

Letter of Intent - Development Agreement 6771 W. National Avenue

The purpose of this Letter of Intent ("LOI") is to outline the principal terms and conditions of a development agreement (the "Development Agreement") to be entered into by and between WITICO Development Company or its affiliate entity (the "Developer") and the Community Development Authority of the City of West Allis, WI (the "CDA") for the redevelopment of the Kearney & Trecker building at 6771 W. National Avenue and a portion of the 67** W. Mitchell West Allis, WI (the "Building" or "Project") in response to the proposal submitted by the Developer to the CDA on October 30, 2020, attached hereto for reference.

The terms of the Letter of Intent shall be as follows:

- 1. Developer: WITICO Development Company**
- 2. Project:** The Developer and CDA agree to work together to complete a Project on land owned by the CDA and identified on **Exhibit A – Legal Description** as consisting of real estate and improvements at 6771 W. National Avenue and a portion of 67** W. Mitchell Street ("Site"). The Developer, in a form and substance as provided for in the proposal submitted on October 20, 2020, and attached as **Exhibit B-Project** ("Project").
- 3. Due Diligence Period and Condition of Title:** During the Exclusive Negotiation Period (as defined below), Developer shall be permitted to conduct due diligence investigations on the Project to determine whether the Project is feasible. Developer shall have the right to survey and examine the Project and any improvements thereon, including, but not limited to, the physical condition of the Project and any improvements, the availability of access, water, sewer and other utilities and services on the Project and the costs of securing same, the existence of hazardous or toxic substances or pollutants, and the zoning and applicable governmental regulations, statutes and ordinances pertaining to the Project, at any time, with any persons whom it shall designate, including without limitation of the foregoing, appraisers, contractors, engineers and soil testing personnel. Additionally, Developer shall be permitted to order a current commitment for title insurance (the "Title Commitment") for the Project disclosing all matters of record which relate to the title to the Project, and a legible copy of each of the instruments and documents referred to in the Title Commitment. The parties will work together to resolve any issues disclosed on the Title Commitment, and the CDA acknowledges that their inability to satisfactorily resolve any title objections may impair the future development of the Project.
- 4. Acquisition:** The Development Agreement shall provide that on the date of closing, the CDA shall convey fee simple title to the Project to the Developer for the purchase price of \$1.00. The property will be sold "As Is."
- 5. Project Budget:** During the Exclusive Negotiation Period, Developer shall be responsible for further researching, site due diligence and detailing the project budget (as provided for in Developer's Proposal).

6. **Form of Assistance:** The CDA shall be responsible for securing and/or providing to the Project an allocation of New Market Tax Credits.
7. **Historical Approval:** The parties shall endeavor to have the Project approved by Wisconsin State Historical Preservation Office and the National Park Service so that the Developer can secure and use Historic Tax Credits as a form of financing for the project as contemplated in Developer's Proposal.
8. **Environmental:** The property is being sold by the CDA to the Developer in an "As Is" condition. The Developer is responsible for their own due diligence and environmental review of the Property and shall be solely responsible for the costs of conducting any additional testing and investigations.
 - a. The 6771 W. National Avenue site was granted case closure by the Wisconsin Department Natural Resources on January 21, 2016. A copy of the GIS Registry with attached closure letter is attached as **Exhibit C – 6771 Closure**. On behalf of the CDA, Ramboll, the CDA's environmental consultant, requested a Post-closure Modification in order to allow commercial land use or residential land use with a localized vapor mitigation system. That request was approved on August 15, 2019 and attached as **Exhibit D – 6771 Modification**.
 - b. The 67** W. Mitchell site was granted case closure by Wisconsin Department of Natural Resources. A copy of the GIS Registry with attached closure Letter is attached as **Exhibit E – 67** Closure**.
9. **Termination.** If Developer determines that the transactions contemplated herein cannot be feasibly undertaken due to market, financial or other criteria, then Developer may give City written notice of its termination of efforts hereunder and upon receipt of such notice the parties shall have no claims or obligations to the other
10. **Adjacent Parcel & Shared Parking.** The parties agree to work during the Exclusive Negotiation Period to determine the uses for the adjacent land parcel and a form of shared parking between the 6771 W. National and 67** W. Mitchell Avenue and that parcel or the conveyance of additional land for sufficient parking for Developer's Project.
11. **Cross Access Agreement.** Parties agree to work together on a cross access agreement between the Project and 6749-51 W. National Avenue.
12. **Exclusive Negotiation Period.** City and Developer agree to work in good faith to negotiate the terms of a prospective Development Agreement that will memorialize the foregoing deal points. As a condition to Developer's agreement to proceed and expend significant resources and due diligence costs in connection with the Project, City agrees not to enter into negotiations with any third party for the development of the Project for a period of not less than Ninety (90) days (the "Exclusive Negotiation Period") from the date hereof to allow time to finalize and execute the Development Agreement. After the last day of the Exclusive Negotiation Period, if, after good faith efforts, City and Developer have not been able to reach agreement on the Development Agreement, City shall have the right to enter into negotiations for the development of the Project with any other person or entity without further obligation or liability to Developer.

13. **Timeline.** The attached **Exhibit F- Timeline** indicates the key milestone activities and responsible parties for each step of the development process

Notwithstanding anything to the contrary herein, the parties agree that except for Section 12, Exclusive Negotiation Period, this Letter of Intent is not binding and none of the terms hereof shall be enforceable against any party unless a definitive Development Agreement is fully executed and delivered to the parties. In no event shall City or Developer have any obligation to each other under this Letter of Intent to purchase, sell or finance the Property.

The parties agree to the terms and conditions of this LOI and accept their respective responsibilities and obligations on this _____ day of _____, 2021

DEVELOPER:

WITICO Development Co

BY: _____

NAME: Landon Thomas/Michael Wimmer

ITS:

Community Development Authority of the City of West Allis:

BY: _____

NAME: Patrick Schloss

ITS: Executive Director

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List of Exhibits

1. Exhibit A – Legal Description
2. Exhibit B - Project
3. Exhibit C – 6771 Closure
4. Exhibit D – 6771 Modification
5. Exhibit E – 67** Closure
6. Exhibit F- Timeline

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