

1 **Development Agreement**

2 **Exhibit F**

3 **DEVELOPMENT FINANCING AGREEMENT**

4 **(TAX INCREMENTAL DISTRICT NUMBER 20)**

5 **THIS AGREEMENT** is entered into as of this ___ day of July, 2024 (the “Effective Date”),
6 between the Community Development Authority of the City of West Allis, Wisconsin , a separate
7 body politic created by ordinance of the City of West Allis, pursuant to Section 66.1335 of
8 Wisconsin Statutes (“Authority”), the City of West Allis (“City”), (Authority and City are collectively
9 referred to as “West Allis”) and JJH3 LLC, a Wisconsin limited liability company, its successors
10 and/or assigns (“Developer”).

11 **WHEREAS**, on even date herewith, West Allis and Developer have entered into a Purchase
12 and Sale Agreement (the “Purchase and Sale Agreement”) for the sale of certain real property (the
13 “Public Property”), identified in the Purchase and Sale Agreement constitutes the “Property,” to be
14 used for the Project as defined below; and,

15 **WHEREAS**, Pursuant to the Purchase and Sale Agreement for the purchase and sale of
16 certain property owned by the City of West Allis and the Community Development Authority of the
17 City of West Allis, described in the Purchase and Sale Agreement under **Exhibit A** of the Purchase
18 and Sale Agreement; and,

19 **WHEREAS**, as of the date hereof, West Allis closed on the sale of the Property to the
20 Developer pursuant to the Purchase and Sale Agreement (the “Closing”), which sale was

1 contingent upon, among other matters, the Developer’s commitment to construct 8 townhome
2 units and a multifamily mixed-use apartment building with 11-units and with approximately 2,300
3 sq. ft. of commercial space (the “Development Agreement”). The Project will include
4 approximately 25 surface parking spaces. The estimated budget for the project is \$7.4 million. The
5 Developer will construct a new 50 ft. 119 ft. (6,020) sq. ft. public space within the Project area. The
6 Plan Commission approved the site plan on May 29, 2024, and the Plan is outlined in the Purchase
7 and Sale Agreement under **Exhibit B – Project Plan**. The Developer’s Project Plan is consistent
8 with the TID Project Plan; and,

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

12 **WHEREAS**, pursuant to the Purchase and Sale Agreement, West Allis agreed to provide
13 certain financial incentives and assistance to allow the Developer to develop the Project and the
14 Developer would not undertake the development and construction of the Project without such
15 financial incentives and assistance; and,

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

19 **WHEREAS**, the Developer plans to expend certain costs to construct the Project and all
20 such costs as described on **Exhibit I– Project Costs of the Development Financing Agreement**
21 hereto (the “Project Costs”).

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

4 **WHEREAS**, West Allis has determined that the Project and the City Investment (defined
5 below) related to the Project serve a public purpose by eliminating blighted conditions and
6 encouraging residential development within the City, enhancing the City’s tax base, promoting
7 employment opportunities, inducing appropriate development of the Property, and
8 encouraging redevelopment of nearby parcels; and,

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

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

14 **1. Developer Investment, Equity and Financing.** On or prior to Closing, Developer will
15 demonstrate to the City that in connection with the Project: (i) Developer has obtained
16 approximately \$5.733 million in a combination of (a) debt financing from a private lending
17 institution (the “Debt Financing”) and (b) private equity (“Equity”). Developer shall have the
18 right to adjust the projected amounts of Debt Financing and Equity provided that Developer
19 shall, in the aggregate, have obtained sufficient Debt Financing and Equity that, together with
20 the public funding and financing assistance described in this Agreement, is sufficient to
21 complete development of the Project. Developer and/or its affiliates shall provide any and
22 all guaranties required to obtain the necessary Debt Financing provided any and all such

1 guaranties are on commercially reasonable terms and conditions and consistent with
2 Developer’s and its affiliates’ standard practices.

3
4 **2. Tax Increment Financing.** Pursuant to the Wisconsin Tax Increment Law, Wis. Stats.
5 §66.1105 *et seq.*, the Common Council of the City of West Allis created by resolution Tax
6 Incremental District Number 20, City of West Allis, as of July 10, 2024 (the “District”) and
7 approved the project plan (the “Project Plan”) for the District (hereby incorporated by
8 reference as **Exhibit II – Tax Incremental District Number 20**). The Property is within the
9 boundaries of the District and the transaction contemplated by Purchase and Sale
10 Agreement, the Development Agreement and this Agreement is essential to the viability of
11 the District.

12 a. The Project to be developed by the Developer benefits the surrounding
13 neighborhood and West Allis (i.e. the City and the Authority) as a whole. West Allis
14 has determined that the Project is consistent with Project Plan and the City ‘s 2040
15 Master Plan as of May 29, 2024.

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

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

23 d. The City has created a Tax Incremental Financing District to facilitate the
24 actions and financings described in this Agreement. The City shall include the

1 Project in the TID. Property taxes paid on properties located within TID in excess of
2 those paid on the base valuation are referred to as "Tax Increments."

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

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

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

11 b. Developer Municipal Revenue Obligation. West Allis will provide to the
12 Developer with an estimated amount of \$1,665,533 of "Pay Go" TIF payments (referred to as
13 "D-MRO") benefits to the Developer based on the estimates provided in **Exhibit III – TIF**
14 **Model of the Development Financing Agreement.** The amount of each annual payment
15 will vary based upon the Projects increment paid. Estimated payments are provided on the
16 Exhibit C and were prepared and modeled by the City's TIF consultant Ehlers and hereby
17 attached. The Annual Payment will be made based upon the actual Tax Increment received
18 by West Allis but can be greater than or less than the amount shown in Exhibit C.
19 Adjustments to the amount paid in any year of the D-MRO Schedule shall not amend or
20 modify the maximum total amount of D-MRO, estimated at \$1,665,533. At the closing on
21 the sale of the Property to the Developer (the "Closing"), at the Developer's request, West
22 Allis will issue an estimated payment schedule to evidence the D-MRO (the D-MRO
23 Estimated Schedule"), as attached and incorporated herein as **Exhibit IV- TID #20-6400**
24 **Block Cash Flow Projection** and D-MRO Schedule), to effect a total of disbursement in the

1 estimated amount of \$1,665,533 over the 20-years following the Closing based on the final
2 D-MRO Schedule. TIF #20 will be available up to the 27-year statutory limit of the TIF to allow
3 the payments of the D-MRO during the 27-year statutory time limit. This Agreement shall
4 evidence the obligation of West Allis to make D-MRO payments to the Developer in
5 accordance with the final –D-MRO Estimated Schedule. The sole source of the repayment
6 for the D-MRO will be the Tax Increments from the Project. Installments of the D-MRO shall
7 commence on October 1 in the first year that the Project generates Tax Increment and will be
8 due and payable on each October 1 thereafter.

9 c. Environmental Assistance. West Allis will utilize funds from an EPA
10 Assessment grant to assist with additional environmental costs on City owned land. Other
11 environmental costs will need to be addressed utilizing TIF Funds or charged to the TIF.

12
13 **5. Takeout Refinancing.** If the Developer anticipates a Takeout Refinancing (as
14 hereinafter defined) of Debt Financing within twelve (12) months following Project Stabilization (as
15 hereinafter defined). If sufficient Takeout Proceeds (as hereinafter defined) are available,
16 Developer may make a payment to the Authority out of the Takeout Proceeds within fifteen (15)
17 months following Project Stabilization (the “Takeout payment in a multiple of \$50,000).

18 a. Percentage. The West Allis participation through the TIF shall be reduced by one (1%)
19 for every \$50,000 achieved or paid through Takeout Refinancing.

20 b. Definition of Takeout Refinancing. As used herein, “Takeout Proceeds” shall mean
21 proceeds available to Developer from the Takeout Refinancing less: (i) payment of all closing costs
22 in connection with the Takeout Refinancing, (ii) payment of all sums required to satisfy existing
23 mortgages on the Property, (iv) establishment of reasonable reserves, including, without limitation,

1 any reserves required by the Takeout Lender (as defined below); and (vi) payment of all sums
2 required to pay the current year and any and all accrued preferred returns to investors in the
3 Project, under the Project's limited liability company agreement.

4 c. Underwriting Criteria for Takeout Refinancing. The Parties acknowledge and agree that
5 the total loan amount for the Takeout Refinancing will be subject to Developer's sole discretion and
6 subject to Developer's then-current underwriting criteria.

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

15 Increments shall be applied as follows:

16 a. Payment of any outstanding City administration fees for certain expenses in
17 connection with the administration of the TIF #20 and administration of the D-MRO as outlined in
18 the **Exhibit II**.

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

1 c. The Tax Increments shall be calculated based on the tax incremental base value
2 and the actual value increment for the Property, as determined annually by the Wisconsin
3 Department of Revenue for each tax year.

4 Any amounts due in any year for the City TID Administration Fee and the D-MRO but not
5 paid from Takeout Proceeds shall carry over until paid or waived upon closure of TID #20. The City
6 TID Administration Fee and D-MRO 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.

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

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

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

3 i. The Developer shall fund into an account (the “Capital Reserve Account”)
4 an amount equal to \$40,769.00 to pay for replacement costs, capital improvements
5 and non-routine operating expenses associated with the Project, including without
6 limitation, construction defects and failures to the extent not covered by applicable
7 warranties, and deductibles on insurance claims without the prior consent of the
8 West Allis; then

9 ii. Any remaining Costs Savings after item (i) above (“Net Savings”) shall be
10 paid 50% to the West Allis and 50% to the Developer. West Allis shall deposit any
11 Net Savings it receives into the TID.

12 c. Capital Reserve Account. Developer and West Allis hereby acknowledge
13 and agree that Developer shall have the right to withdraw funds from the Capital
14 Reserve Account during the two-year period commencing at Project Stabilization
15 (the “Reserve Period”) to pay for replacement costs, and non-routine operating
16 expenses, including without limitation, construction defects and failures to the
17 extent not covered by applicable warranties, and deductibles on insurance claims
18 without the prior consent of West Allis. Upon the expiration of the Reserve Period,
19 any funds remaining in the Capital Reserve Account shall be distributed 50% to
20 West Allis and 50% to the Developer. The West Allis shall deposit any such
21 distribution it receives into the TID.

1 d. Calculation of Net Savings. Final determination of Net Savings shall be
2 made by West Allis's construction cost consultant, in good faith and acting
3 reasonably, subject to the reasonable review and approval of Developer. The
4 calculation of the actual cost of the Project and therefore the determination of Net
5 Savings will conform to the disbursement records of the Developer's construction
6 lender and First American Title Insurance Company. Within 60 days following
7 Project Stabilization, Developer shall provide West Allis and its construction cost
8 consultant with a detailed description of the actual costs of the Project in a manner
9 and format consistent with the original Project Budget. West Allis or its consultant
10 may request any additional support or verification as may be reasonably needed,
11 including invoices and other proof of payments to compare the final cost to the
12 original Project Budget.

13 **9. Project Stabilization Definition.** "Project Stabilization" shall mean the earlier of
14 (a) the date upon which the Project has achieved and maintained 95% physical occupancy of
15 apartments available for rent (i.e., excluding from total apartment count, models and units
16 occupied for marketing and management purposes) continuously over any ninety (90) day period or
17 (b) the fifth (5th) anniversary of the date of Closing. Notwithstanding the foregoing, Developer may
18 make a distribution of all or any percentage of Net Savings payable to West Allis prior to achieving
19 95% physical occupancy if necessary or desirable to comply with any applicable loan covenants
20 and obligations in effect in connection with any Debt Financing.

21 **10. Profit Participation.**

22 a. Profit Participation Triggers. In further consideration of the participation by
23 West Allis in this Agreement, and as more particularly provided below, upon the occurrence

1 (during the time in which TID #20 remains open) of: 1) a sale by Developer or its affiliate of
2 the Project or the conveyance of greater than a majority and controlling interest in
3 Developer or its affiliate then owning the Project to any third-party unrelated to Developer (a
4 “Sale”); or 2) a Cash Out Refinancing (as defined below) of the Project (each a “Trigger
5 Event”), West Allis shall be entitled to a one-time Profit Participation as hereinafter
6 provided.

7 b. Profit Participation and Definition. If Net Proceeds (as hereinafter defined)
8 result from a Sale or Cash Out Refinancing, and provided further that the conditions
9 outlined below are satisfied in the event of such Sale or Cash Out Refinancing, in sufficient
10 amounts to result in the total Investor Equity (as hereinafter defined) realizing an Unlevered
11 Internal Rate of Return, to be determined based on the methodology reflected in the
12 example calculation attached hereto as **Exhibit V** and in accordance with standard industry
13 practice (“UIRR”) in excess of 7%, the excess Net Proceeds shall be paid to West Allis (the
14 “Profit Participation”). There shall be no Profit Participation if the Unlevered IRR realized on
15 Investor Equity is less than 7%. West Allis shall deposit any Profit Participation it receives
16 into the TID.

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

19 d. Definition of Cash Out Refinancing. “Cash Out Refinancing” mean
20 refinancing of the Project that generates sufficient cash to directly result in a cash
21 distribution to the Developer that results in the members receiving a return of all their
22 capital and the preferred returns and distributions earned through the date of such event,
23 and the Developer receiving a return of all its capital and preferred returns. As necessary,

1 the amount of Net Proceeds for purposes of calculating the UIRR from partial cash out
2 financings, where cash is distributed to the members but in insufficient amounts to return
3 all of such capital and returns, and partial Sale events after which Developer retains a
4 continued ownership interest in the Project, will be accumulated for purposes of
5 establishing the total amount of Net Proceeds for purposes of calculating the UIRR and will
6 not be paid until the total amount of the Net Proceeds can be calculated. Unless otherwise
7 agreed to by the Developer and West Allis, the Profit Participation shall be paid in one lump
8 sum pursuant to the terms and provisions herein and as more particularly set forth below.

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

11 i. Costs of the sale and customary costs of closing or the costs of
12 refinancing, such as title insurance, closing fees, brokers' fees, lenders' fees and
13 points, taxes, recording fees, transfer fees, expense prorations, accounting
14 expenses and attorneys' fees;

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

18 iii. Investor Equity, including any accrued and unpaid preferred return
19 thereon; and

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

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

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

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

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

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

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

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

7 **13. PILOT and Shortfall Agreement.**

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

20 b. Tax Contest. In consideration of West Allis providing the financial
21 assistance outlined in Section 4 of this Agreement, Developer, its successors, assigns, or
22 affiliates, agree to not challenge any property tax assessment levied against the Project
23 prior to the termination of TID #20 except that any or all of them may contest any such

1 property tax assessment but only in good faith and only if and to the extent any such
2 property tax assessment is in excess of the anticipated minimum assessed value of the
3 Property in the same particular tax year as set forth in Exhibit II.

4 c. Change in Method of Taxation. To the extent in compliance with applicable
5 law, if any tax, assessment or like charge is imposed on or assessed against the Project or
6 the use and operations thereof or income therefrom, as an alternative to, a replacement of,
7 or as supplemental to, any or all of the property taxes that are intended by the parties
8 hereto to constitute the Tax Increments, or increment or like revenues under the tax
9 increment law or any equivalent, then such taxes, assessments, and charges shall be
10 deemed to be Tax Increments hereunder and shall be disbursed as set forth in this
11 Agreement. Notwithstanding the foregoing, special assessments and special charges
12 levied by the City for permitted purposes, such as to pay for improvements and services,
13 shall not be included as Tax Increments.

14 **14. ASSIGNMENT OF AGREEMENT.** This Agreement and all rights and obligations
15 therein, including but not limited to the indemnification's provisions thereunder, may be assigned
16 in whole or in part by the Developer to an affiliated entity upon notice to West Allis. However, upon
17 notice to West Allis, Developers may assign this Agreement to an affiliated entity or to its lender in
18 connection with a mortgage on the Property, subject to all terms and conditions of this Agreement.
19 This Agreement may also be collaterally assigned in whole or in part by the Developer to any lender
20 or lenders holding a mortgage on all or any part of the Property. No such lender shall have any
21 liability hereunder unless said lender elects to effectuate such assignment and exercise the
22 Developer's rights hereunder. Upon any such assignment, references to Developer contained in
23 this Agreement shall refer to the assignee, unless the assignment expressly provides otherwise, it
24 being understood, for example, that Developer or any assignee of Developer may elect to retain the

1 benefits of the D-MRO and is not required to assign the D-MRO to the owner of the Property;
2 provided, however, that the obligations of Section 11 and 13 shall be binding on Developer and its
3 successors and assigns.

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

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

17 To Authority: City of West Allis and Community Development Authority of the City
18 of West Allis
19 Economic Development Executive Director
20 West Allis City Hall
21 7525 W. Greenfield Avenue
22 West Allis, WI 53214
23

24 To the City: City of West Allis
25 Office of the City Attorney
26 7525 W. Greenfield Avenue
27 West Allis, WI 53214
28 Attention: City Attorney
29

1 To Developer: JJ3H LLC
2 P.O. Box 1798
3 Milwaukee, WI 53201
4 Attn. Jeffrey J. Hook
5 Email: jhook@JJH3group.com
6

7 With a copy to: Peter J. Faust, Attorney at Law
8 O'Neil, Cannon, Hollman, DeJong and Laing S.C.
9 111 E. Wisconsin Avenue, Suite 1400
10 Milwaukee, WI 53202
11 Attn: Peter J. Faust
12
13
14

15 **17. REPRESENTATIONS AND WARRANTIES OF DEVELOPERS.**

16 The provisions of Section 22.B. of the Purchase Agreement are incorporated herein.

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

22 **19. DEFAULT.** The provisions of Section 42 of the Purchase and Sale Agreement are
23 incorporated herein.

24 **20. SUCCESSORS AND ASSIGNS.** This Agreement shall be binding upon the
25 successors and assigns of Developers; however, this provision shall not constitute an
26 authorization for Developers to assign or transfer its rights and obligations under this Agreement
27 except as provided in this Agreement.

1 **21. Further Assurances.** Following the Closing, each of the Parties will take such
2 further actions and execute and deliver such additional documents and instruments as may be
3 reasonably requested by any other Party in order to perfect and complete the financing of the
4 Project as described herein as well as any other transactions specifically contemplated herein.

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

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

13 **24. Governing Law and Venue.** This Agreement shall, in all respects whether as to
14 validity, construction, capacity, performance, or otherwise, be governed by the laws of the
15 State of Wisconsin. Any suit or proceeding arising out of or related to this Agreement shall be
16 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.

17 **29. Construction.** The West Allis and the Developer acknowledge that each party and
18 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 Developers 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 Developers 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]

DRAFT

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: _____

CITY OF WEST ALLIS

By: _____

Dan Devine, Mayor

Dated: _____

By: _____

Rebecca Grill, City Administrator and City Clerk

Dated: _____

JH3 LLC

By: JH3 LLC, its Manager

By: _____

Jeffrey Hook, Owner and Manager

Dated: _____

DRAFT

EXHIBIT I
TO
DEVELOPMENT FINANCING AGREEMENT

Project Costs

Land Acquisition	\$	1.00
Site Prep Costs/Off Sites	\$	250,000.00
Environmental Remediation	\$	-
Construction Hard Costs	\$	5,566,880.00
Construction Contingency	\$	167,006.00
Architectural	\$	400,000.00
Project Management	\$	335,000.00
Testing and Surveying	\$	36,000.00
Insurance and Taxes	\$	45,000.00
Title and Appraisals	\$	256,452.00
Development Contingency	\$	200,000.00
Total		\$ 7,256,339.00

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EXHIBIT II
TO
DEVELOPMENT FINANCING AGREEMENT

Project Plan

The Project Plan for Tax Incremental District Number 20 is on file in the office of the City Clerk and is incorporated herein by reference.

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EXHIBIT III

2

Development Finance Agreement TIF #20 Cash Flow

City of West Allis, Wisconsin									
Tax Increment District No. 20									
Tax Increment Projection Worksheet									
Type of District	Blighted Area				Base Value			0	
District Creation Date	January 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	1/1/2046			Rate Adjustment Factor			0.00%	
Revenue Periods/Final Year	27	2052							
Extension Eligibility/Years	Yes	3							
Eligible Recipient District	Yes								
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	149,801		
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	159,016		
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	162,213		
11 2034	0	2035	80,718	8,152,549	2036	\$20.10	163,835		
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	167,128		
14 2037	0	2038	83,164	8,399,579	2039	\$20.10	168,799		
15 2038	0	2039	83,996	8,483,575	2040	\$20.10	170,487		
16 2039	0	2040	84,836	8,568,411	2041	\$20.10	172,192		
17 2040	0	2041	85,684	8,654,095	2042	\$20.10	173,914		
18 2041	0	2042	86,541	8,740,636	2043	\$20.10	175,653		
19 2042	0	2043	87,406	8,828,042	2044	\$20.10	177,410		
20 2043	0	2044	88,280	8,916,323	2045	\$20.10	179,184		
21 2044	0	2045	89,163	9,005,486	2046	\$20.10	180,976		
22 2045	0	2046	90,055	9,095,541	2047	\$20.10	182,785		
23 2046	0	2047	90,955	9,186,496	2048	\$20.10	184,613		
24 2047	0	2048	91,865	9,278,361	2049	\$20.10	186,459		
25 2048	0	2049	92,784	9,371,145	2050	\$20.10	188,324		
26 2049	0	2050	93,711	9,464,856	2051	\$20.10	190,207		
27 2050	0	2051	94,649	9,559,505	2052	\$20.10	192,109		
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).									

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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

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Exhibit IV

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

12 FOR VALUE RECEIVED, the City of West Allis, Milwaukee County, Wisconsin (the "City"),
13 promises to pay to JJH3 LLC, or registered assigns, but only in the manner, at the times, from the
14 source of revenue and to the extent hereinafter provided, the Principal Amount (as defined below)
15 together with interest thereon from the date of original issue set forth above, or the most recent

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

3 The "Principal Amount" of this Bond shall be a principal amount equal to the actual Project
4 Costs incurred by the Developers (as such terms are defined in the Development Financing
5 Agreement dated as of _____, 2024, between the City of West Allis, the
6 Community Development Authority of the City of West Allis, and JJH3 LLC, a Wisconsin Limited
7 Liability Company (the "Development Financing Agreement")) but not to exceed \$1,665.533 (D-
8 MRO). The Principal Amount shall be determined initially as of the date of issuance of this Bond
9 based on the Project Costs which Developers have contractually committed itself to incur. A final
10 determination of the total Project costs and the Principal Amount of the Bond shall be made upon
11 substantial completion of the Project as provided in the Development Financing Agreement.

12 For each Year (defined below), interest shall accrue on the outstanding Principal Amount of
13 the Bond and the outstanding interest on the Bond determined as of the first day of that Bond Year.
14 The outstanding Principal Amount of the Bond as of any date shall be reduced by the amount of any
15 principal payments previously made on the Bond. For purposes of this Bond, "Bond Year" shall
16 mean the one year period commencing on each _____ 1 and ending on the following
17 _____ 30, except that the first Bond Year shall commence on the effective date of original
18 issue of this Bond and end on _____, ____.

19 Assuming that the Principal Amount of the Bond is equal to the maximum Principal Amount
20 \$1,665,533 this Bond shall be payable in installments of principal due on _____, in each
21 of the years and amounts as follows:

Year

Principal

1 In the event that the total Project Costs incurred by Developers and therefore the final
2 Principal Amount of the Bond is less than \$1,655,000 there shall be a reduction in the principal
3 installments of the Bond beginning with the final maturity and then proceeding to the next
4 preceding maturity until the total of the principal installments on the Bond is equal to the amount
5 of the Project Costs incurred by Developers.

6 Interest shall be payable on _____ 1 in each year, commencing on _____ 1,
7 20__ (the "Bond Payment Dates").

8 This Bond has been issued to finance a project which is a part of City's blight elimination
9 utility, pursuant to Article XI, Section 3 of the Wisconsin Constitution and Section 66.0621,
10 Wisconsin Statutes and acts supplementary thereto, and is payable only from the income and
11 revenues herein described, which income and revenues have been set aside as a special fund for
12 that purpose and identified as the "Special Redemption Fund." This Bond is issued pursuant to a
13 resolution adopted on _____, _____, by City's Common Council (the "Resolution")
14 and the Development Financing Agreement, and is subject to the terms and conditions of said
15 Resolution and Development Financing Agreement. This Bond does not constitute an
16 indebtedness of City within the meaning of any constitutional or statutory limitation or provision.
17 The principal of and interest on this Bond shall be payable solely in amounts that do not exceed
18 available Tax Increments (as defined in the Development Financing Agreement) received by City
19 with respect to its Tax Incremental District Number 20 (the "Revenues"). Reference is hereby
20 made to the Development Financing Agreement for a more complete statement of the revenues
21 from which and conditions under which this Bond is payable, and the general covenants and
22 provisions pursuant to which this Bond has been issued.

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

4 If on any Bond Payment Date there shall be insufficient Revenues to pay the principal or
5 interest due on this Bond, the amount due but not paid shall accumulate and be payable on the
6 next Bond Payment Date until the final Bond Payment Date. Interest at the rate of [6.55%] per
7 annum shall be paid on such unpaid amounts of principal and interest. The City shall have no
8 obligation to pay any amount of principal or interest on this Bond which remains unpaid after
9 October 1, [2037] and the owner of this Bond shall have no right to receive payment of such
10 amounts.

11 This Bond (a) shall be prepaid on each Bond Payment Date in an amount equal to the
12 amount by which the available Tax Increments collected by City in that Bond Year exceed the
13 amount of principal and interest due on the Bond Payment Date and (b) is subject to prepayment in
14 whole or from time to time in part at any time, at the option of City.

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

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

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

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

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

15

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

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

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

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

CITY OF WEST ALLIS

MILWAUKEE COUNTY, WISCONSIN

By _____

(SEAL)

Mayor

By _____

City Clerk

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

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Exhibit V

TO

DEVELOPMENT FINANCING AGREEMENT

Unlevered Calculation

Need to fill