payment Date, the City has received an Actual Tax Increment. If, on any Payment Date there is insufficient Actual Tax Increment to make the scheduled payment due on such date, or if the Common Council shall not otherwise appropriate sufficient Actual Tax Increment to make the scheduled payment due on such date in full, the amount of such deficiency in the scheduled payment shall be deferred and shall be paid with interest at a rate equal to Six Percent (6.0%) per annum, on the next Payment Date on which the City has Actual Tax Increment in excess of the amount necessary to make the scheduled payment due on such Payment Date, and if such deficiency resulting from the Common Council not appropriating sufficient Actual Tax Increment has not been paid in full by the final Payment Date as set forth on Schedule 1, then the term of this Obligation shall be extended to include one (1) additional successive payment date on which any Actual Tax Increment will be applied to the payment of such accrued and unpaid deficiencies in the scheduled payments to be made hereunder. In no case, however, shall the term of this Obligation and the City's obligation to make payments hereunder, extend beyond the termination date of the District, (as defined in the Tax Increment Law). Nor shall the City be obligated to pay any amount not appropriated for such a purpose by the Common Council. This Obligation shall terminate and the City's obligation to make any payments under this Obligation shall be discharged, and the City shall have no obligation and incur no liability to make any payments hereunder, after the termination date of the District.

103  
104  
105  
106  
107  
108  
109  
110  
111  
112  
113  
114  
115  
116  
117  
118  
119  
120  
121  
122  
123  
124  
125  
126  
127  
128  
129  
130  
131  
132  
  
133  
  
134  
135  
136  
137  
138  
139  
140  
141  
142  
143  
144  
145  
146  
147  
148  
149  
150  
151  
152  
153  
154  
  
155

2. Limited Obligation of City. This Obligation shall be payable solely from Actual Tax Increment and shall not constitute a charge against the City's general credit or taxing power. The City shall not be subject to any liability hereunder or be deemed to have obligated itself to pay Developer any amounts from any funds, except the Actual Tax Increment, and then only to the extent and in the manner herein specified.

3. Subject to Annual Appropriations. Each payment under this Obligation shall be subject to annual appropriation by the City in accordance with the requirements for revenue obligations and in a manner approved by the City's bond counsel.

4. No Other Appropriation of Actual Tax Increment. The City covenants and agrees that all Actual Tax Increment generated by the Property proposed to be annually appropriated in a given year shall not be appropriated for any use during that year not identified on the Municipal Revenue Obligation amortization schedule if not appropriated for repayment of this Obligation until said Actual Tax Increment is in excess of the annual amount required for the payment of this Obligation or until this Obligation has been paid in full, or until December 31<sup>st</sup> of that year.

5. Prepayment Option. To satisfy in full the City's obligations under this Obligation, the City shall have the right to prepay all or a portion of the outstanding principal balance of this Obligation at any time, at par and without penalty.

6. Assignment. This Obligation is assignable or transferable by the registered owner hereof as provided in the Development Agreement. Any assignment or transfer of this Obligation shall be subject to the limitations provided in the Development Agreement. This Obligation is issuable in fully registered form only in an amount up to the Principal Amount stated herein.

7. Miscellaneous. This Obligation is subject to the Tax Increment Law and to the Development Agreement.

**SIGNATURE PAGE TO FOLLOW**

156 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2023\_\_.

157  
158  
159  
160  
161  
162  
163  
164  
165  
166  
167  
168  
169  
170  
171  
172  
173  
174  
175  
176  
177  
178  
179  
180  
181  
182  
183  
184  
185  
186  
187  
188  
189  
190  
191  
192  
193  
194  
195

CITY OF WEST ALLIS, WISCONSIN

By: \_\_\_\_\_  
Dan Devine, Mayor

By: \_\_\_\_\_

Rebecca Grill, City Administrator /City Clerk

196  
197

Attachment A – Schedule of Payments

Year	Projected Revenues			Expenditures		
	Tax Increments	Interest Earnings/ (Cost)	Total Revenues	PAYGO Develop. Incentive <sup>1</sup>	Admin. & Prof. Services	Total Expenditures
2023			0		45,000	45,000
2024			0		25,000	25,000
2025	0		0	0	25,000	25,000
2026	1,000,052		1,000,052	880,052	25,000	905,052
2027	1,010,052		1,010,052	985,052	25,000	1,010,052
2028	1,020,153		1,020,153	995,153	25,000	1,020,153
2029	1,030,354		1,030,354	1,005,354	25,000	1,030,354
2030	1,040,658		1,040,658	1,015,658	25,000	1,040,658
2031	1,051,064		1,051,064	1,026,064	25,000	1,051,064
2032	1,061,575		1,061,575	1,036,575	25,000	1,061,575
2033	1,072,191		1,072,191	1,047,191	25,000	1,072,191
2034	1,082,913		1,082,913	1,057,913	25,000	1,082,913
2035	1,093,742		1,093,742	1,068,742	25,000	1,093,742
2036	1,104,679		1,104,679	1,079,679	25,000	1,104,679
2037	1,115,726		1,115,726	1,090,726	25,000	1,115,726
2038	1,126,883		1,126,883	1,101,883	25,000	1,126,883
2039	1,138,152		1,138,152	1,113,152	25,000	1,138,152
2040	1,149,534		1,149,534	1,124,534	25,000	1,149,534
2041	1,161,029		1,161,029	1,136,029	25,000	1,161,029
2042	1,172,639		1,172,639	1,147,639	25,000	1,172,639
2043	1,184,366		1,184,366	1,159,366	25,000	1,184,366
2044	1,196,209		1,196,209	1,171,209	25,000	1,196,209
2045	1,208,171		1,208,171	1,183,171	25,000	1,208,171
2046	1,220,253		1,220,253	1,195,253	25,000	1,220,253
2047	1,232,456		1,232,456	1,207,456	25,000	1,232,456
2048	1,244,780		1,244,780	1,219,780	25,000	1,244,780
2049	1,257,228		1,257,228	1,232,228	25,000	1,257,228
2050	1,269,800		1,269,800	1,244,800	25,000	1,269,800
2051	1,282,498		1,282,498	1,257,498	25,000	1,282,498
<b>Total</b>	<b>29,527,156</b>	<b>0</b>	<b>29,527,156</b>	<b>28,782,156</b>	<b>745,000</b>	<b>29,527,156</b>
			<b>PAYGO NPV @ 6%</b>	<b>13,105,500</b>		

198  
199  
200  
201  
202  
203  
204

205

**EXHIBIT H**

206

**Increment Guaranty**

207

Note: Increment Guaranties entered into by the City and a guarantor may vary from the attached form. City, Developer and the guarantor may negotiate an agreement that includes a special assessment lien mechanism to secure amounts due under the guaranty and/or that may be structured as a debt service guaranty rather than a valuation guaranty. Further, the guarantor's rights to excess Tax Increments may be subordinated to Developer's rights to surplus Tax Increments under Paragraph A of Article III of this Agreement.

213

**Increment Guaranty**

214

**VALUE INCREMENT GUARANTY**

215

THIS GUARANTY ("Guaranty") is being provided by **3LP WEST ALLIS, LLC** \_\_\_\_\_ ("Guarantor") as of the \_\_\_ day of \_\_\_\_\_, 2023 to and for the benefit of the City of West Allis.

217

**RECITALS**

218

A. An affiliate of Guarantor ("Affiliate") intends to develop the property described on Attachment A attached hereto (the "Property") located in Tax Incremental District No. 19 in the City ("District").

219

221

B. Guarantor hereby acknowledges that Affiliate's ability to develop the Property within the District is significantly benefitted by the terms and conditions of that certain Tax Incremental District Development Agreement ("Development Agreement") dated as of September \_\_\_\_\_, 2023 by and among the City and **3LP West Allis ("Developer")**.

222

223

224

225

C. Guarantor acknowledges that this Guaranty was a material inducement for the City's performance of certain obligations under the Development Agreement which facilitate development within the District benefiting the Guarantor and Affiliate and that the City would not have undertaken the performance of certain obligations without the commitment of the Guarantor to execute and deliver this Guaranty to the City and the protection provided to the City by the Guarantor against a Shortfall Event, as hereinafter defined.

226

227

228

229

230

231

D. Capitalized terms not defined in this Guaranty shall have the meaning attributable to such terms as set forth in the Development Agreement.

232

233

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Guarantor provides this Guaranty and agrees as follows:

234

235

1. **Recitals.** The recitals are true and correct and are incorporated herein by this reference.

236

2. **Value Increment Guaranty.**

237

(a) The parties anticipate that, on and after January 1, 2024 (the "**Initial Valuation Date**"), and for every tax year thereafter during the term of the District, the Property will have an assessed value of not less than the amounts set forth on Attachment B attached hereto under the column with the heading of "Minimum Base Value" for the applicable tax year (the "**Minimum Base Value**"). In the event that the Property for any calendar year on and after the Initial Valuation Date and prior to January 1 of the year in which the assessed value equals or exceeds \$48,165,000 ("**Full Performance Date**") has an assessed value less than the Minimum Base Value for that tax year as shown on Attachment B (a "**Shortfall Event**"), then, as the City's sole remedy against Affiliate and the Guarantor for such Shortfall Event, the Guarantor shall pay the City the Tax Increment Shortfall. For purposes of this Guaranty, "**Tax Increment Shortfall**" shall mean an amount equal to the difference between:

238

239

240

241

242

243

244

245

246

247 a. The real property taxes that would have been payable had the Property  
248 had an assessed value equal to the Minimum Base Value, using the applicable Minimum  
249 Base Value and tax rates for the year for which such calculation is to be performed, and

250 b. The actual real property taxes attributable to the Property and payable for  
251 such a tax year.

252 (b) If a Tax Increment Shortfall is owed to the City for a given tax year as described  
253 above, then Guarantor shall pay to the City (in addition to the real estate taxes for that tax year) an  
254 amount equal to the Tax Increment Shortfall for that tax year, within 30 days of demand but not sooner  
255 than the dates upon which real estate taxes for such tax year come due. The Guarantor will continue to  
256 guarantee the appropriate annual Tax Increment Shortfall payments to the City until the year for which the  
257 assessed value of the Property is equal to or greater than the Minimum Base Value. If and when the  
258 assessed value of the Property, as of any subsequent January 1 during the life of the District, is equal to  
259 or greater than \$48,165,000, no Tax Increment Shortfall calculations and payments shall be incurred for  
260 such year or any year thereafter, and Guarantor shall have no further liability or obligations under this  
261 Guaranty.

262 3. **Consent to City Actions; No Discharge.** Guarantor agrees that the City does not have  
263 to take any steps whatsoever to proceed against Developer, Affiliate or any other guarantor or surety  
264 either before or after proceeding against Guarantor for the Tax Increment Shortfall. Guarantor also  
265 agrees that the City may do or refrain from doing any of the following without notice to, or the consent of,  
266 Guarantor, without reducing or discharging Guarantor's liability under this Guaranty:

267 (a) renew, amend, modify, extend or release any existing or future obligations of  
268 Developer (including changing the amount, time or manner of payment of any obligations) regardless of  
269 when such modifications are made;

270 (b) amend, modify, supplement, or waive compliance with, any of the provisions of  
271 documents evidencing or related to any of the obligations of Developer.

272 (c) settle, modify, release, compromise or subordinate any obligation, any guaranty  
273 of Developer's obligations, any collateral securing Developer's obligations or any guaranty of Developer's  
274 obligations, or the liability of any other party responsible for payment of any obligation.

275 (d) accept partial payments, and

276 (e) apply any payments and all other amounts received from the Developer, from  
277 liquidation of any collateral or from any other guarantor to Developer's obligations (or any other amounts  
278 due to the City) in any manner that the City elects. Guarantor's liability will not be reduced or discharged  
279 by the City's failure or delay in perfecting (or to continue perfection of) any security interest, mortgage or  
280 other lien on any collateral securing Developer's obligations, or to protect the value or condition of any  
281 such collateral.

282 **THE CITY MAY COLLECT FROM GUARANTOR WITHOUT FIRST TRYING TO COLLECT FROM**  
283 **DEVELOPER OR ANY OTHER GUARANTOR.**

284 4. **Waivers.** Guarantor expressly waives all rights of setoff and counterclaims, as well as  
285 diligence in collection or prosecution, presentment, demand of payment or performance, protest, notice of  
286 dishonor, nonpayment or nonperformance of any Obligation. Guarantor also expressly waives notice of  
287 acceptance of this Guaranty, and the right to receive all other notices and demands of any kind relating to  
288 the Obligations or this Guaranty. Guarantor agrees that no claim, including a claim for reimbursement,  
289 subrogation, contribution or indemnification which any of the undersigned may, as a guarantor of the  
290 Obligations, have against a co-guarantor of any of the Obligations or against Developer shall be enforced  
291 nor any payment accepted until the Obligations are paid in full and no payments to or collections by the  
292 City are subject to any right of recovery.

293           **5.     Guarantor's Financial Condition.** Guarantor warrants and represents to the City that  
294 Guarantor is sufficiently knowledgeable and experienced in financial and business matters to evaluate  
295 and understand the risks assumed in connection with the execution of this Guaranty.

296           **6.     Recoupment of Guaranty Payments.** Throughout the term of the District and  
297 notwithstanding Developer's failure to perform any of its obligations under the Development Agreement, if  
298 Affiliate and/or Guarantor has paid the City for any Tax Increment Shortfall for a prior tax year or years  
299 and a Tax Increment Surplus (as defined herein) is achieved by the District for any subsequent tax year  
300 or years falling within the term of the District, the City shall pay to Affiliate and/or Guarantor the Tax  
301 Increment Surplus until Affiliate/Guarantor has recouped the total amount of all Tax Increment Shortfall  
302 payments previously paid by Affiliate and/or Guarantor to the City. As used herein, the "**Tax Increment**  
303 **Surplus**" shall mean the positive difference, if any, between the real property taxes actually paid for the  
304 Property and the amount of real property taxes that would have been payable had the Property had an  
305 assessed value equal to the Minimum Base Value, using applicable Minimum Base Value and tax rates  
306 for the tax year for which such calculation is to be performed. If a Tax Increment Surplus is achieved for a  
307 given tax year as described above, then the City shall pay to Affiliate and/or Guarantor an amount equal  
308 to the Tax Increment Surplus for that tax year, up to the total amount of all Tax Increment Shortfall  
309 payments previously made by Affiliate and/or Guarantor and not previously recouped under this Section  
310 6, on or before October 1 of such tax year.

311           **7.     Duration of Guaranty.** This is an irrevocable and absolute Guaranty and shall not be  
312 revoked by dissolution, merger, bankruptcy or insolvency of Guarantor. This Guaranty shall be  
313 automatically released and terminated upon the Full Performance Date without further action by the City  
314 or the Developer.

315           **8.     Successors.** If Guarantor shall become the subject of any bankruptcy or insolvency  
316 proceedings or fail to comply with the terms of this Guaranty or any related document, Guarantor's liability  
317 hereunder to pay the Tax Increment Shortfall shall become immediately due and payable to the extent  
318 then due and payable by Affiliate. This Guaranty shall inure to the benefit of the City and shall be binding  
319 on successors and assigns of Guarantor.

320           **9.     Severability; Prior Agreements; Amendment.** Invalidity of any provision of this  
321 Guaranty shall not affect the validity of any other provision. This Guaranty and the documents evidencing  
322 the Obligations contain the entire agreement of the parties regarding this matter; and any prior  
323 representations, promises or agreements (whether oral or written) which are not a part of this Guaranty,  
324 or the documents described above are not enforceable. The terms of this Guaranty may not be altered,  
325 amended or waived except by another written agreement signed by the Guarantor and the City.

326           **10.    Governing Law.** This Guaranty will be governed by the laws of the State of Wisconsin  
327 without regard to its conflicts of law provisions. This Agreement has been accepted by the City in the  
328 State of Wisconsin.

329           **11.    Jurisdiction.** Guarantor hereby consents to the jurisdiction of any state or federal court  
330 situated in the county or federal jurisdiction where the City is located, and waives any objection based on  
331 an inconvenient forum, with regard to any actions, claims, disputes or proceedings relating to this  
332 Guaranty, any related document, any transactions arising therefrom, or enforcement and/or interpretation  
333 of any of the foregoing. Nothing in this Guaranty shall affect the City's right to serve process in any  
334 manner permitted by law or limit the City's right to bring proceedings against Guarantor in the competent  
335 courts of any other jurisdiction or jurisdictions.

336           **12.    Waiver of Jury Trial.** **GUARANTOR WAIVES ANY AND ALL RIGHT TO TRIAL BY**  
337 **JURY IN ANY ACTION OR PROCEEDING RELATING TO THIS GUARANTY, ALL DOCUMENTS**  
338 **RELATING TO THIS GUARANTY, THE OBLIGATIONS UNDER THIS GUARANTY OR ANY**  
339 **TRANSACTION ARISING FROM OR CONNECTED TO THIS GUARANTY. GUARANTOR**  
340 **REPRESENTS THAT THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY GIVEN.**

341

[GUARANTOR]

3LP West Allis LLC

342

By: [Signature]

343

Title: Manager

344

STATE OF WISCONSIN )

345

Waukesha ) ss.

346

COUNTY )

347

Personally came before me this 12th day of December, 2023 the above

348

named Mat Brown, to me known to be the Manager of

349

~~[GUARANTOR]~~ and the person who executed and acknowledged the foregoing document, as the deed of

350

said corporation, by its authority and acknowledged the same.

351

3LP West Allis LLC

Derek J. Taylor

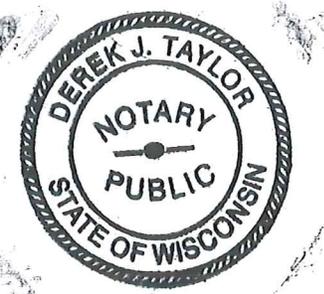
352

Notary Public, State of Wisconsin

353

My Commission: 15 Permanent

354



355

356

357

358

359

360

361

362

363

364

365

366

367

368

369

370

Attachment A to Exhibit H Increment Guaranty

371

372

Legal Description

373 COM 25.93 FT S OF NE COR SW 4 6 21 TH W 727.22 FT S 86.22 FT WLY 195.88 FT S 189.22 FT  
374 SELY 53 FT S 64.08 FT SELY 35.41 FT NELY 5.03 FT S TO C/L W NATL AVE NELY ON C/L W NATL  
375 AVE TO E LI SD 1/4 TH N TO BEG EX C PT FOR AVE & EXC CSM NO 5161

376 Attachment B to the EXHIBIT H Increment Guaranty

Assessment Year	Annual Base Value	Minimum Base Value
January 1, 2024_	\$1,000,200	\$1,000,200
January 1, 2025	\$1,000,200	\$2,000,400
January 1, 2026	\$1,000,200	\$20,000,000
January 1, 2027	\$1,000,200	\$48,165,000

377

378