

1 Project area. The Plan Commission approved the site plan on May 29, 2024, generally consistent
2 with the preliminary site plan and rendering, attached hereto as **Exhibit B** (the “Project Plans”).
3 and,

4 **WHEREAS**, the Property and Project are located in a newly created City Tax Incremental
5 District Number 20 (the “District”) which City has established in order to finance project costs
6 related to eliminating blight within the District as permitted under Wis. Stat. Section 66.1105; and,

7 **WHEREAS**, pursuant to the Purchase and Sale Agreement, West Allis agreed to provide
8 certain financial incentives and assistance to allow the Developer to develop the Project and the
9 Developer would not undertake the development and construction of the Project without such
10 financial incentives and assistance; and,

11 **WHEREAS** the Parties desire to set forth in writing the terms of such financial incentives
12 and assistance in the terms and conditions under which West Allis will provide such financial
13 incentives and assistance; and,

14 **WHEREAS**, the Developer plans to expend certain costs to construct the Project and all
15 such costs as described on **Exhibit C – Project Costs of the Development Financing Agreement**
16 hereto (the “Project Costs”).

17 **WHEREAS**, the Project will serve the purpose of eliminating the blighted conditions which
18 exist in the District in accordance with Section 66.1105(4) (gm)4. a.-b. of the Wisconsin
19 Statutes.

20 **WHEREAS**, West Allis has determined that the Project and the City Investment (defined
21 below) related to the Project serve a public purpose by eliminating blighted conditions and
22 encouraging residential development within the City, enhancing the City’s tax base, promoting

1 employment opportunities, inducing appropriate development of the Property, and
2 encouraging redevelopment of nearby parcels; and,

3 **WHEREAS**, Developers would not undertake the Project without the availability of tax
4 increment financing as provided in this Agreement; and

5 **NOW, THEREFORE**, the Parties, in consideration of the terms, mutual obligations and
6 conditions contained in this Agreement and for other good and valuable consideration, the receipt
7 and sufficiency of which are hereby acknowledged, agree as follows:

8 **1. Developer Investment, Equity and Financing.** On or prior to Closing, Developer will
9 demonstrate to the City that in connection with the Project: (i) Developer has obtained
10 approximately \$5.733 million in a combination of (a) debt financing from a private lending
11 institution (the "Debt Financing") and (b) private equity ("Equity"). Developer shall have the
12 right to adjust the projected amounts of Debt Financing and Equity provided that Developer
13 shall, in the aggregate, have obtained sufficient Debt Financing and Equity that, together with
14 the public funding and financing assistance described in this Agreement, is sufficient to
15 complete development of the Project. Developer and/or its affiliates shall provide any and
16 all guaranties required to obtain the necessary Debt Financing provided any and all such
17 guaranties are on commercially reasonable terms and conditions and consistent with
18 Developer's and its affiliates' standard practices.

19
20 **2. Tax Increment Financing.** Pursuant to the Wisconsin Tax Increment Law, Wis. Stats.
21 §66.1105 *et seq.*, the Common Council of the City of West Allis created by resolution Tax
22 Incremental District Number 20, City of West Allis, as of July 10, 2024 (the "District") and
23 approved the project plan (the "Project Plan") for the District (hereby incorporated by

1 reference as **Exhibit D – Tax Incremental District Number 20**). The Property is within the
2 boundaries of the District and the transaction contemplated by Purchase and Sale
3 Agreement, the Development Agreement and this Agreement is essential to the viability of
4 the District.

5 a. The Project to be developed by the Developer benefits the surrounding
6 neighborhood and West Allis (i.e. the City and the Authority) as a whole. West Allis
7 has determined that the Project is consistent with Project Plan and the City’s 2040
8 Master Plan as of May 29, 2024.

9 b. West Allis desires to encourage economic development, expand the tax
10 base, and create new jobs within the area, all in furtherance of and in compliance
11 with the TID Project Plan and the Master Plan. West Allis finds that the Project and
12 this Agreement are in the vital and best interests of West Allis and its residents and
13 serve a public purpose in accordance with state and local law.

14 c. The Project would not occur without the financial participation of West Allis
15 as provided herein.

16 d. The City has created a Tax Incremental Financing District to facilitate the
17 actions and financings described in this Agreement. Property taxes paid on
18 properties located within TID in excess of those paid on the base valuation are
19 referred to as “Tax Increments.”

20 **3. TID Law.** All terms that are capitalized but not defined in this Agreement and that are
21 defined under the Tax Increment Law shall have the definitions assigned to such terms by the Tax
22 Increment Law in Section 66.1105 of Wisconsin Statutes.

23 **4. Financial Assistance.** West Allis hereby agrees to provide to the Developer for the
24 Project the following financial incentives and financial assistance:

1 a. Property Conveyance. The City owns the Project area and hereby agrees to
2 convey the Property to the Developer or its affiliate for \$1 in accordance with the terms of the
3 Purchase and Sale Agreement.

4 b. Developer Municipal Revenue Obligation. West Allis will provide to the
5 Developer an amount not to exceed \$4,057,961 of "Pay Go" TIF payments (referred to as "D-
6 MRO") to the Developer based on the estimates provided in **Exhibit E – TIF Model of the**
7 **Development Financing Agreement** plus the D-MRO Shortfall.¹ The amount of each annual
8 payment will vary based upon the Projects increment paid. Estimated payments are
9 provided on Exhibit F and were prepared and modeled by the City's TIF consultant Ehlers and
10 hereby attached. The Annual Payment will be made based upon the actual Tax Increment
11 received by West Allis but can be greater than or less than the amount shown in Exhibit F.
12 Adjustments to the amount paid in any year of the D-MRO Schedule shall not amend or
13 modify the maximum total amount of D-MRO, estimated at \$4,057,961. This Section 4(b) of
14 the Agreement evidences the obligation of West Allis to make the D-MRO payments to the
15 Developer in accordance with the final D-MRO Estimated Schedule. The sole source of the
16 repayment for the D-MRO will be Tax Increments from the Project. Installments of the D-
17 MRO shall commence on October 1 in the first year that project generates Tax Increment and
18 will be due and payable on each October 1 thereafter, through October 1, 2052. At the
19 closing on the sale of the Property to the Developer (the "Closing"), at the Developer's
20 request, West Allis will issue an estimated payment schedule to evidence the D-MRO (the D-
21 MRO Estimated Schedule"), as attached and incorporated herein as **Exhibit F - TID #20-6400**

¹ West Allis and Developer acknowledge and agree that the net present value of the D-MRO calculated in Exhibit IIII (\$1,592,420) is less than the originally agreed-upon D-MRO (\$1,665,533), resulting in a shortfall of \$73,133 (the "D-MRO Shortfall"). As a result, West Allis agrees to first contribute any Net Savings allocable to West Allis pursuant to Section 8 of this Agreement toward the D-MRO Shortfall for the benefit of Developer before depositing any such Net Savings into the TID Fund Balance.

1 **Block Cash Flow Projection**, to effect a total of disbursement in the estimated amount of
2 \$4,057,961 over the 27 years following the Closing based on the final D-MRO Schedule.

3 c. Environmental Assistance. West Allis will utilize funds from an EPA
4 Assessment grant to assist with additional environmental costs on City owned land. Other
5 environmental costs beyond the Phase II following closing, shall be the responsibility of the
6 Developer.

7
8 **5. Takeout Refinancing**. The Developer anticipates a Takeout Refinancing (as hereinafter
9 defined) of Debt Financing within twelve (12) months following Project Stabilization (as hereinafter
10 defined). If sufficient Takeout Proceeds (as hereinafter defined) are available, Developer shall
11 make a payment to the Authority out of the Takeout Proceeds within fifteen (15) months following
12 Project Stabilization.

13
14 a. the Takeout Payment shall not cause the projected cash-on-on-cash return on the
15 Investor Equity (as hereinafter defined) for the year immediately following the date of the Takeout
16 Refinancing to be less than 7% based on the NOI (as hereinafter defined); and,

17 b. the Debt Service Coverage Ratio (“DSCR”) in the year immediately following the closing
18 of the Takeout Refinancing must be at least 1.20 based upon the action terms of the Takeout
19 Refinancing and the NOI.

20 As used herein, “NOI” shall mean the net operating income from the Project that is equal to
21 the actual in-place net operating income from the 12-month period immediately preceding the
22 closing of the Takeout Refinancing.

1 c. Definition of Takeout Refinancing. As used herein, "Takeout Proceeds" shall mean
2 proceeds available to Developer from the Takeout Refinancing less: (i) payment of all closing costs
3 in connection with the Takeout Refinancing, (ii) payment of all sums required to satisfy existing
4 mortgages on the Property, (iv) establishment of reasonable reserves, including, without limitation,
5 any reserves required by the Takeout Lender (as defined below); and (vi) payment of all sums
6 required to pay the current year and any and all accrued preferred returns to investors in the
7 Project, under the Project's limited liability company agreement.

8 d. Underwriting Criteria for Takeout Refinancing. The Parties acknowledge and agree that
9 the total loan amount for the Takeout Refinancing will be subject to Developer's sole discretion and
10 subject to Developer's then-current underwriting criteria.

11 **6. Application of Tax Increments.** The West Allis annual budget, as prepared by staff
12 and as submitted to City's Common Council for approval, will include payments on the D-MRO to
13 be made in such budget year, and that its staff will request the necessary appropriation from the
14 Common Council for the portion amount of the Tax Increments of the Property minus
15 administrative fees, to be generated that year, will advise the Common Council of any effect on
16 City's credit rating of any failure to appropriate sufficient funds toward payment of D-MRO, and will
17 exhaust all available administrative reviews and appeals in the event that that portion of the budget
18 is not approved.

19 Increments shall be applied as follows:

20 a. Payment of any outstanding City administration fees for certain expenses in
21 connection with the administration of the TIF #20 and administration of the D-MRO as outlined in
22 the **Exhibit F.**

1 b. Payment of annual payment of the D-MRO as set forth in **Exhibit G** attached hereto.

2 c. The Tax Increments shall be calculated based on the tax incremental base value
3 and the actual value increment for the Property, as determined annually by City.

4 Any amounts due in any year for the City TID Administration Fee and the D-MRO shall carry
5 over until paid or waived upon closure of TID #20. The City TID Administration Fee and D-MRO
6 shall carry over without interest.

7 **7. Developer Completion Guaranty.** Developer shall provide West Allis with a Guaranty of
8 Completion for the Project. "Completion" shall be defined as the issuance of the Certificate of
9 Completion (as defined in the Development Agreement). Upon Completion, the Guaranty of
10 Completion shall be released in its entirety. The form of the Guaranty of Completion is attached
11 hereto as **Exhibit - H Completion Guaranty.**

12 **8. Savings Agreement.** West Allis and the Developer have agreed on a final Project Budget
13 for the Project substantially in the form attached as **Exhibit C** (the "Project Budget"). West Allis will
14 be engaging, at its expense, a construction cost consultant to review the Project Budget and to
15 monitor final costs. West Allis agrees in good faith to consider using the same construction cost
16 consultant as is being used by the Developer's Lender in connection with the Project. The
17 Developer agrees to cooperate with the consultant and provide such information as the consultant
18 may request to satisfy this section.

19 a. Cost Savings Definition. "Cost Savings" shall mean the difference, if any,
20 between (i) total disbursements by or on behalf of the Developer, its affiliates, or their
21 assignees in connection with the Project and (ii) the Project Budget. Amounts remaining
22 unspent in any category within the Project Budget may be used to offset cost overruns in

1 any other category of the Project Budget. West Allis acknowledges that in order to maximize
2 the success of the Project, is critical for the Developer to maintain discretion over the
3 application of the Cost Savings to toward various items in the Project Budget. West Allis
4 agrees that the Developer need not obtain the prior approval of West Allis as it relates to the
5 application of Cost Savings, provided, the Developer agrees to apply Costs Savings in good
6 faith based on commercially reasonable business judgment.

7 b. Application of Cost Savings. Upon Project Stabilization (defined below),
8 Cost Savings shall be applied in the following priority:

9 i. The Developer shall fund into an account (the "Capital Reserve Account")
10 an amount equal to \$40,769,00 to pay for replacement costs, capital improvements
11 and non-routine operating expenses associated with the Project, including without
12 limitation, construction defects and failures to the extent not covered by applicable
13 warranties, and deductibles on insurance claims without the prior consent of the
14 West Allis; then

15 ii. Any remaining Costs Savings after item (i) above ("Net Savings") shall be
16 paid 50% to the West Allis and 50% to the Developer. West Allis shall deposit any
17 Net Savings it receives (1) first to satisfy any current D-MRO Shortfall between the
18 \$1,592,420 Net Present Value outlined in Exhibit F and the \$1,665,533 Total D-MRO
19 as outlined in Section 4.b above, then (2) into the TID Fund Balance. This calculation
20 and distribution of Net Savings negates the need for any other current or future
21 Project Budget-related reductions of the Total D-MRO of D-MRO payment streams.

1 c. Capital Reserve Account. Developer and West Allis hereby acknowledge
2 and agree that Developer shall have the right to withdraw funds from the Capital
3 Reserve Account during the two-year period commencing at Project Stabilization
4 (the "Reserve Period") to pay for replacement costs, and non-routine operating
5 expenses, including without limitation, construction defects and failures to the
6 extent not covered by applicable warranties, and deductibles on insurance claims
7 without the prior consent of West Allis. Upon the expiration of the Reserve Period,
8 any funds remaining in the Capital Reserve Account shall be distributed 40% to
9 West Allis and 60% to the Developer. West Allis shall deposit any such distribution
10 it receives (1) first, to satisfy any D-MRO Shortfall, and then (2) into the TID Fund
11 Balance.

12 d. Calculation of Net Savings. Final determination of Net Savings shall be
13 made by West Allis's construction cost consultant, in good faith and acting
14 reasonably, subject to the reasonable review and approval of Developer. The
15 calculation of the actual cost of the Project and therefore the determination of Net
16 Savings will conform to the disbursement records of the Developer's construction
17 lender and a qualified Title Insurance Company. Within 60 days following Project
18 Stabilization, Developer shall provide West Allis and its construction cost
19 consultant with a detailed description of the actual costs of the Project in a manner
20 and format consistent with the original Project Budget. West Allis or its consultant
21 may request any additional support or verification as may be reasonably needed,
22 including invoices and other proof of payments to compare the final cost to the
23 original Project Budget.

1 **9. Project Stabilization Definition.** “Project Stabilization” shall mean the earlier of
2 (a) the date upon which the Project has achieved and maintained 95% physical occupancy of
3 apartments available for rent (i.e., excluding from total apartment count, models and units
4 occupied for marketing and management purposes) continuously over any ninety (90) day period or
5 (b) the fifth (5th) anniversary of the date of Closing. Notwithstanding the foregoing, Developer may
6 make a distribution of all or any percentage of Net Savings payable to West Allis prior to achieving
7 95% physical occupancy if necessary or desirable to comply with any applicable loan covenants
8 and obligations in effect in connection with any Debt Financing.

9 **10. Profit Participation.**

10 a. Profit Participation Triggers. In further consideration of the participation by
11 West Allis in this Agreement, and as more particularly provided below, upon the occurrence
12 (during the time in which TID #20 remains open) of: 1) a sale by Developer or its affiliate of
13 the Project or the conveyance of greater than a majority and controlling interest in
14 Developer or its affiliate then owning the Project to any third-party unrelated to Developer (a
15 “Sale”); or 2) a Cash Out Refinancing (as defined below) of the Project (each a “Trigger
16 Event”), West Allis shall be entitled to a one-time Profit Participation for each Trigger Event
17 as hereinafter provided.

18 b. Contingent Payment and Definition.

19 If Net Proceeds (as hereinafter defined) resulting from a Sale or Cash Out
20 Refinancing, and provided further that the conditions outlined below are satisfied, in
21 sufficient amounts to result in the total Investor Equity (as hereinafter defined) realizing a
22 Levered Before-Tax Internal Rate of Return, to be determined based on the methodology

1 reflected in the example calculation attached hereto as **Exhibit I – Calculation of Rate of**
2 **Return** and in accordance with standard industry practice (“IRR”) (i) in excess of 15%, then,
3 then 20% of the remaining proceeds shall be paid to the Authority, or (ii) in excess of 18%,
4 then, 50% of the remaining proceeds shall be paid to the Authority (each, the “Contingent
5 Payment”). There shall be no Contingent Payment if the IRR realized is below 15%. The
6 Authority shall deposit any Profit Participation it receives into (1) first, to satisfy any D-MRO
7 Shortfall, and then (2) into the TID Fund Balance.

8 c. Definition of Investor Equity. As used herein, “Investor Equity” shall mean
9 the cash invested into the Project by investor members including the Developer.

10 d. Definition of Cash Out Refinancing. “Cash Out Refinancing” mean
11 refinancing of the Project that generates sufficient cash to directly result in a cash
12 distribution to the Developer that results in the members receiving a return of all their
13 capital and the preferred returns and distributions earned through the date of such event,
14 and the Developer receiving a return of all its capital and preferred returns. As necessary,
15 the amount of Net Proceeds for purposes of calculating the IRR from partial cash out
16 financings, where cash is distributed to the members but in insufficient amounts to return
17 all of such capital and returns, and partial Sale events after which Developer retains a
18 continued ownership interest in the Project, will be accumulated for purposes of
19 establishing the total amount of Net Proceeds for purposes of calculating the IRR and will
20 not be paid until the total amount of the Net Proceeds can be calculated. Unless otherwise
21 agreed to by the Developer and West Allis, the Profit Participation shall be paid in one lump
22 sum pursuant to the terms and provisions herein and as more particularly set forth below.

1 e. Definition of Net Proceeds. "Net Proceeds" is herein defined to mean the
2 gross sale or refinancing proceeds, less:

3 i. Costs of the sale and customary costs of closing or the costs of
4 refinancing, such as title insurance, closing fees, brokers' fees, lenders' fees and
5 points, taxes, recording fees, transfer fees, expense prorations, accounting
6 expenses and attorneys' fees;

7 ii. Amounts due lender(s) under the notes and financing agreements
8 for the Project (including any working capital loans or other advances of funds made
9 by Developer or any of its members or affiliates for the Project); and

10 iii. Investor Equity, including any accrued and unpaid preferred return
11 thereon.

12 f. Timing of Payment. Upon the occurrence of a Trigger Event that requires the
13 Developer to pay the Profit Participation, the Developer shall have up to ninety (90) days after
14 the determination of the amount of the Profit Participation to make such payments. Any
15 determination shall be made utilizing a final closing statement from such Trigger Event.

16 g. West Allis Ongoing Obligations. If a Sale occurs before closure of TID #20,
17 West Allis agrees to (i) continue to make the scheduled payments of the D-MRO (to the
18 extent not already fully disbursed), to disburse payments either to the Developer, or at
19 Developer's option, to the purchaser of the Project or to the purchaser of the controlling
20 interest in Developer or to the then owner of the Project (to the extent not already fully
21 disbursed), and (ii) to continue administering and operating TID #20 in accordance with this
22 Agreement.

1 **11. Conditions to the Parties' Obligations.** The parties' obligations to complete their
2 respective obligations are conditioned on the following being satisfied:

3 a. Zoning & Design Review. The City shall have approved any and all licenses,
4 permits and approvals required for the construction of the Project.

5 b. Evidence of Financing. Evidence that the Developer has secured sufficient
6 financing commitments to enable the Project to proceed.

7 c. Legal Agreements. The Purchase and Sale Agreement, the Development
8 Agreement and this Agreement have been executed and delivered by the applicable parties
9 thereto and all of the conditions to the closing on the Property and the development of the
10 Project have been satisfied or waived by the party benefiting therefrom (collectively, the
11 "Legal Agreements").

12 d. City Financing Approvals. The City shall have approved and shall have taken
13 all actions necessary on the part of the municipality, to properly authorize the above-
14 contemplated actions, investments, contracts and findings, including issuance of the D-
15 MRO and the Legal Agreements.

16 **12. Prevailing Wage Not Required.** City is not aware of any obligations on the part of
17 the Developer arising out of any obligation of or to West Allis that would require Developer
18 to enforce, impose or apply any prevailing wage requirements or any other wage or labor
19 affiliation restrictions on its contractors in connection with any aspect of the Project. City
20 is not aware of any requirement that municipal bidding procedures be utilized to select a
21 contractor for any of the contemplated work.

22 **13. PILOT and Shortfall Agreement.**

1 a. PILOT. Ownership and/or use of the Property, or any part thereof, by any
2 person, partnership, corporation, or entity, which in any manner renders any part of the
3 Property exempt from property taxation during the life of TID #20 shall result in a payment in
4 lieu of taxes from the owner of that portion of the Property that is so exempt to the City each
5 year in an amount equal to the amount of taxes that would be due and owing on that portion
6 of the Property if that portion was not tax exempt (the "PILOT Payment"). The PILOT
7 Payment shall be calculated based on the value of the Property for the applicable tax year
8 determined by the City's Assessor's office multiplied by the City's property tax rate for the
9 applicable tax year. Such payment shall be due, payable and collected in the same manner
10 as property taxes, to the extent permitted by law. The Developer, its successors, and
11 assigns as the owners or occupants of the Property waive the right to contest the validity of
12 this provision. This Section shall automatically terminate upon the termination of TID #20.

13 b. Tax Contest. In consideration of West Allis providing the financial
14 assistance outlined in Section 4 of this Agreement, Developer, its successors, assigns, or
15 affiliates, agree to not challenge any property tax assessment levied against the Project
16 prior to the termination of TID #20 except that any or all of them may contest any such
17 property tax assessment but only in good faith and only if and to the extent any such
18 property tax assessment is in excess of the anticipated minimum assessed value of the
19 Property in the same particular tax year as set forth in Exhibit F.

20 c. Change in Method of Taxation. To the extent in compliance with applicable
21 law, if any tax, assessment or like charge is imposed on or assessed against the Project or
22 the use and operations thereof or income therefrom, as an alternative to, a replacement of,
23 or as supplemental to, any or all of the property taxes that are intended by the parties
24 hereto to constitute the Tax Increments, or increment or like revenues under the tax

1 increment law or any equivalent, then such taxes, assessments, and charges shall be
2 deemed to be Tax Increments hereunder and shall be disbursed as set forth in this
3 Agreement. Notwithstanding the foregoing, special assessments and special charges
4 levied by the City for permitted purposes, such as to pay for improvements and services,
5 shall not be included as Tax Increments.

6 **14. Assignment of Agreement.** This Agreement and all rights and obligations therein,
7 including but not limited to the indemnification's provisions thereunder, may be assigned in whole
8 or in part by the Developer to an affiliated entity upon notice to West Allis. However, upon notice
9 to West Allis, Developers may assign this Agreement to an affiliated entity or to its lender in
10 connection with a mortgage on the Property, subject to all terms and conditions of this Agreement.
11 This Agreement may also be collaterally assigned in whole or in part by the Developer to any lender
12 or lenders holding a mortgage on all or any part of the Property. No such lender shall have any
13 liability hereunder unless said lender elects to effectuate such assignment and exercise the
14 Developer's rights hereunder. Upon any such assignment, references to Developer contained in
15 this Agreement shall refer to the assignee, unless the assignment expressly provides otherwise, it
16 being understood, for example, that Developer or any assignee of Developer may elect to retain the
17 benefits of the D-MRO and is not required to assign the D-MRO to the owner of the Property;
18 provided, however, that the obligations of Section 11 and 13 shall be binding on Developer and its
19 successors and assigns. For avoidance of doubt, this Agreement, and all rights, benefits and
20 obligations thereunder, shall run with the land and may be transferred with the Property, without
21 additional approval or consent of any party, upon any sale or conveyance by Developer as
22 contemplated by Section 15 of the Development Agreement.

1 **15. No Partnership or Venture.** The Developer and its contractors or subcontractors shall
2 be solely responsible for the completion of the Project. Nothing contained in this Agreement shall
3 create or effect any partnership, venture or relationship between West Allis and the Developer or
4 any contractor or subcontractor employed by the Developer in the construction of the Project. No
5 elected official, member, officer, or employee of West Allis during his/her tenure or for one year
6 thereafter, will have or shall have had any interest, direct or indirect, in this Agreement or any
7 proceeds thereof.

8 **16. Notices.** All notices permitted or required by this Agreement shall be given in
9 writing and shall be considered given upon receipt if hand delivered to the party or person
10 intended, or one calendar day after deposit with a nationally recognized overnight commercial
11 courier service, or two (2) business days after deposit in the United States mail, postage prepaid,
12 by certified mail, return receipt requested, addressed by name and address to the party or person
13 intended as follows:

14 To Authority: Community Development Authority of the City
15 of West Allis
16 Executive Director
17 West Allis City Hall
18 7525 W. Greenfield Avenue
19 West Allis, WI 53214
20

21 To the City: City of West Allis
22 Office of the City Attorney
23 7525 W. Greenfield Avenue
24 West Allis, WI 53214
25 Attention: City Attorney
26

27 To Developer: Six Points Square LLC
28 2921 North 70th Street
29 Milwaukee, WI 53210
30 Attn. Jeffrey J. Hook
31 Email: jhook@JH3group.com
32

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

With a copy to: Peter J. Faust, Attorney at Law
O'Neil, Cannon, Hollman, DeJong and Laing S.C.
111 E. Wisconsin Avenue, Suite 1400
Milwaukee, WI 53202
Attn: Peter J. Faust

17. Representations and Warranties.

The provisions of Section 13 of the Purchase and Sale Agreement are incorporated herein.

18. Term and Termination. The term of this Agreement shall begin on the date of this Agreement first set forth above and shall continue until, unless sooner terminated in accordance with this Agreement, until the termination by the City of Tax Incremental District Number 20 in accordance with this Agreement and pursuant to § 66.1105(7), Wis. Stats., as amended.

19. Default. The provisions of Section 34 of the Purchase and Sale Agreement are incorporated herein.

20. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of Developers; however, this provision shall not constitute an authorization for Developers to assign or transfer its rights and obligations under this Agreement except as provided in this Agreement.

21. Further Assurances. Following the Closing, each of the Parties will take such further actions and execute and deliver such additional documents and instruments as may be

1 reasonably requested by any other Party in order to perfect and complete the financing of the
2 Project as described herein as well as any other transactions specifically contemplated herein.

3 **22. Waiver of Terms.** Except as otherwise provided herein, any of the terms or
4 conditions of this Agreement may be waived at any time by the Party or Parties entitled to benefit
5 thereof, but only by a written notice signed by the Party or Parties waiving such terms or conditions.
6 The waiver of any term or condition shall not be construed as a waiver of any other term or
7 condition of this Agreement.

8 **23. Amendment of Agreement.** This Agreement may be amended, supplemented, or
9 modified at any time, but only by a written instrument duly executed by West Allis and the
10 Developer.

11 **24. Governing Law and Venue.** This Agreement shall, in all respects whether as to
12 validity, construction, capacity, performance, or otherwise, be governed by the laws of the
13 State of Wisconsin. Any suit or proceeding arising out of or related to this Agreement shall be
14 commenced and maintained only in a court of competent jurisdiction in the state or federal courts

1 located in Milwaukee County, Wisconsin. Each party irrevocably consents to submit to the
2 exclusive jurisdiction of such courts.

3 **25. Execution in Counterparts.** This Agreement may be executed simultaneously in
4 one or more counterparts, each of which shall be deemed an original Agreement, but all of which
5 together shall constitute one and the same instrument.

6 **26. Titles and Headings.** Titles and headings to sections or subsections are for
7 purposes of references only and shall in no way limit, define, or otherwise affect the provisions
8 herein.

9 **27. Entire Agreement.** This Agreement, including the schedules and Exhibits annexed
10 hereto, constitute the entire agreement and supersede all other prior agreements and
11 understandings, both written and oral, by the Parties or any of them, with respect to the subject
12 matter hereof.

13 **28. Interpretation.** Unless the context requires otherwise, all words used in this
14 Agreement in the singular number shall extend to and include the plural, all words in the plural
15 number shall extend to and include the singular, and all words in any gender shall extend to and
16 include all genders, and the Exhibits annexed hereto shall be interpreted in harmony with the terms
17 and provisions of this Agreement.

18 **29. Construction.** The West Allis and the Developer acknowledge that each party and
19 its counsel have reviewed and revised this Agreement and that the normal rule of construction to

1 the effect that any ambiguities are to be resolved against the drafting party shall not be employed in
2 the interpretation of this Agreement or any amendments or exhibits hereto.

3 **30. Severability.** If any term or provision of this Agreement is determined to be invalid,
4 illegal or incapable of being enforced by any rule or law, or public policy, all other conditions and
5 provisions of this Agreement shall nevertheless remain in full force and effect.

6 **31. Survive the Closing.** The agreements, covenants, warranties and representations
7 contained herein shall survive the Closing of the transaction contemplated herein.

8 **32. Binding Effect.** The terms and conditions of this Agreement shall be binding upon
9 and benefit the Parties and their respective successors and assigns.

10 **33. Good Faith.** The Parties covenant and agree to act in good faith in the performance
11 and enforcement of the provisions of this Agreement.

12 **34. Miscellaneous.**

13 a. **Mutual Assistance.** West Allis and Developer shall do all things reasonably
14 necessary or appropriate to carry out the terms, provisions and obligations of this
15 Agreement and to aid and assist each other in carrying out this Agreement, including,
16 without limitation, the giving of notices, the holding of public hearings, the enactment by
17 City of resolutions and ordinances, and the execution and delivery of documents,
18 instruments, petitions and certifications. West Allis and Developer shall cooperate fully
19 with each other in seeking from any or all appropriate governmental bodies (whether
20 federal, state, county or local) any approvals and permits that are reasonably necessary or
21 desirable.

1 b. Captions. The captions in this Agreement are inserted only as matters of
2 convenience and for reference and in no way define or limit the scope or intent of the
3 various provisions, terms or conditions hereof.

4 c. Third-Party Beneficiaries. This Agreement creates rights and obligations only
5 for the Parties hereto and their permitted successors and assigns, except as stipulated in
6 this Agreement.

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

AGREED TO BY AND BETWEEN the Developer, the Authority, and the City on the date first set forth above.

Community Development Authority of the City of

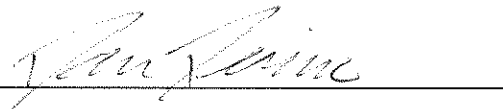
West Allis

By: 

Patrick M. Schloss, Executive Director


Dated: 12-18-24

CITY OF WEST ALLIS

By: 

Dan Devine, Mayor

Dated: 12-18-24

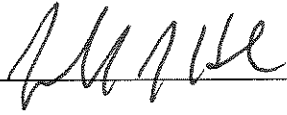
By: 

Rebecca Grill, City Administrator and City Clerk

Dated: 12-18-24

Six Points Square LLC

By: JJH3 Six Points LLC, its Manager

By: 

Jeffrey J. Hook, Manager

Dated: 1/10/2025

Exhibit A - Legal Description to the Developer Finance Agreement.

CERTIFIED SURVEY MAP NO. _____

BEING A REDIVISION OF LOTS 1 THRU 9, BLOCK 1, IN THE FIRST CONTINUATION OF THE SOLDIERS' HOME HEIGHTS SUBDIVISION AND THE SOUTH 15 FEET OF LOT 12, BLOCK 11 IN SECOND CONTINUATION OF SOLDIERS' HOME HEIGHTS SUBDIVISION, BEING PART OF THE SOUTHEAST 1/4 AND SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 34, TOWNSHIP 7 NORTH, RANGE 21 EAST, IN THE CITY OF WEST ALLIS, MILWAUKEE COUNTY, WISCONSIN.

CJ
engineering
civil design and consulting
9205 W. Center Street
Suite 214
Milwaukee, WI 53222
PH. (414) 443-1312
www.cj-engineering.com

PREPARED FOR:
CITY OF WEST ALLIS
WEST ALLIS COMMUNITY
DEVELOPMENT AUTHORITY
7252 W GREENFIELD AVE.
WEST ALLIS, WI 53214

ALL BEARINGS REFERENCED TO THE WISCONSIN COUNTY COORDINATE SYSTEM, MILWAUKEE COUNTY. THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SECTION 34 HAVING A BEARING OF N 89°32'23"

- + SET CROSS
- INDICATES 1 INCH DIA. IRON PIPE, 18 INCHES IN LENGTH, WEIGHING 1.68 LBS PER LINEAL FOOT, SET.
- ⊙ INDICATES 1 INCH DIA. IRON PIPE FOUND.
- (N89°38' E 214.62') DENOTES RECORDED AS BEARINGS AND DISTANCES

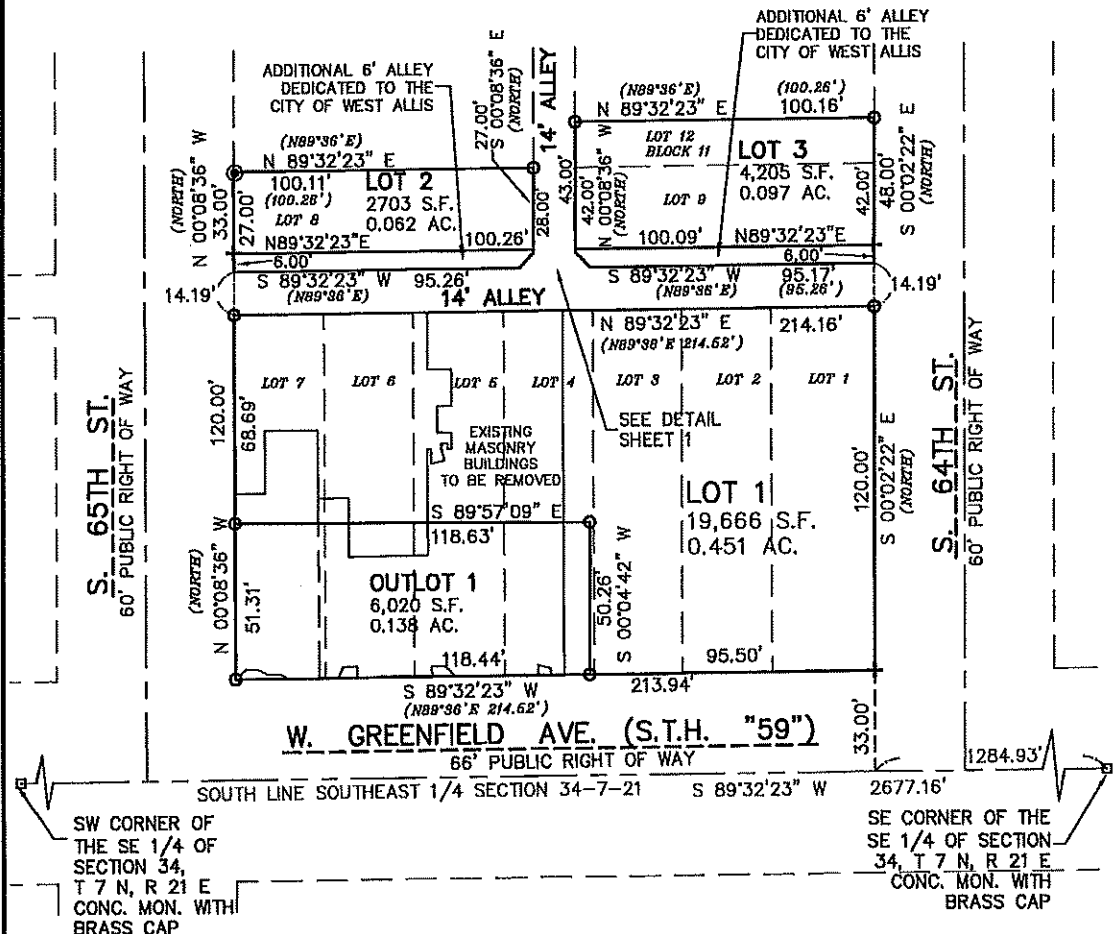
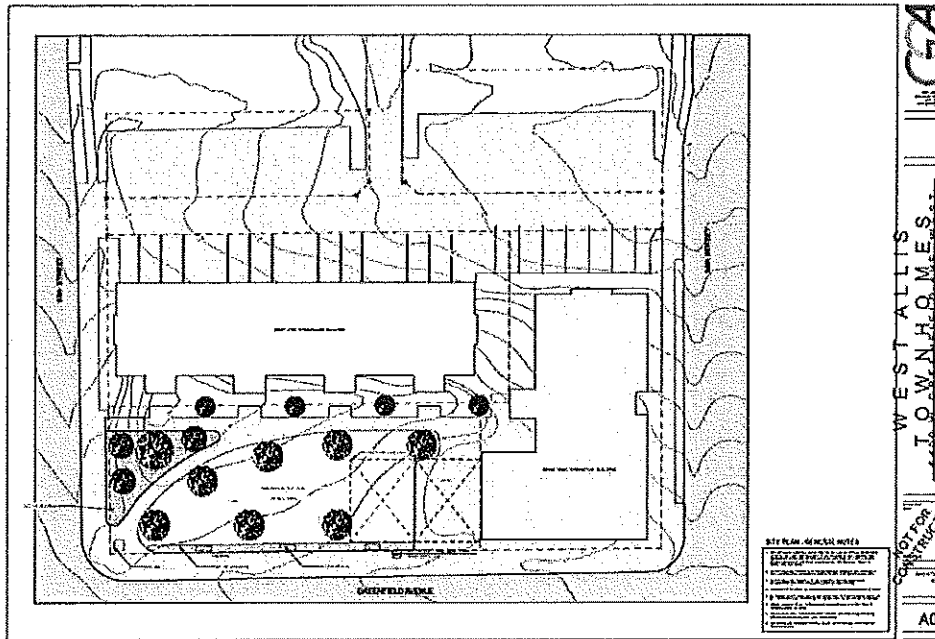
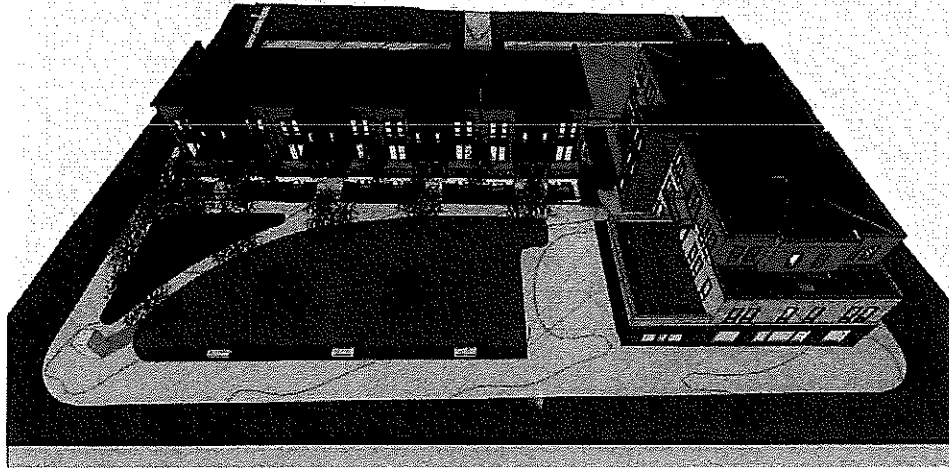


Exhibit B – Project Plans – Development Finance Agreement



1

EXHIBIT D

2

TO

3

DEVELOPMENT FINANCING AGREEMENT

4

5

Project Plan

6

The Project Plan for Tax Incremental District Number 20 is on file in the office of the City

7

Clerk and is incorporated herein by reference.

8

EXHIBIT -E

Development Finance Agreement TIF #20 Cash Flow

City of West Allis, Wisconsin									
Tax Increment District No. 20									
Tax Increment Projection Worksheet									
Type of District	Disjoint Area		Base Value		0				
District Creation Date	November 1, 2024		Economic Change Factor		1.00%				
Valuation Date	Jan 1	2024	Apply to Base Value						
Max Life (Years)	27		Base Tax Rate		\$ 20.10				
Expenditure Period/Termination	22	11/1/2046	Rate Adjustment Factor		0.00%				
Revenue Periods/Final Year	27	2052							
Extension Eligibility/Years	Yes	3							
Eligible Recipient District	TIF								

Construction Year	Value Added	Valuation Year	Economic Change	Total Increment	Revenue Year	Tax Rate ¹	Tax Increment	
1	2024	0	2025	0	0	2026	\$20.10	0
2	2025	7,454,200	2026	0	7,454,200	2027	\$20.10	149,831
3	2026	0	2027	74,542	7,528,742	2028	\$20.10	151,299
4	2027	0	2028	75,287	7,604,029	2029	\$20.10	152,812
5	2028	0	2029	76,040	7,680,070	2030	\$20.10	154,340
6	2029	0	2030	76,801	7,756,870	2031	\$20.10	155,883
7	2030	0	2031	77,569	7,834,439	2032	\$20.10	157,442
8	2031	0	2032	78,344	7,912,784	2033	\$20.10	159,018
9	2032	0	2033	79,128	7,991,911	2034	\$20.10	160,607
10	2033	0	2034	79,919	8,071,830	2035	\$20.10	162,211
11	2034	0	2035	80,718	8,152,549	2036	\$20.10	163,831
12	2035	0	2036	81,525	8,234,074	2037	\$20.10	165,473
13	2036	0	2037	82,341	8,316,415	2038	\$20.10	167,138
14	2037	0	2038	83,164	8,399,579	2039	\$20.10	168,829
15	2038	0	2039	83,996	8,483,575	2040	\$20.10	170,547
16	2039	0	2040	84,836	8,568,411	2041	\$20.10	172,292
17	2040	0	2041	85,684	8,654,095	2042	\$20.10	174,064
18	2041	0	2042	86,541	8,740,636	2043	\$20.10	175,863
19	2042	0	2043	87,406	8,828,042	2044	\$20.10	177,690
20	2043	0	2044	88,280	8,916,323	2045	\$20.10	179,544
21	2044	0	2045	89,163	9,005,486	2046	\$20.10	181,426
22	2045	0	2046	90,055	9,095,541	2047	\$20.10	183,335
23	2046	0	2047	90,955	9,186,496	2048	\$20.10	185,271
24	2047	0	2048	91,865	9,278,361	2049	\$20.10	187,234
25	2048	0	2049	92,784	9,371,145	2050	\$20.10	189,224
26	2049	0	2050	93,711	9,464,856	2051	\$20.10	191,241
27	2050	0	2051	94,649	9,559,505	2052	\$20.10	193,285
Totals	7,454,200			2,105,305		Future Value of Increment	4,422,961	

Notes:
¹ Tax rate shown is actual 2023/2024 rate per DOR Form PC-202 (Tax Increment Collection Worksheet).

EXHIBIT -F Development Finance Agreement TIF #20 Cash Flow

City of West Allis, Wisconsin										
Tax Increment District No. 20										
Cash Flow Projection										
Year	Projected Revenues			Projected Expenditures			Balances			Year
	Tax Increments	Interest Earnings	Total Revenues	Municipal Revenue Obligation (PAYGO)	Ongoing Planning & Admin.	Total Expenditures	Annual	Cumulative	Liabilities Outstanding	
2024			0		45,000	45,000	(45,000)	(45,000)	0	2024
2025			0	0	25,000	25,000	(25,000)	(70,000)	0	2025
2026	0		0	0	25,000	25,000	(25,000)	(95,000)	4,057,961	2026
2027	149,801		149,801	42,301	12,500	54,801	95,000	0	4,015,660	2027
2028	151,299		151,299	138,799	12,500	151,299	0	0	3,876,862	2028
2029	152,812		152,812	140,312	12,500	152,812	0	0	3,736,550	2029
2030	154,340		154,340	141,840	12,500	154,340	0	0	3,594,710	2030
2031	155,883		155,883	143,383	12,500	155,883	0	0	3,451,327	2031
2032	157,442		157,442	144,942	12,500	157,442	0	0	3,306,385	2032
2033	159,016		159,016	146,516	12,500	159,016	0	0	3,159,868	2033
2034	160,607		160,607	148,107	12,500	160,607	0	0	3,011,762	2034
2035	162,213		162,213	149,713	12,500	162,213	0	0	2,862,049	2035
2036	163,835		163,835	151,335	12,500	163,835	0	0	2,710,714	2036
2037	165,473		165,473	152,973	12,500	165,473	0	0	2,557,741	2037
2038	167,128		167,128	154,628	12,500	167,128	0	0	2,403,113	2038
2039	168,799		168,799	156,299	12,500	168,799	0	0	2,246,814	2039
2040	170,487		170,487	157,987	12,500	170,487	0	0	2,088,826	2040
2041	172,192		172,192	159,692	12,500	172,192	0	0	1,929,134	2041
2042	173,914		173,914	161,414	12,500	173,914	0	0	1,767,720	2042
2043	175,653		175,653	163,153	12,500	175,653	0	0	1,604,567	2043
2044	177,410		177,410	164,910	12,500	177,410	0	0	1,439,658	2044
2045	179,184		179,184	166,684	12,500	179,184	0	0	1,272,974	2045
2046	180,976		180,976	168,476	12,500	180,976	0	0	1,104,498	2046
2047	182,785		182,785	180,285	2,500	182,785	0	0	924,213	2047
2048	184,613		184,613	182,113	2,500	184,613	0	0	742,100	2048
2049	186,459		186,459	183,959	2,500	186,459	0	0	558,140	2049
2050	188,324		188,324	185,824	2,500	188,324	0	0	372,316	2050
2051	190,207		190,207	187,707	2,500	190,207	0	0	184,609	2051
2052	192,109		192,109	184,609	7,500	192,109	0	0	0	2052
Totals	4,422,961	0	4,422,961	4,057,961	365,000	4,422,961				Totals

Net Present Value @ 6.5%: \$1,592,420	PROJECTED CLOSURE YEAR
LEGEND:	
END OF EXP. PERIOD	

Exhibit G

TO

DEVELOPMENT FINANCING AGREEMENT

TAX INCREMENT PROJECT REVENUE BOND

UNITED STATES OF AMERICA

STATE OF WISCONSIN

COUNTY OF MILWAUKEE, CITY OF WEST ALLIS

<u>Number</u>	<u>Rate</u>	<u>Date of Original Issue</u>	<u>Amount</u>
R-	[____%]	March 1, 20____	Principal Amount, as defined herein

FOR VALUE RECEIVED, the City of West Allis, Milwaukee County, Wisconsin (the "City"), promises to pay to Six Points Square LLC, or registered assigns, but only in the manner, at the times, from the source of revenue and to the extent hereinafter provided, the Principal Amount (as defined below) together with interest thereon from the date of original issue set forth above, or the

most recent payment date to which interest has been paid, to the stated due dates of the principal installments of this Bond, at the rate per annum set forth above.

The "Principal Amount" of this Bond shall be a principal amount equal to the Project Budget (as such terms are defined in the Development Financing Agreement dated as of _____, 2024, between the City of West Allis, the Community Development Authority of the City of West Allis, and Six Points Square LLC, a Wisconsin Limited Liability Company (the "Development Financing Agreement")) but not to exceed \$4,057,961 (D-MRO). The Principal Amount shall be determined initially as of the date of issuance of this Bond based on the Project Budget against which Shared Savings are calculated and distributed. A final determination of the total Project Budget and the Principal Amount of the Bond shall be made upon substantial completion of the Project as provided in the Development Financing Agreement.

For each Year (defined below), interest shall accrue on the outstanding Principal Amount of the Bond and the outstanding interest on the Bond determined as of the first day of that Bond Year. The outstanding Principal Amount of the Bond as of any date shall be reduced by the amount of any principal payments previously made on the Bond. For purposes of this Bond, "Bond Year" shall mean the one year period commencing on each January 1 and ending on the following December 31, except that the first Bond Year shall commence on the effective date of original issue of this Bond and end on December 31, 2024.

Assuming that the Principal Amount of the Bond is equal to the maximum Principal Amount \$4,057,961 this Bond shall be payable in installments of principal due on October 1st in each of the years and amounts as follows:

<u>Year</u>	<u>Principal</u>
2027	\$42,301
2028	\$138,799
2029	\$140,312
2030	\$141,840
2031	\$143,383
2032	\$144,942
2033	\$146,516
2034	\$148,107
2035	\$149,713
2036	\$151,335
2037	\$152,973
2038	\$154,628
2039	\$156,299
2040	\$157,987
2041	\$159,692
2042	\$161,414
2043	\$163,153
2044	\$164,910
2045	\$166,684
2046	\$168,476

2047	\$180,285
2048	\$182,113
2049	\$183,959
2050	\$185,824
2051	\$187,707
2052	\$184,609

In the event that the total Project Budget is less than projected, and therefore the final Principal Amount of the Bond is less than \$4,057,961, there shall be a reduction in the principal installments of the Bond beginning with the final maturity and then proceeding to the next preceding maturity until the total reduction of the principal installments on the Bond is equal to the amount of the reduction in Project Budget.

Interest shall be payable on October 1 in each year, commencing on October 1, 2026__ (the "Bond Payment Dates").

This Bond has been issued to finance a project which is a part of City's blight elimination utility, pursuant to Article XI, Section 3 of the Wisconsin Constitution and Section 66.0621, Wisconsin Statutes and acts supplementary thereto, and is payable only from the income and revenues herein described, which income and revenues have been set aside as a special fund for that purpose and identified as the "Special Redemption Fund." This Bond is issued pursuant to a resolution adopted on _____, _____, by City's Common Council (the "Resolution") and the Development Financing Agreement, and is subject to the terms and conditions of said

Resolution and Development Financing Agreement. This Bond does not constitute an indebtedness of City within the meaning of any constitutional or statutory limitation or provision. The principal of and interest on this Bond shall be payable solely in amounts that do not exceed available Tax Increments (as defined in the Development Financing Agreement) received by City with respect to its Tax Incremental District Number 20 (the "Revenues"). Reference is hereby made to the Development Financing Agreement for a more complete statement of the revenues from which and conditions under which this Bond is payable, and the general covenants and provisions pursuant to which this Bond has been issued.

Revenues shall be applied first by City for the payment of Administrative Fees for the District, as set forth in the Development Financing Agreement, followed then by the payment of any principal due D-MRO).

If on any Bond Payment Date there shall be insufficient Revenues to pay the principal or interest due on this Bond, the amount due but not paid shall accumulate and be payable on the next Bond Payment Date until the final Bond Payment Date. Interest at the rate of [6.55%] per annum shall be paid on such unpaid amounts of principal and interest. The City shall have no obligation to pay any amount of principal or interest on this Bond which remains unpaid after October 1, 2052 and the owner of this Bond shall have no right to receive payment of such amounts.

This Bond (a) shall be prepaid on each Bond Payment Date in an amount equal to the amount by which the available Tax Increments collected by City in that Bond Year exceed the

amount of principal and interest due on the Bond Payment Date and (b) is subject to prepayment in whole or from time to time in part at any time, at the option of City.

Notwithstanding any payment schedule included in this Bond, or any other provision of the Development Financing Agreement or this Bond to the contrary, the amount to be paid by City each year shall be the full amount of the available Tax Increments generated that year; and in each case, the amount (if any) by which the available Tax Increments collected that year exceed the interest due and the principal installment (as stated herein) to be paid that year, shall be regarded as a mandatory prepayment of the principal hereof.

City makes no representation or covenant, express or implied that the available Tax Increments or the Revenues will be sufficient to pay, in whole or in part, the amounts which are or may become due and payable hereunder.

City's payment obligations hereunder are subject to appropriation by City's Common Council of amounts sufficient to make payments due on this Bond and are conditioned upon Developers not being delinquent in the payment of property taxes with respect to the Property.

This Bond is a special, limited revenue obligation and not a general obligation of City and is payable by City only from the source and subject to the qualifications stated or referenced herein. This Bond is not a general obligation of City, and neither the full faith and credit nor the taxing powers of City are pledged to the payment of the principal of this Bond and no property or other asset of City, except the Revenues, are or shall be a source of payment of City's obligations hereunder.

This Bond is issued by City pursuant to and in full conformity with the Constitution and laws of the State of Wisconsin.

This Bond may be transferred or assigned in whole or in part, only with the consent of City on the terms and conditions set forth in the Resolution and the Development Financing Agreement. In order to transfer or assign the Bond, the transferee or assignee shall surrender the same to City either in exchange for a new fully registered bond or for transfer of this Bond on the registration records for the Bond maintained by City. Each permitted transferee or assignee shall take this Bond subject to the foregoing conditions and subject to all provisions stated or referenced herein.

Notwithstanding the foregoing paragraph, upon the request of the holder of the Bond, the holder may assign its rights to payments on the Bond in accordance with the terms and provisions of the Development Financing Agreement, provided, however in no event shall the aggregate amount of the payments made to the holder or its assigns exceed the amount of the available Tax Increment.

It is hereby certified and recited that all conditions, things and acts required by law to exist or to be done prior to and in connection with the issuance of this Bond have been done, have existed and have been performed in due form and time.

IN WITNESS WHEREOF, the Common Council of the City of West Allis, Milwaukee County, Wisconsin, has caused this Bond to be signed on behalf of said City by its duly qualified and acting Mayor and City Clerk, and its corporate seal to be impressed hereon, all as of the date of original issue specified above.

CITY OF WEST ALLIS

MILWAUKEE COUNTY, WISCONSIN

(SEAL)

By _____

Mayor

By _____

City Clerk

REGISTRATION PROVISIONS

This Bond shall be registered in registration records kept by the City Clerk of the City of West Allis, Wisconsin, Milwaukee County, Wisconsin, such registration to be noted in the registration blank below and upon said registration records, and this Bond may thereafter be transferred only upon presentation of this Bond together with a written instrument of transfer approved by the City and duly executed by the Registered Owner or his attorney, such transfer to be made on such records and endorsed hereon.

<u>Date of Registration</u>	<u>Name of Registered Owner</u>	<u>Signature of City Clerk</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Exhibit H

COMPLETION GUARANTY

This Guaranty by is made by SIX POINTS SQUARE LLC , a Wisconsin Limited Liability Company ("**Guarantor**") to and for the benefit of the City of West Allis, Wisconsin (the "**City**") and the Community Development Authority of the City of West Allis (the "**Authority**"). The City and the Authority will be combined parties within this Agreement and hereby called the "**West Allis**".

WHEREAS, Pursuant to that certain Development Agreement and Development Finance Agreement dated of even date herewith (as amended, restated, supplemented or otherwise modified from time to time,(the "**Development Agreement**") and (the "Development Finance Agreement:)) by the SIX POINTS SQUARE LLC ("**Developer**"), the City, and the Authority, pursuant to Section 66.1335 of the Wisconsin Statutes , have agreed to make certain financial accommodations available to Developer, on the terms and subject to the conditions set forth in the Development Agreement and Development Financing Agreement; and,

WHEREAS, pursuant to that certain Development Agreement the Developer agreed to certain terms and conditions with respect to the development and maintenance of a multifamily apartment project more particularly described in the Development Agreement (the "**Project**"); and

WHEREAS, West Allis requires, as a condition of entering into the Development Financing Agreement and the transactions related thereto, that Guarantor guaranty certain obligations of Developer to West Allis pursuant to the terms hereof; and,

WHEREAS, Guarantor will derive substantial benefits from the conduct of the Developer's business and operations; and, by reason of the relationship with the Developer, has agreed to execute this Guaranty; and,

WHEREAS, it is in the interests of the Developer to obtain the benefits under the Development Financing Agreement.

NOW, THEREFORE, in consideration of the above premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Guarantor hereby agrees as follows:

1. Capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in the Development Financing Agreement

2. So long as this Guaranty is outstanding, the Guarantor represents and warrants as follows:

A. This Guaranty is legal, valid, binding upon and enforceable against such Guarantor in accordance with its terms, except as it may be limited by applicable bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights and except as may be limited by general principles of equity. The Guarantor agrees to file, when due, all federal and state income and other tax returns, which are required to be filed, and will pay all taxes shown on said returns and on all assessments received by it to the extent that such taxes shall have become due and all extensions have expired. The Guarantor has no knowledge of any liabilities as to it, which

may be asserted against it upon audit of its federal or state tax returns for any period that remains subject to audit.

B. Except as disclosed by the Guarantor to West Allis, in writing, prior to the date hereof, there is no action, suit, proceeding or investigation before any court, public board or body pending or threatened against the Guarantor, or any of its properties, which, if adversely determined, would have a material adverse effect upon the business, properties or financial condition of the Guarantor.

C. The Guarantor acknowledges that West Allis has not made any representations or warranties with respect to, and agrees that West Allis does not assume any responsibility to the Guarantor for and has no duty to provide information to the Guarantor regarding the collectability or enforceability of the Development Financing Agreement or the financial condition of Developer. The Guarantor has independently determined the issues relating to completion of the Project.

3. The Guarantor hereby absolutely and unconditionally guarantees to West Allis (i) the prompt and complete performance of Developer's obligation to complete the construction of the Project as set forth in the Development Agreement ("**Guaranteed Obligations**"). In the event that Developer fails to substantially complete construction of the Project as required under the terms of the Development Agreement and applicable grace and cure periods, if any, then, upon receipt of written notice from West Allis, Guarantor will within thirty (30) days after receipt of such notice undertake to complete construction of the Project pursuant to the provisions of this Section 3 and thereafter pursue such construction through to substantial completion of the Project. If West Allis elects to require Guarantor to complete the Project, then within thirty (30) days after written demand by West Allis, Guarantor will commence such construction of the Project.

4. The Guarantor's Obligations hereunder shall be binding upon the Guarantor, its successors, and permitted assigns; however, the Guarantor shall not transfer or assign its Obligations to an affiliate or another entity without the written consent of the West Allis. This Guaranty shall remain in full force and effect so long as any of the Guaranteed Obligations are outstanding, without any right of offset and irrespective of:

A. The genuineness, validity, regularity or enforceability of the Development Agreement or any of the terms thereof, the continuance of any Guaranteed Obligations on the part of the Developer on the Development Agreement, or the power or authority or lack of power or authority of the Developer or any other party to execute and deliver the Development Financing Agreement, Development Agreement, or to perform any of the Guaranteed Obligations thereunder.

B. Any failure or lack of diligence in connection or protection, failure in presentment or demand, protest, notice of protest, notice of default and of nonpayment, failure of notice of acceptance of this Guaranty, failure to give notice of failure of the Developer to perform any covenant or agreement under the terms of the Development Agreement, or the failure to resort for payment to the Developer or to any other person or entity or to any rights or remedies of any type (the Guarantor hereby expressly waiving all of the foregoing).

C. The acceptance or release of any security or other guaranty, extension of the Development Financing Agreement and/or Development Agreement or amendments, modifications, consents or waivers with respect to the Development Financing Agreement and/or Development Agreement or any subordination of the Guaranteed Obligations to any other obligations of the Developer (the Guarantor hereby expressly consenting to all of the foregoing).

D. Any defense whatsoever that the Developer might have to the payment or to the performance or observance of any of the Guaranteed Obligations, other than full payment or performance thereof, as applicable.

E. Any legal or equitable principle of marshalling or other rule of law requiring a creditor to proceed against specific property, apply proceeds in a particular manner or otherwise exercise remedies so as to preserve the several estates of joint obligors or common debtors (the Guarantor hereby expressly waiving the benefit of all of the foregoing).

F. Any act or failure to act with regard to any of the Guaranteed Obligations or anything which might vary the risk of the Guarantor; provided that the specific enumeration of the above mentioned acts, failures or omissions shall not be deemed to exclude any other acts, failures or omissions, though not specifically mentioned above, it being the purpose and intent of this Guaranty that the Guaranteed Obligations of the Guarantor shall be absolute and unconditional and shall not be discharged, impaired or varied, except by the full payment or performance of the Guaranteed Obligations, notwithstanding any act, omission or thing which might otherwise operate as a legal or equitable discharge of or defense to the Guarantor. Without limiting any of the other terms or provisions hereof, it is understood and agreed that in order to hold the Guarantor liable hereunder, there shall be no obligation on the part of the City to resort in any manner or form for payment to the Developer or to any other person, firm or corporation, their properties or assets, or to any security, property or other rights or remedies whatsoever, and the City shall have the right to enforce this Guaranty irrespective of whether or not proceedings or steps are pending seeking resort to or realization upon from any of the foregoing. It is further understood that repeated and successive demands may be made and recoveries may be had hereunder as and when, from time to time, the Developer shall default in the performance of the Guaranteed Obligations under the terms of the Development Agreement beyond any applicable grace or cure period and that, notwithstanding recovery hereunder for or in respect of any given default or defaults, this Guaranty shall remain in full force and effect and shall apply to each and every subsequent default until terminated as herein provided.

5. This Guaranty shall be a continuing guaranty so long as any of the Guaranteed Obligations remain unpaid or unperformed, as applicable, and may be enforced by West Allis or any successor in interest under the Development Agreement; provided that West Allis may only transfer this Guaranty, the Development Agreement and the Development Financing Agreement to West Allis, in each case, affiliated with West Allis and to no other party without the consent of Guarantor and provided further that notice is given to the Guarantor within a reasonable time after such assignment.

6. This Guaranty shall terminate and Guarantor shall be released from all further liability hereunder upon the issuance of the Certificate of Completion (as defined in the Development Agreement).

7. Notices hereunder shall be given in accordance with the provisions of the Development Financing Agreement.

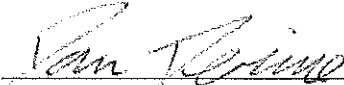
8. This Guaranty shall be governed by and construed in accordance with the laws of the State of Wisconsin.

(SIGNATURES CONTINUED ON NEXT PAGE)

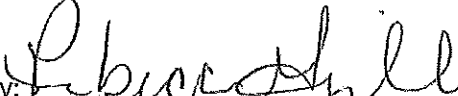
Acceptance:

This Guaranty is hereby accepted this ____ day of _____ 2024, by the City of West Allis and the Community Development Authority of the City of West Allis.

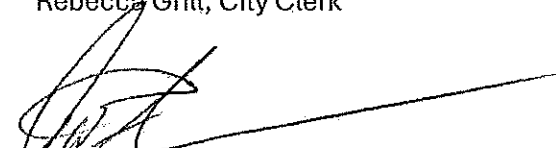
CITY OF WEST ALLIS ("City")

By: 

Dan Devine, Mayor

By: 

Rebecca Grill, City Clerk

By: 

Patrick Schloss, Executive Director

Exhibit I

TO

DEVELOPMENT FINANCING AGREEMENT

IRR Calculation

Return Measures											
Unleveraged IRR	Investment	1	2	3	4	5	6	7	8	9	10
Development Cost	\$ (7,641,422)										
For-Sale Revenues ¹	\$ -										
Net Operating Income	\$ 257,987	\$ 401,496	\$ 411,038	\$ 420,787	\$ 430,746	\$ 440,920	\$ 451,313	\$ 461,929	\$ 472,774	\$ 483,852	
Adjusted Sales Price								\$ 8,708,049			
Unleveraged Cash Flow	\$ (7,641,422)	\$ 257,987	\$ 401,496	\$ 411,038	\$ 420,787	\$ 430,746	\$ 440,920	\$ 451,313	\$ 9,169,979	\$ 472,774	\$ 483,852
Unleveraged IRR									6.64%		
Net Present Value ²	7.00% rate									\$ (174,098)	

EXAMPLE CALCULATION of BEFORE-TAX LEVERED INTERNAL RATE OF RETURN (IRR):

Before-Tax IRR	Investment	1	2	3	4	5	6	7	8	9	10
Equity	\$ (1,789,691)										
Before-Tax Cash Flow From Condominiums	\$ -										
Before-Tax Operating Cash Flow	\$ (64,367)	\$ 79,141	\$ 88,684	\$ 98,433	\$ 108,392	\$ 118,566	\$ 128,958	\$ 139,575	\$ 150,419	\$ 161,497	
Before-Tax Cash Flow From Sale								\$ 4,940,140			
Total Before-Tax Cash Flow	\$ (1,789,691)	\$ (64,367)	\$ 79,141	\$ 88,684	\$ 98,433	\$ 108,392	\$ 118,566	\$ 128,958	\$ 5,079,715	\$ 150,419	\$ 161,497
Before-Tax IRR									16.17%		
Net Present Value	15.00% rate									\$ 142,566	

After-Tax IRR	Investment	1	2	3	4	5	6	7	8	9	10
Equity	\$ (1,789,691)										
After-Tax Cash Flow From Condominiums	\$ -										
After-Tax Operating Cash Flow	\$ (64,367)	\$ 79,141	\$ 88,684	\$ 98,433	\$ 108,392	\$ 118,566	\$ 128,958	\$ 139,575	\$ 150,419	\$ 161,497	
After-Tax Cash Flow From Sale								\$ 4,309,129			
Total After-Tax Cash Flow	\$ (1,789,691)	\$ (64,367)	\$ 79,141	\$ 88,684	\$ 98,433	\$ 108,392	\$ 118,566	\$ 128,958	\$ 4,508,704	\$ 150,419	\$ 161,497
After-Tax IRR									14.62%		
Net Present Value	12.00% rate									\$ 342,505	

Simple Return Measures	1	2	3	4	5	6	7	8	9	10
NOI / Adjusted Project Cost Excluding For-Sale Condos	3.38%	5.25%	5.38%	5.51%	5.64%	5.77%	5.93%	6.05%	6.19%	6.33%
Before-Tax Cash Flow / Equity	-3.60%	4.42%	4.96%	5.50%	6.06%	6.62%	7.21%	7.80%	8.40%	9.02%
Tax Shelter / Equity	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%

Calculation of City portion of Profit Participation (ref. Section 10):

In the above cash flow series, actual at-sale (Year 8) revenues of \$5,079,715 resulted in a total project Levered Before-Tax IRR of 16.17%. Back-calculating, Year 8 revenues of \$4,642,365 would have yielded a Levered Before-Tax IRR of 15.00%; thus, there are excess Net Proceeds of \$437,350 to be shared with the City in accordance with Section 10 (\$437,350 x 20% = \$87,470 to the City).