

June 25, 2020

Mr. John Stibal, Patrick Schloss, Shaun Mueller
City of West Allis
7525 W. Greenfield Ave.
West Allis, WI 53214

RE: Letter of Intent – Development Agreement – SoNa Development Site

The purpose of this Letter of Intent is to outline the principal terms and conditions of a development agreement (the “Development Agreement”) to be entered into by and between Mandel Group, Inc. its affiliates and/or assigns (the “Developer”) and the City of West Allis, WI (the “City”) for the redevelopment of the land commonly known as “SoNa” and bounded by National Avenue on the north and South 66th Street on the east, as generally shown on the attached **Exhibit A** (the “Site”).

Background

The City continues to consider options for the long-term improvement of and access to the Higgins Tower Company, situated at the corner of South 66th Street and West Mitchell Street (the “Higgins Property”) with regards to the rehabilitation and long-term access rights in a previously conveyed right of access. The resolution of those negotiations will impact the final configuration of roadways, utilities, stormwater improvements and other aspects of the comprehensive development plan for the SoNa property to be prepared by the Developer.

The Project

The improvement of lands identified on Exhibit A as “City Lands” is known as the “Project”. Developer intends to proceed with implementation of the Project subject to finalization of normal and customary agreements with the City of West Allis for the Public Financial Participation defined below at Section 5, together with normal and customary municipal approvals. To date, Developer has invested substantial time and out of pocket

expense with the input, direction and guidance of the City to bring the Project to fruition. The parties wish to memorialize their agreement in concept, as herein described, to continue with those efforts necessary to finalize pre-development activities and proceed with development of the Project.

The intentions of the parties as expressed herein serve as material inducement for the ongoing efforts and investment on the part of both parties to continue with pre-development activities. Further, with respect to the Exclusive Negotiation Period contained in Section 9 below, the parties agree to focus their energies with respect to the Project for the exclusive benefit of the other party and that no substitute or competing development plan will be encouraged, proffered or discussed during such time. This obligation extends to any aspect of City government involved in the review and consideration of the conveyance of the Site or the development of the Project.

The business terms and conditions as contained below will serve as the basis for negotiation and preparation of a Development Agreement and companion financing agreements embodying the general business terms described herein.

AGREEMENT

The parties agree to perpetuate pre-development activities in support of implementation of the Project as follows:

- 1. Project:** The Developer and City agree to work together to complete a Project in a form and substance as illustrated in **Exhibit B**.
- 2. 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 Project cost, capital structure, market feasibility and public/private financing structuring necessary to provide for a feasible development structure. 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, City shall provide Developer a current commitment for title insurance (the “Title Commitment”) for the Site disclosing all matters of record which relate to the title to the Site and which may impair 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 City acknowledges that their inability to satisfactorily resolve any title objections may impair the future development of the Site and the Project.

- 3. Acquisition:** The Development Agreement shall provide that on the date of closing, the City shall convey fee simple title to the Site to the Developer for the purchase price of \$1.00.
- 4. Project Budget:** During the Exclusive Negotiation Period, Developer shall be responsible for further researching and detailing a schedule of the sources and uses of funds, income and expense of the operation of the Project, and investment analysis for debt and equity sources of funding (the “Project Budget”) and providing the City with periodic updates to the Project Budget as appropriate for review by the City.
- 5. Form of Public Finance Participation:** The City shall be responsible for securing and investing in the Project those forms of conventionally used public financing tools and resources including but not limited to grants, low-interest loans, tax credits, tax increment financing, and similar tools available to the City and its affiliates. The Project Budget shall detail the requisite forms of public finance participation to achieve feasibility. The parties agree to negotiate in good faith to examine any available alternatives for financial structure

subject to attainment of market-acceptable returns to private debt and equity providers whose investments comprise a portion of the overall Project capitalization.

- 6. Environmental:** In the event that there are environmental remediation costs associated with Developer's plan for the Building then the City shall be solely responsible for the costs of and performing the remediation to provide for a development Site free of regulatory limitations and ongoing liability. If mutually agreed City shall provide Developer with sufficient funds to remediate such issues in lieu of performing such activities.
- 7. Shared Parking:** The City intends to own and operate shared public parking in order to service patrons of the West Allis Farmers Market and otherwise serve the needs of the public as determined by the City in its sole discretion. The inclusion of public parking is a component of the overall Project.
- 8. Developer's Work Product:** The Developer will expend sufficient staff and out-of-pocket resources, retain such professional consultants as necessary to advance detailed plans of the Project, solicit commercial and residential tenants, formulate financial plans for capitalization of the Project and seek private sector sources for that portion of a financing plan, and otherwise diligently and continuously undertake those actions and make those investments necessary in order to advance the Project. The work product paid for by Developer shall at all times be the sole property of Developer in all respects, during the term hereof and thereafter in the event no final agreement is reached regarding a Development Agreement. Developer at all times shall be permitted to protect its intellectual property as documented through the use of spreadsheet programs, design and engineering software programs, and similar licensed property of Developer. City shall be provided with portable document format (pdf) versions of any applicable Project Budgets, design and engineering drawings, and other information sufficient to allow City to achieve its review and participation obligations as outlined herein.
- 9. Exclusive Negotiation Period.** City and Developer agree to work in good faith to negotiate the terms of a Development Agreement that will memorialize the foregoing deal

points. Given the public/private nature of the Project certain actions will be required of each party in order to allow the Project to proceed. The attached **Exhibit C** indicates the key milestone activities and responsible parties for each step of the development process. 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 one hundred eighty (180) 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 sale of the Site and the development of another project with any other person or entity without further obligation or liability to Developer.

10. Non-Binding Agreement. Notwithstanding anything to the contrary herein, the parties agree that except for Section 8, 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 are 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.

- *Signatures appear on the following page* -

The parties agree to the terms and conditions of this Agreement and accept their respective responsibilities and obligations on this _____ day of _____, 2020.

DEVELOPER:

Mandel Group, Inc.

BY: _____
NAME: Robert B. Monnat
ITS: COO

CITY:

City of West Allis, Wisconsin

BY: _____
NAME:
ITS:

DRAFT

**EXHIBIT A
THE SITE**

DRAFT

**EXHIBIT B
PROJECT PLAN**

DRAFT

EXHIBIT C
MILESTONE DEVELOPMENT CALENDAR

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