

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement") is entered into as of November 4, 2020, by and between GG 003 LLC a Wisconsin limited liability company ("Developer"), and the CITY OF WEST ALLIS, a Wisconsin body politic ("City").

RECITALS

City and Developer acknowledge the following:

A. Developer intends to acquire in separate transactions approximately 0.6674 acres of real property in the City of West Allis, Wisconsin ("City"), comprised of tax key parcel 453-0270-001, tax key parcel 453-0272-001 and the portion of the 14-foot wide alley separating the two private parcels, as depicted and described on **Exhibit A** attached hereto (the "Property").

B. Developer is seeking an agreement with Milwaukee County to resolve outstanding tax liens on certain portions of the Property.

C. Subject to obtaining the benefits set forth herein, Developer plans on developing the Property into a multi-tenant dental and medical office building consisting of approximately 17,800 sq. ft. and 45 surface parking spaces ("Project"). The Project has an estimated budget of \$4,278,000. A preliminary site, landscaping and architectural plan showing projected future development of the Property is attached hereto as **Exhibit B**.

D. The City desires to encourage economic development, eliminate blight, expand the City's tax base and create new jobs within the City. The City finds that the development of the Property and the fulfillment of the terms and conditions of this Agreement will further such goals, are in the vital and best interests of the City and its residents, and will serve a public purpose in accordance with state and local law.

E. The development of the Property would not occur without the benefits to be provided to Developer as set forth in this Agreement.

F. The City, pursuant to R-2020-0446 dated September 15, 2020, approved an original agreement and authorized its execution by the proper City officials on the City's behalf. Furthermore, the City, pursuant to R-2020-0589 dated October 6, 2020, approved an amendment to the original agreement. This is the second amended agreement.

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

AGREEMENTS

In consideration of the RECITALS and the terms and conditions set forth herein, the parties agree and covenant as follows:

**ARTICLE I
DEVELOPER OBLIGATIONS**

A. The Developer shall acquire the Property through private real estate transactions and right-of-way vacation.

B. At Closing on Tax Key Parcel 453-0272-001 and 453-0270-001, Developer shall:

1. Satisfy or cause the satisfaction of any outstanding tax liens on the Property; and

2. Execute a forgivable loan in an amount equal to \$200,000 for the purchase of equipment and inventory costs related to Developer's establishment of a dental office at the Property ("Project Loan"). The \$200,000 forgivable loan will be funded with Community Development Block Grant funds. Pursuant to the requirements of that funding source, Developer shall create jobs for low-to-moderate income persons as outlined as follows:

a. Developer shall create at least 13 full-time equivalent positions for low-to-moderate income persons.

b. For purposes of this section, a low-to-moderate income person is defined as a member of a low to moderate income family within the applicable income limits for Section 8 Rental Assistance Programs which are set forth in **Exhibit C – Beneficiary Reporting Document**, which is attached hereto and incorporated within to this Agreement.

c. Full-time equivalent positions are defined by an employee working forty (40) hours per work week or a combination of part-time employees whose hours collectively total forty (40) hours.

d. A written certification from each low-to-moderate income person hired stating that the person's family income is below the Income Limitation in **Exhibit C**, as herein provided, with a statement that the information is subject to verification by HUD or the City by proper notice; and

C. On or before December 31, 2021, the Developer shall obtain from the City of West Allis an occupancy permit to operate a multi-tenant dental and medical office building that shall consist of approximately 17,800 sq. ft. and 45 surface parking spaces, and be reasonably consistent with Site, Landscaping and Architectural Plans in **Exhibit B**; and

D. Developer shall submit a beneficiary profile, attached as **Exhibit D**, for each position created pursuant to the terms of the \$200,000 forgivable loan; and,

E. The Developer shall ensure that new utilities serving the Property will be placed underground with the exception of a drop pole to provide service from We Energies to the Property, that existing poles serving other properties will be permitted above ground and the pole with no utilities or service currently located along the alley be removed.

F. Prior to constructing a building on the Property, the Developer shall obtain from the Wisconsin Department of Natural Resources any necessary exemption for development at a historic fill site.

3. Execute a Store Front Improvement Grant Contract in the amount of \$65,000 to assist with architectural enhancements to the Property.

ARTICLE II City OBLIGATIONS

A. At Closing, City shall:

1. Provide a forgivable loan in an amount equal to \$200,000 and a term of five (5) years for the purchase of equipment and inventory costs related to Developer's establishment of a dental office at the Property at ("Closing").

2. Provide a Storefront Improvement Grant to the Project as part of the National Avenue Commercial Corridor in the amount of \$65,000 to assist with aesthetic improvements to the proposed Project.

(i) Funding for the Storefront Improvement Grant will be disbursed upon project completion.

3. Provide additional Project grant support up to \$95,000 for delayed construction impact costs associated with property acquisition.

(i) Funds will be disbursed at Project completion and subject to City's consultant review of architectural draw statements and the overall final budget reconciliation. If construction savings are generated by the Project, any Construction Cost Savings will be shared 80/20 by the City and Developer.

4. Provide payment of \$165,542.97 to pay for the cost to raze and remove a building that was located on the Property, the cost of which was placed on the tax roll as a special charge. The City shall replenish the account from which this payment is made when Milwaukee County settles this special charge with the City.

5. Provide payment of \$12,487.25 to pay remaining outstanding liens on the 2019 tax bill.

**ARTICLE III
TRANSFER AND USE RESTRICTION; RIGHT OF FIRST REFUSAL**

A. Developer may not convey any legal or equitable title of the Property for five (5) years after the date of this agreement to any entity without the City's consent, unless the grantee is wholly owned by all the same individuals as Developer.

B. Developer shall cause the Property to be primarily used as a taxable dental and medical office building. Developer may not allow the Property to be used for any automotive services. Any other use of the Property must be incidental and subordinate to the primary business of a dental / medical office.

**ARTICLE IV
PAYMENT IN LIEU OF TAXES**

In the event that any portion of the Property becomes exempt from ad valorem taxes for a period of twenty (20) years after the date of Closing (the "PILOT Term"), then the Developer or any successor owner of such exempt portion of the Property shall make (or cause to be made) during the PILOT Term annual payments in lieu of taxes in amounts equal to what the ad valorem property taxes (based on the full tax rate) would have been for such portion of the Property (as determined by the City assessor) had it not been exempt. Such payment in lieu of taxes shall be due and payable at the same time and in the same manner as the ad valorem taxes would have been due and payable for such year. If the Developer or any successor owner fails to make a payment in lieu of taxes when due, the City may, in addition to all other remedies available to it, levy a special tax against the exempt portion of the Property in the amount of the unpaid payments. Any and all notice and hearing requirements which may be required under the law for such special tax are hereby waived by Developer. Notwithstanding the levying of such special tax, the payment obligation under this Article shall also be the personal obligation of the person or entity that is the owner of the Property at the time that any portion of the Property becomes exempt from ad valorem taxes. The covenant contained in this Article shall be deemed to be a covenant running with the land and shall be binding upon all owners of any portion of the Property for the duration of the PILOT Term. The City is hereby expressly declared to be a beneficiary of such covenant and entitled to enforce same against all successor owners of the Property.

**ARTICLE V
NO PARTNERSHIP OR VENTURE**

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

relating to the payment of money), and such failure shall continue for thirty (30) days following notice thereof from the City (or such longer period of time as is otherwise expressly set forth herein or as is reasonably necessary to cure the default as long as Developer has commenced the cure of the default within the thirty-day period, is diligently pursuing the cure of the default and as long as the default is cured not later than one hundred eighty days following the notice thereof from the City or such longer period of time as is reasonably agreed to by the City); or

5. City shall materially breach or fail to perform timely or observe timely any of its covenants or obligations under this Agreement (other than relating to the payment of money, which shall be cured by the City on or before five days following written notice of such failure), and such failure shall continue for thirty days following notice thereof from Developer (or such longer period of time as is otherwise expressly set forth herein or as is reasonably necessary to cure the default as long as the City has commenced the cure of the default within the thirty-day period, is diligently pursuing the cure of the default and as long as the default is cured not later than one hundred eighty days following the notice thereof from Developer); or

6. Developer:

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

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

(c) becomes the subject of an "order for relief" within the meaning of the United States Bankruptcy Code, or files a petition in bankruptcy, for reorganization or to effect a plan or other arrangement with creditors; or

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

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

(f) adopts a plan of complete liquidation of its/his assets; or

(g) shall cease to exist.

B. Upon the occurrence of any Default, without further notice, demand or action of any kind by the nondefaulting party, the nondefaulting party may, at its option, pursue any or all rights and remedies available at law and/or in equity. The City's rights shall include, but not be limited to, specific performance, the termination of this

Agreement, and/or the calling of any or all principal, interest, and penalties due on the Project Loan or Code Compliance Loan.

C. No remedy shall be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement, and/or now or hereafter existing at law or in equity. No failure or delay on the part of any party in exercising any right or remedy shall operate as a waiver thereof nor shall any single or partial exercise of any right preclude other or further exercise thereof or the exercise of any other right or remedy.

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

ARTICLE IX MISCELLANEOUS

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

B. Developer hereby indemnifies, defends, covenants not to sue and holds the City harmless from and against all loss, liability, damage and expense, including attorneys' fees, suffered or incurred by the City by reason of the following: (i) the failure of Developer or its contractors, subcontractors, agents, employees, or invitees to comply with any environmental law, rule, regulation or ordinance, or any order of any regulatory or administrative authority with respect thereto; (ii) any release by Developer or its contractors, subcontractors, agents, employees, or invitees of petroleum products or hazardous materials or hazardous substances on, upon or into the Property; (iii) any and all damage to natural resources or real property or harm or injury to persons resulting or alleged to have resulted from any failure by the Developer and/or its contractors, subcontractors and/or agents to comply with any law, rule, regulation or ordinance or any release of petroleum products or hazardous materials or hazardous substances as described in clauses (i) and (ii) above; (iv) any violation by Developer or at the Project of any environmental law, rule, regulation or ordinance; (v) claims arising in connection with the Project under the Americans With Disabilities Act, and any other laws, rules, regulations or ordinances; (vi) the failure by Developer to comply with any term or condition of this Agreement; (vii) injury to or death of any person at the Project or injury to any property caused by or at the Project; and (viii) the failure of Developer to maintain, repair or replace, as needed, any portion of the Project. The foregoing indemnity shall not apply to any claims or damages arising under clauses (i) through (viii) of the previous sentence to the extent such claims or damages are attributable to the negligence or willful misconduct of the City.

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

C. Time is of the essence of each and every obligation or agreement contained in this Agreement.

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

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

F. This Agreement may not be assigned by the Developer without the City's prior written consent, which may be granted or withheld in the City's reasonable discretion.

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

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

IN WITNESS WHEREOF, this Agreement is executed as of the date first above written.

City of West Allis

By: _____
John Stibal, Director of Development

STATE OF WISCONSIN)
) ss.
MILWAUKEE COUNTY)

Personally appeared before me this ____ day of _____, 2020, the above-named John Stibal, Director of Development for the City of West Allis, to me known to be the person who executed the foregoing agreement on behalf of the City and by its authority and acknowledged the same.

Name: _____
Notary Public, State of Wisconsin
My Commission expires:

COMPTROLLER'S CERTIFICATE

Countersigned this ____ day of _____, 2020, and I certify that the necessary funds have been provided to pay the liability that may be incurred by the City of West Allis under this Agreement.

Kris Moen
Acting Finance Director, Comptroller, Treasurer

Approved as to form this ____ day of _____, 2020.

Kail Decker
City Attorney

GG 003 LLC

By: _____
Max Meinerz, owner and member

STATE OF WISCONSIN)
) ss.
_____ COUNTY)

Personally appeared before me this ____ day of _____, 2020, the above-named _____, as member of _____, to me known to be the persons who executed the foregoing agreement on behalf of said limited liability company and by its authority and acknowledged the same.

Name: _____
Notary Public, State of Wisconsin
My Commission expires: _____

This instrument was drafted by
and upon recording return to:

Kail Decker
7525 W. Greenfield Avenue
West Allis, WI 53214

EXHIBIT A

Legal Description of Property

LEGAL DESCRIPTION PER DOC #8689043

REF: 100102
IE: W. 135.08

PARCEL 1:

LOTS 18 AND 19, IN BLOCK 2, IN LEFEBER'S SUBDIVISION NO. 3, A SUBDIVISION OF A PART OF THE NORTHWEST 1/4 OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 21 EAST, IN THE CITY OF WEST ALLIS, MILWAUKEE COUNTY, WISCONSIN.

PARCEL 2:

ALL OF LOTS 20, 21, 22 AND 23, IN BLOCK 2, IN LEFEBER'S SUBDIVISION NO. 3, AND LOT 24 AND THE WEST 5 FEET OF LOT 25, IN BLOCK 2 IN CONTINUATION OF LEFEBER'S SUBDIVISION NO. 3, A SUBDIVISION OF A PART OF THE NORTHWEST 1/4 OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 21 EAST, IN THE CITY OF WEST ALLIS, MILWAUKEE COUNTY, WISCONSIN.

EXHIBIT C

Beneficiary Income Level Chart

Income Limits	Family Size and Income Levels (2019)								
	<i>* Verification that an employee's household meets the Low to Moderate income limits is required in order to be eligible for this grant</i>								
	Income Level	1 person	2 person	3 person	4 person	5 person	6 person	7 person	8 person
	Extremely Low	17,300	19,800	22,250	25,750	30,170	34,590	39,010	43,430
	Low	28,850	32,950	37,050	41,150	44,450	47,750	51,050	54,350
	Moderate	46,100	52,700	59,300	65,850	71,150	76,400	81,700	86,950
Non-Low/Moderate	45,101+	52,701+	59,301+	65,850+	71,150+	76,401+	81,701+	86,951+	

EXHIBIT D Beneficiary Profile Report



Employee Family Income Form

West Allis is able to offer this service/program through a grant from the federal government. One requirement of this grant is that the City keeps track of all the individuals this program assists by family size and income level. To help with this requirement, we ask for your assistance. Please complete the information required below so that we may track the individuals we are assisting through this program. Please be aware the information is completely confidential and will not be released but is for record keeping and required federal reporting purposes only.

Thank you for your cooperation.

Name: _____
 Address: _____
 Phone Number: _____
 Email: _____

Race (You MUST mark one):

- | | |
|---|---|
| <input type="checkbox"/> American Indian/Alaskan and Black/African American | <input type="checkbox"/> Black/African American |
| <input type="checkbox"/> American Indian/Alaskan Native | <input type="checkbox"/> Black/African American and White |
| <input type="checkbox"/> American Indian/Alaskan Native and White | <input type="checkbox"/> Native Hawaiian/Other Pacific Islander |
| <input type="checkbox"/> Asian | <input type="checkbox"/> White |
| <input type="checkbox"/> Asian and White | <input type="checkbox"/> Other: Multi-Racial |

Ethnicity (You MUST mark one):

- Hispanic
 Non-Hispanic

Family Size and Income Levels (2019)

Below you will find a chart listing the various household income levels. Find your family size along the top of each column. Check ✓ the lowest ** amount which exceeds your family income.

Income Level	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
Extremely Low	\$17,300	\$19,800	\$22,250	\$25,750	\$30,170	\$34,590	\$39,010	\$43,430
Low	\$28,850	\$32,950	\$37,050	\$41,150	\$44,450	\$47,750	\$51,050	\$54,350
Moderate	\$46,100	\$52,700	\$59,300	\$65,850	\$71,150	\$76,400	\$81,700	\$86,950
Non-Low/Moderate	\$46,101+	\$52,701+	\$59,301+	\$65,850+	\$71,150+	\$76,401+	\$81,751+	\$86,951+

* "Family" means all persons residing in the same household
 ** "Income" means that of all members of the family over 18 years of age. However, unearned income (such as income from trust funds or investments) must be included regardless of the age of the beneficiary. Income includes wages, pensions, social security benefits, rents, and interest from any asset.

Female Head of Household? Yes No

I understand that the information provided in this certification is subject to verification by the City of West Allis and/or HUD

Name: _____
 Signature: _____



Employee Family Income Data Form

Employer:

After the new and current employees have complete the "Employee Income Certification Form", please provide the following information for all employees (new, current, retained, terminated) that were hired as a result of the Economic Development Project/Loan Program project.

1. Employer Information	
Name: _____	
Address: _____	
City: _____	State: _____ Zip: _____
2. Employee Information	
Name: _____	
Address: _____	
City: _____	State: _____ Zip: _____
3. Employee Identification Number or Social Security Number: _____	
4. Job Title: _____	
5. Date Hired: _____	
5a. Date Terminated, if applicable: _____	
5b. Date Retained: _____	
5c. Date Replacement Hired, if applicable: _____	
6. Average Hours Worked Per Week: _____	<input type="checkbox"/> Full Time <input type="checkbox"/> Part Time
7. When hired, was the employee LMI (Low and Moderate Income)? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Are there employer sponsored healthcare benefits? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Was employee unemployed prior to employment? <input type="checkbox"/> Yes <input type="checkbox"/> No	
8. Category of work (Check ✓ One):	
<input type="checkbox"/> Office & Manager	<input type="checkbox"/> Craft Workers (Skilled)
<input type="checkbox"/> Technicians	<input type="checkbox"/> Operators (Semi Skilled)
<input type="checkbox"/> Sales	<input type="checkbox"/> Laborers
<input type="checkbox"/> Office & Clerical	<input type="checkbox"/> Service Worker