

1 **DEVELOPMENT AGREEMENT**  
2 **(6400 Block of W. Greenfield Ave)**

3 **THIS DEVELOPMENT AGREEMENT** (this "Agreement"), made and entered into as of the  
4 \_\_\_\_ day of \_\_\_\_\_, 2024, by and between the Community Development Authority of the  
5 City of West Allis, a separate body politic created by ordinance of the City of West Allis, pursuant to  
6 Section 66.1335 of the Wisconsin Statutes ("Authority"), the City of West Allis, a municipal  
7 corporation ("City"), (Authority and City are collectively, "West Allis") and LxL Allis Yards, LLC, a  
8 Wisconsin limited liability company, and its successors and/or assigns ("Developer"). The Authority,  
9 the City, and Developer are each referred to herein as a party or together as the "Parties."

10 **WHEREAS**, the Developer has an approved offer to purchase certain property located within  
11 Tax Increment District #16, outlined in Lot 1 of Certified Survey Map 9569 (the "CSM") described in  
12 **Exhibit A** attached hereto (the "Property"); and

13 **WHEREAS**, the Property is subject to an existing development agreement originally executed  
14 on March 21, 2019, between Cobalt Development and West Allis; and

15 **WHEREAS**, the provisions of the preceding development agreement between West Allis and  
16 Cobalt Development will continue to remain in place, except for the Fifth Amendment to the  
17 Development Agreement which places a priority on the Municipal Revenue Obligation, to have the  
18 payment back to the Developer, LxL, Allis Yards, LLC., to only fall behind the Administrative Costs  
19 projected annually and above all other potential expenditures for the TIF #16 District.

20 **WHEREAS**, the Developer intends to construct a five-story, 247-unit, multi-family residential  
21 building with approximately 294 underground parking spaces and approximately 69 surface parking  
22 spaces (the "Project"), generally consistent with the preliminary site plan and rendering, attached  
23 hereto as **Exhibit B** (the "Project Plans"); and.

24 **WHEREAS**, West Allis agrees that the Project Plans are acceptable in all respects, and  
25 satisfies, in West Allis' opinion, the standards set forth in this Development Agreement; and

26           **WHEREAS**, the Project is located within the southeast corner of W. Washington St. and S. 70  
27 St. within the S. 70 St. Redevelopment Area, commonly referred to as the Allis Yards Redevelopment;  
28 and

29           **WHEREAS**, the Parties have also entered into a Development Financing Agreement (the  
30 “Development Financing Agreement”) dated of even date hereof in which West Allis has agreed to  
31 provide certain financial incentives and assistance to allow Developer to develop the Project; and

32           **WHEREAS**, the Developer and West Allis desire to set forth in writing the terms and  
33 conditions under which Developer has agreed to develop and maintain the Project;

34           **NOW, THEREFORE**, in consideration of the mutual covenants and benefits contained herein  
35 and in the Development Financing Agreement, and for other good and valuable consideration, the  
36 receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:

37 **1.     AUTHORITY’S and CITY’S OBLIGATIONS.** The City and Authority shall have completed the  
38 following actions:

39 **A.     Approvals.** West Allis shall approve of an amendment to the development  
40 agreement between West Allis and Cobalt Development to the extent necessary to  
41 allow the Project to move forward.

42 **2.     DEVELOPER’S OBLIGATIONS.** Developer shall be obligated as follows:

43 **A.     Environmental Remediation.** Developer shall be responsible for all costs  
44 associated with environmental remediation of the Property as required by the  
45 Wisconsin Department of Natural Resources.

46 **B.     Construction of Project.** Developer will undertake the following;

47           (1)     Developer shall commence construction of the Project no later than the date  
48 referred to in **Exhibit C** of this Agreement (the “Project Schedule”) and shall  
49 proceed with due diligence to substantial completion and occupancy no later

50 than the date referred to in the Project Schedule. Failure of Developer to  
51 commence or substantially complete construction as required by the Project  
52 Schedule, subject to Force Majeure (as defined below), shall constitute a  
53 breach of this Agreement; provided, however, such failure shall not  
54 constitute a default if Developer is actively and continuously pursuing  
55 commencement or substantial completion, as applicable, of construction in  
56 good faith and with due diligence.

57 (2) The Project shall be landscaped in accordance with approved Project Plans.

58 **C. Availability of Funds and Approval for Construction.** Prior to the execution of this  
59 Agreement, and from time to time thereafter, upon reasonable request of West Allis,  
60 but not more than once in a 12-month period, Developer shall provide to West Allis  
61 evidence satisfactory to West Allis and their financial and/or construction cost  
62 consultants, in West Allis' reasonable discretion, that Developer has available to it  
63 the necessary corporate approvals and sufficient funds for the completion of the  
64 Project upon the schedule set forth herein. Notwithstanding anything in this Section  
65 2 to the contrary, Developer may deliver such materials to Authority's and the City's  
66 financial consultant upon receipt of such consultant's agreement to keep such  
67 information confidential, other than with respect to disclosures to West Allis, and the  
68 financial consultant will report to West Allis on the contents thereof.

69 **D. Development Finance.** In order to advance the Project, West Allis agreed to provide  
70 certain economic incentives to support the redevelopment effort that are outlined  
71 within **Exhibit E – Development Finance Agreement**.

72 **E. Conveyance.** Prior to issuance of an Occupancy Permit for the Project, Developer  
73 shall not sell, transfer or convey the Property to anyone other than an Affiliate (as

74 hereinafter defined), except that Developer may at any time, with or without West  
75 Allis' consent: (i) mortgage all or any portion of the Project property as security for the  
76 Project's financing (a "Mortgage"); (ii) collaterally assign Developer's interest in this  
77 Agreement to Developer's mortgage lender ("Lender") in connection with the  
78 Project's financing. For purposes of this Agreement "Affiliate" shall mean an entity  
79 controlling, controlled by or in common control with Developer. Nothing herein shall  
80 preclude Developer from selling a majority membership interest in the ownership of  
81 the Property. Lender shall be permitted to foreclose on the Property without West  
82 Allis' consent.

83 **F. Nondiscrimination.** Developer shall not restrict the use or enjoyment of the Property  
84 or the Project of a person because of race, color, national origin, age, sex or disability  
85 in the sale, use or occupancy of the Project.

86 **3. DESIGN AND CONSTRUCTION STANDARDS.** The Parties have concluded that the Project  
87 will create a quality development that fits the context and vitality of the surrounding  
88 neighborhood redevelopment while utilizing contemporary design standards, and that the  
89 development is intended to increase the tax base and enhance the neighborhood. Building  
90 plans and specifications, including architectural elevations, for the Project, to include  
91 construction materials, shall be substantially in conformity with the Project Plans. The  
92 construction, design and operation of the Project shall comply in all material respects with  
93 the approved Project Plans.

94 **4. UTILITIES AND SITE LIGHTING.** All new utility lines on the Property shall be installed  
95 underground in easements provided, therefore. No new overhead electric power, telephone  
96 or cable service will be permitted. Existing overhead wires may remain in place. Parking and  
97 roadway lighting (fixture, height, type and intensity) where provided shall be approved by

98 West Allis. Area lighting shall not be mounted on the building. Full cut off fixtures shall be  
99 utilized to prevent light splay onto surrounding properties.

100 **5. CERTIFICATE OF COMPLETION.** Notwithstanding anything in this Agreement to the  
101 contrary, construction of the Project in accordance with the final plans and specifications  
102 approved by the City’s Plan Commission shall conclusively evidence compliance with this  
103 Agreement. Following completion of construction of the Project in accordance with such  
104 final approved plans and issuance of an occupancy permit by the City of West Allis, at the  
105 written request of Developer, West Allis shall execute and deliver to Developer a Certificate  
106 of Completion in substantially the form attached hereto as **Exhibit D** confirming that the  
107 Project is acceptable to West Allis in all respects and satisfies, in West Allis’ opinion, the  
108 standards set forth in this Agreement (the “Certificate of Completion”). The Certificate of  
109 Completion shall constitute a conclusive determination of satisfaction and termination of  
110 Developer’s covenants and agreements set forth in this Agreement, including, without  
111 limitation, any provision related to (a) the obligation of Developer to complete the Project,  
112 and (b) the required date for completion of the Project; provided, however, that Developer’s  
113 obligations pursuant to Sections 2.G, 4.B, 12.A, and 12.C shall continue in effect until  
114 otherwise satisfied as set forth in this Agreement.

115 **6. MAINTENANCE RESPONSIBILITIES.**

116 **A.** Developer shall keep the Property and any easement areas on the Property in a well  
117 maintained, safe, clean, and attractive condition at all times. Such maintenance  
118 includes, but is not limited to, the following:

- 119 (1) The removal of all litter, trash, refuse, and wastes.
- 120 (2) The mowing of all lawn areas should be conducted in accordance with  
121 municipal code.

- 122 (3) The maintenance of lawn and landscape areas in a weed-free, healthy and  
123 attractive condition.
- 124 (4) The care and pruning of trees and shrubbery outside of easements within  
125 Property boundaries.
- 126 (5) The maintenance of exterior lighting, signs, and mechanical facilities in  
127 working order.
- 128 (6) The keeping of all exterior building surfaces in a clean, well-maintained  
129 condition.
- 130 (7) The striping and sealing of parking and driveway areas.
- 131 (8) The removal of unlicensed or inoperable vehicles.
- 132 (9) Snow and ice removal.

133 **B. Maintenance During Construction.** During construction, it shall be the  
134 responsibility of Developer to ensure that construction sites on the Property are kept  
135 free of unsightly accumulations of rubbish and scrap materials; and that  
136 construction material, trailers, and the like are kept in a neat and orderly manner. If  
137 any street rights-of-way abutting the Property are damaged as a result of Developer's  
138 construction activities, Developer shall repair said damage to edge of pavement.  
139 Burning of excess or scrap construction material is prohibited. Construction site  
140 erosion control practices shall be implemented to prevent erosion, sedimentation  
141 and pollution of air or water during construction in accordance with the Building  
142 Permit for erosion control issued by the City's Building Inspection & Neighborhood  
143 Services Department on October 25, 2021, as Permit No. 211849. The Developer is  
144 responsible for any snow removal, grass cutting, weed removal, and fencing the  
145 Property.



169 obligation of the then-owner of the exempt portion of the Project Site. The covenant  
170 contained in this Section 13 shall be deemed to be a covenant running with the land and  
171 shall be binding upon the then-owners of any portion of the Project Site for the duration  
172 of the PILOT Term. The City is hereby expressly declared to be a beneficiary of such  
173 covenant and entitled to enforce the same against all of the then-owners of an exempt  
174 portion of the Project Site. The covenants and obligations set forth in this Article may be  
175 embodied in a separate document and recorded against the Property as provided herein.

176 **8. NO PARTNERSHIP OR VENTURE**

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

181

182 **9. CONFLICT OF INTEREST**

183 No elected official, member, officer, or employee of the City, during his/her tenure or for one  
184 year thereafter, will have or shall have had any interest, direct or indirect, in this Agreement  
185 or any proceeds thereof.

186 **10. WRITTEN NOTICES**

187 All notices required or permitted by this Agreement shall be in writing and shall be deemed  
188 to have been given (i) upon delivery to an officer of the City (as to the City) or to an officer of  
189 Developer (as to Developer), if hand delivered; (ii) two business days following deposit in the  
190 United States mail, postage prepaid, or (iii) upon delivery if delivered by a nationally  
191 recognized overnight commercial carrier that will certify as to the date and time of such




192 delivery; and each such communication or notice shall be addressed as follows, unless and  
193 until any of such parties notifies the other in accordance with this Article of a change of  
194 address:

195 If to the City: City of West Allis  
196 West Allis City Hall  
197 7525 W. Greenfield Avenue  
198 West Allis, WI 53214  
199 Attn: City Clerk  
200

201 With a copy to: Economic Development  
202 Economic Development Executive Director  
203 7525 W. Greenfield Avenue  
204 West Allis, WI 53214  
205 Attention: Patrick Schloss  
206

207 With a copy to: City Attorney  
208 7525 W. Greenfield Avenue  
209 West Allis, WI 53214  
210 Attention: Kail Decker  
211

212 If to the Developer: LXL Allis Yards, LLC  
213 c/o Land by Label, LLC  
214 

215  
216 Attn: Ian Martin

217

218 **11. DEFAULT PROVISIONS AND REMEDIES.**

219 **A. Event of Default.** The occurrence of the following conditions shall constitute an  
220 “Event of Default” so long as such conditions exist and are continuing:

221 (1) Developer fails to perform or satisfy any of its obligations under this  
222 Agreement within thirty (30) days following written notice from Authority or  
223 the City; provided, however, if the default is not reasonably susceptible of  
224 cure within such thirty (30) day period, then Developer shall have such  
225 additional period of time to cure the default as long as the Developer is  
226 diligently pursuing such cure to completion.

- 227 (2) Developer becomes insolvent or generally does not pay or becomes unable  
228 to pay or admits in writing to its inability to pay its debts as they mature.
- 229 (3) Developer makes an assignment for the benefit of creditors or to an agent  
230 authorized to liquidate any substantial amount of assets.
- 231 (4) Developer becomes the subject of an “order for relief” within the meaning of  
232 the United States Bankruptcy Code or files a petition in bankruptcy, for  
233 reorganization or to affect a plan or other arrangement with creditors.
- 234 (5) Developer has a petition or application filed against it in bankruptcy or any  
235 similar proceeding or has such a proceeding commenced against it, and such  
236 petition, application or proceeding shall remain undismissed for a period of  
237 ninety (90) days or Developer files an answer to such petition or application,  
238 admitting the material allegations thereof.
- 239 (6) Developer applies to a court for the appointment of a receiver or custodian  
240 for any of its assets or properties or has a receiver or custodian appointed for  
241 any of its assets or properties, with or without consent, and such receiver  
242 shall not be discharged within ninety (90) days after their appointment.
- 243 (7) Developer adopts a plan of complete liquidation of its assets.

244 **B. Failure to Commence or Substantially Complete Construction.** So long as West  
245 Allis is in compliance with all of its obligations under this Agreement and the  
246 Development Financing Agreement, in the event Developer does not commence  
247 construction of the Project pursuant to the Project Schedule, subject to Force  
248 Majeure, West Allis may, but shall not be required to, purchase the Property for the  
249 price paid to Cobalt Development, as its sole remedy, by giving at least thirty (30)  
250 days’ prior written notice to Developer of its intention to repurchase, in which case

251 West Allis will take title. If commencement of construction of the Project has  
252 occurred, but Developer does not substantially complete construction of the Project  
253 pursuant to the Project Schedule, subject to Force Majeure, Authority and the City  
254 may charge Developer a fee of \$50.00 per day for each day between the date that  
255 substantial completion is required pursuant to the Project Schedule and the date  
256 that the Project is substantially complete.

257 (1) The foregoing right to repurchase shall be subject and subordinate to the lien  
258 and rights of any Lender providing financing to the Project and shall  
259 automatically terminate upon commencement of construction of the  
260 Project.

261 (2) The term "commence construction" or "commencement of construction,"  
262 as applicable, as used in this Agreement shall mean the pouring of footings  
263 for a building within the Property, provided that if footings are poured prior to  
264 Closing, then construction shall be deemed to commence as of Closing. The  
265 term "substantial completion" as used in this Agreement shall mean the  
266 issuance of an initial occupancy permit for the Project, whether temporary or  
267 permanent, subject to punch list items.

268 **9. Limitation on Remedies.** Neither party shall be liable to the other for consequential,  
269 indirect, incidental or exemplary damages, whether based on contract, negligence, and  
270 strict liability or otherwise. In any action to enforce this Agreement, the prevailing party shall  
271 be entitled to its costs, including statutory attorney's fees.

272



**IN WITNESS WHEREOF**, the Parties have executed this Agreement the date first above written.

**AUTHORITY:      COMMUNITY DEVELOPMENT AUTHORITY OF THE CITY  
                                 OF WEST ALLIS**

By: \_\_\_\_\_

Name:

Title:

Dated: \_\_\_\_\_

Approved as to form this \_\_\_\_ day  
of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Name: Kail Decker  
Title: City Attorney

**DEVELOPER: Land by Label, LLC, LxL Allis Yards, LLC**

**By:** \_\_\_\_\_

By: Ian Martin  
Managing Member and Owner

Dated: \_\_\_\_\_

**Development Agreement List of Exhibits**

|                  |                                      |
|------------------|--------------------------------------|
| <b>Exhibit A</b> | Property                             |
| <b>Exhibit B</b> | Project Plans                        |
| <b>Exhibit C</b> | Project Schedule                     |
| <b>Exhibit D</b> | Certificate of Completion            |
| <b>Exhibit E</b> | <b>Development Finance Agreement</b> |

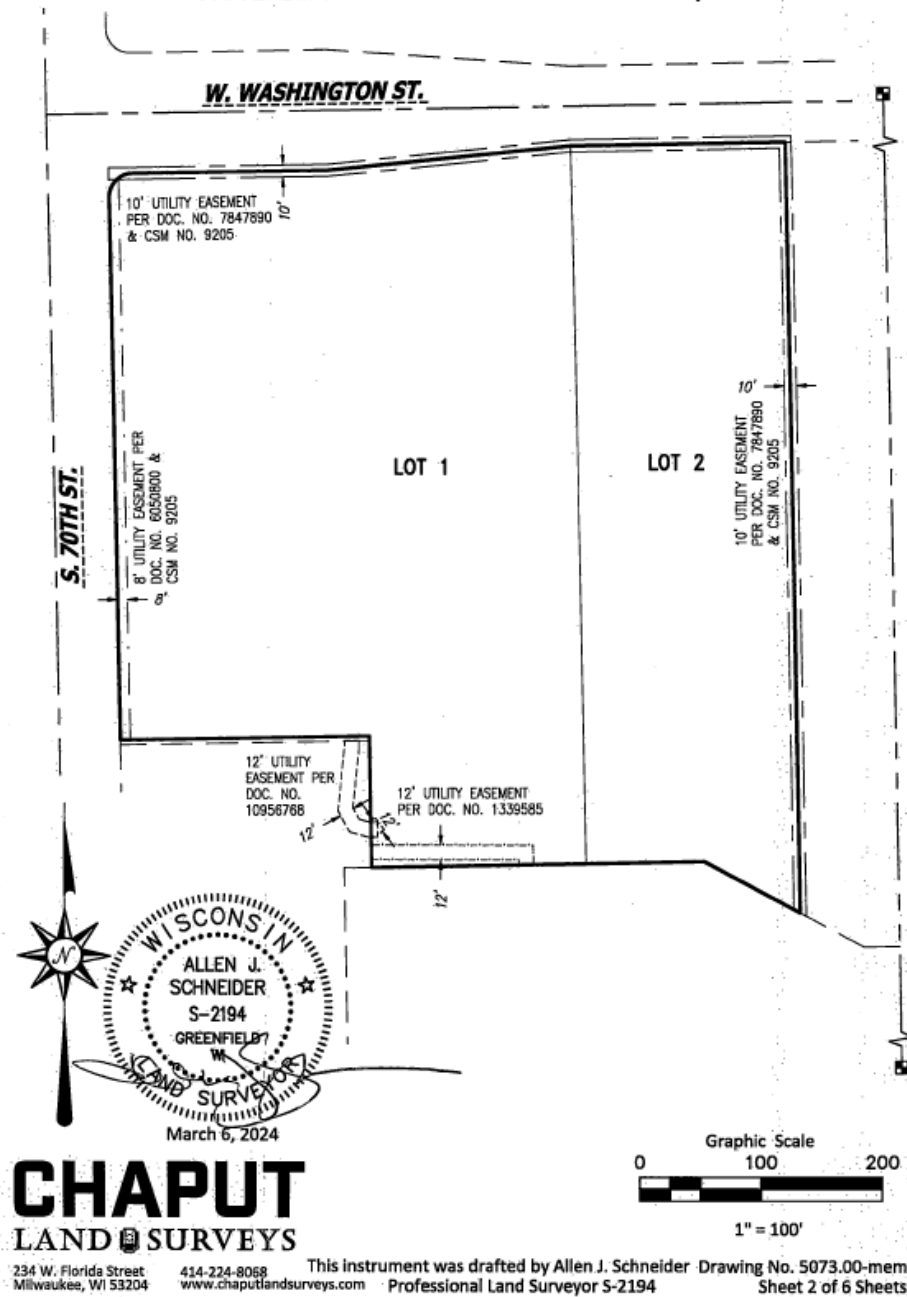
EXHIBIT A

INSERT DETAILED LEGAL DESCRIPTION

CERTIFIED SURVEY MAP NO. 9569

A revision of part of Lot 2 of Certified Survey Map No. 9205, being part of the Northeast 1/4 and the Southeast 1/4 of the Southwest 1/4 of Section 34, Town 7 North, Range 21 East, in the City of West Allis, Milwaukee County, Wisconsin.

NOTE: Easements shown for reference only.





**EXHIBIT B**

**Project Plans**



**EXHIBIT B (Cont)**



**EXHIBIT C**

**Project Schedule**

| <b>Item</b> | <b>Description</b>                            | <b>Date</b>   | <b>Entity</b> |
|-------------|---|---|---------------|
| 1           | Closing                                       | As defined in Development Agreement   | DEVELOPER     |
| 2           | Commence Construction                         | Within 45 days following Closing  | DEVELOPER     |
| 3           | Project Completion                            | 24 months following the later of (a) Closing and (b) commencement of construction, subject to Force Majeure | DEVELOPER     |
| 4           | Final Request for Certification of Completion | 60 days following construction completion   | DEVELOPER     |

## EXHIBIT D

### CERTIFICATE OF COMPLETION

#### LAND BY LABEL COMPLETION GUARANTY

This Guaranty by is made by Land by Label LLC, a Wisconsin Limited Liability Company, (“LXL Allis Yards, LLC”) (“**Guarantor**”) (“**Developer**”), 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 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 dated of even date herewith (as amended, restated, supplemented or otherwise modified from time to time, the “**Development Agreement**”) by and among the City, Authority, and the Developer, 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, LXL 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, 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)

IN WITNESS WHEREOF, the Guarantor has executed this Guaranty, to take effect as of the day of \_\_\_\_\_, 2024.

Land by Label, LLC, LxL Allis Yards, LLC

\_\_\_\_\_  
Name: Ian Martin  
Title: Owner and Managing Member

State of Wisconsin    )  
                                  ) ss.  
Milwaukee County    )

Personally, came before me this \_\_\_\_ day of \_\_\_\_\_, 2024 the above-named Ian Martin managing member and owner of Land by Label LLC me known to be the person who executed the foregoing instrument and acknowledged same on behalf of such company.

Witness my hand and official seal.

Notary Public, State of Wisconsin

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
My Commission: \_\_\_\_\_

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

|   |  |
|---|--|
| Document Number   | <b>CERTIFICATE<br/>OF COMPLETION</b><br><br>Document Title |
| <b>CERTIFICATE<br/>OF COMPLETION</b><br><b>Allis Yards Apartments</b> |  |
|   |  |
| Recording Area<br><hr/> Name and Return Address<br><br>J              |  |

Parcel Identification Number (PIN)

---

|                                      |  |
|--------------------------------------|--|
| Property Address                     |  |
| Developer:                           | LXL LLC, a Wisconsin limited liability company   |
| Memorandum of Development Agreement: | Memorandum of Development Agreement dated as of _____, 2024, as amended or modified, recorded on _____, 2024, in the Register of Deeds Office in Milwaukee County, Wisconsin as Document Number _____. |
| Legal Description:                   | See attached Exhibit "A"   |

THIS IS TO CERTIFY that the undersigned, on behalf of the Community Development Authority of the City of West Allis, a separate body politic created by ordinance of the City of West Allis, pursuant to Section 66.1335 of the Wisconsin Statutes, ("Authority") and the City of West Allis, caused the inspection of the above-described real estate and physical improvements constructed thereon, and that construction of said physical improvements has been substantially completed in accordance

with the final plans and specifications approved by the City's Plan Commission and in accordance with the Development Agreement dated as of \_\_\_\_\_, 2024, which is evidenced by that certain Memorandum of Agreements recorded on \_\_\_\_\_, 2024, in the Register of Deeds Office in Milwaukee County, Wisconsin as Document Number \_\_\_\_\_ (the "Memorandum").

Construction was deemed by Authority and the City to be timely completed.

THIS CERTIFICATE, when signed and bearing the seal of Authority and the City, this shall constitute a conclusive determination of satisfaction and termination of Developer's covenants and agreements set forth in the Development Agreement, including, without limitation, any provision related to (a) the obligation of Developer to complete the Project (as defined in the Development Agreement), and (b) the required date for completion of the Project.

Upon recording of this CERTIFICATE, the real estate described above shall specifically be "released" of record from the Development Agreement and the restrictions against the real estate set forth therein; provided, however, that Developer's obligations pursuant to Sections 2.G, 4.B, 12.A, and 12.C of the Development Agreement shall continue in effect until otherwise satisfied pursuant to the Development Agreement.

[Signature page follows]

1 Dated at West Allis, Wisconsin, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**COMMUNITY DEVELOPMENT AUTHORITY  
OF THE CITY OF WEST ALLIS**

\_\_\_\_\_  
Name: Patick Schloss  
Title: Executive Director

2  
3 STATE OF WISCONSIN )  
4 )ss.  
5 MILWAUKEE COUNTY )

6 Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2024, \_\_\_\_\_,  
7 \_\_\_\_\_ of the Community Development Authority of the City of West Allis, to me  
8 known to be the persons who executed the foregoing instrument, and to me known to be such  
9 \_\_\_\_\_, and acknowledged that they executed the foregoing instrument as such  
10 officers as the deed of said Community Development Authority by its authority.

(SEAL)

\_\_\_\_\_  
Name:  
Notary Public, State of Wisconsin  
My Commission expires:

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**EXHIBIT E**  
**DEVELOPMENT FINANCING AGREEMENT**  
**(TAX INCREMENTAL DISTRICT NUMBER 16)**

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

**WHEREAS**, the Developer has entered into a binding purchase and sale agreement dated November 27, 2023 (as amended) (the “Purchase and Sale Agreement”) for the purchase and the sale of certain property owned by West Quarter East, LLC, an affiliate of Cobalt Partners (the “Property” or “Apartment Parcel”), which Property is more particularly described in **Exhibit A – Property** of the Development Agreement which is incorporated herein; and,

**WHEREAS**, as of the date hereof, the Developer has closed on the sale of the Property pursuant to the Development Agreement (the “Closing”), which Development Agreement was contingent upon, among other matters, the Developer’s commitment to construct the Project (as hereinafter defined) on the Property as more particularly set forth in that certain Development Agreement of even date herewith by and between the Authority and Developer (the “Development Agreement”) ”) for the development of real property (the “Property”), identified in the Development



1 Agreement constitutes the “Property,” to be used for the Project as defined below; and the Parties  
2 entering into this Agreement; and,

3

4 **WHEREAS**, Pursuant to the Development Agreement for the development of certain  
5 property, described in the Development Agreement under **Exhibit A** of the Purchase and Sale  
6 Agreement; and,

7

8 **WHEREAS**, as of the date hereof, West Allis has agreed to certain financial incentives to the  
9 Developer pursuant to the Development Agreement which is contingent upon, among other  
10 matters, the Developer’s commitment to construct a 246 market-rate multifamily apartment  
11 building (the “Development Agreement”). 294 underground parking spaces and approximately 69  
12 surface parking spaces for the apartment buildings. The development described above is  
13 hereinafter referred to as the “Project” and is located within the Allis Yards redevelopment in the  
14 City of West Allis, Wisconsin (the “District”). The Redevelopment District was declared to be a  
15 rehabilitation – conservation district pursuant to the Project Plan for the creation of Tax  
16 Incremental District No. 16 approved on July 31, 2018 (deemed to be and referred to herein as the  
17 “Project Master Plan”). The Project will be developed pursuant to the terms of this Agreement.  
18 The Plan Commission approved the site plan on **May 29, 2024**, and the Plan is outlined in the  
19 Development Agreement under **Exhibit B – Project Plan**. The Developer’s Project Plan is  
20 consistent with the TID Project Plan; and,

1           **WHEREAS**, the Property and Project are located in a Tax Incremental District Number 16  
2 (the “District”) which City has established in order to finance project costs related to eliminating  
3 blight within the District as permitted under Wis. Stats. Section 66.1105; and,

4           **WHEREAS**, pursuant to the Development Agreement, West Allis agreed to provide certain  
5 financial incentives and assistance to allow the Developer to develop the Project and the  
6 Developer would not undertake the development and construction of the Project without such  
7 financial incentives and assistance; and,

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

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

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

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

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

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

6           **1. Developer Investment, Equity and Financing.** On or prior to Closing, Developer will  
7           demonstrate to the City that in connection with the Project: (i) Developer has obtained  
8           approximately \$60 million in a combination of (a) debt financing from a private lending  
9           institution (the “Debt Financing”) and (b) private equity (“Equity”). Developer shall have the  
10          right to adjust the projected amounts of Debt Financing and Equity provided that Developer  
11          shall, in the aggregate, have obtained sufficient Debt Financing and Equity that, together with  
12          the public funding and financing assistance described in this Agreement, is sufficient to  
13          complete development of the Project. Developer and/or its affiliates shall provide any and  
14          all guaranties required to obtain the necessary Debt Financing provided any and all such  
15          guaranties are on commercially reasonable terms and conditions and consistent with  
16          Developer’s and its affiliates’ standard practices.

17  
18          **2. Tax Increment Financing.** The Property is within the boundaries of Tax Increment  
19          Financing District #16, (the “District”) the District and the transaction contemplated by the  
20          Development Agreement and this Agreement is essential to the viability of the District.

21                 a.         The Project to be developed by the Developer benefits the surrounding  
22                 neighborhood and West Allis (i.e. the City and the Authority) as a whole. West Allis

1 has determined that the Project is consistent with Project Plan and the City 's 2040  
2 Master Plan as of May 29, 2024.

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

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

10 d. The City has created a Tax Incremental Financing District to facilitate the  
11 actions and financings described in this Agreement. Property taxes paid on  
12 properties located within TID in excess of those paid on the base valuation are  
13 referred to as "Tax Increments."

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

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

19 a. Tax Increment Financing Grant. The City agrees to pay the developer  
20 \$2,600,000 from Tax Increment Finance District #7 as approved as an allowable expense  
21 within ½ mile of the TIF #7 boundary, per approvals from Joint Review Board on June 4, 2024,  
22 the Community Development Authority of the City of West Allis on June 18, 2024 and The City  
23 of West Allis on July 10, 2024. This grant will be released after the following funding sources  
24 are released to the project:

- 1 1. Developer equity (around \$16.6M)
- 2 2. Deferred equity which is his reinvested fee (around \$1.7M)
- 3 3. Ready for Reuse Loan (\$2M)
- 4 4. EPA Loan (\$2M)

5  
6 **5. Tax Increment Financing Grant (\$2.6M)**

7  
8 a. Developer Municipal Revenue Obligation. West Allis will provide to the  
9 Developer an amount not to exceed \$9,678,661 of “Pay Go” TIF payments (referred to as “D-  
10 MRO”) benefits to the Developer based on the estimates provided in **Exhibit III – TIF Model**  
11 **of the Development Financing Agreement**. The amount of each annual payment will vary  
12 based upon the Projects increment paid. The City will calculate the MRO by taking the tax  
13 increment created each year, multiplying it by 85% and then subtracting out the scheduled  
14 Administrative Fees scheduled within Exhibit C. Estimated payments are provided on the  
15 Exhibit C and were prepared and modeled by the City’s TIF consultant Ehlers and hereby  
16 attached. The Annual Payment will be made based upon the actual Tax Increment received  
17 by West Allis but can be greater than or less than the amount shown in Exhibit C.  
18 Adjustments to the amount paid in any year of the D-MRO Schedule shall not amend or  
19 modify the maximum total amount of D-MRO, not to exceed \$9,678,661. This Agreement  
20 shall evidence the obligation of West Allis to make D-MRO payments to the Developer in  
21 accordance with the final –D-MRO Estimated Schedule. The sole source of the repayment  
22 for the D-MRO will be the Tax Increments from the Project. Installments of the D-MRO shall  
23 commence on October 1 in the first year that the Project generates Tax Increment and will be  
24 due and payable on each October 1 thereafter, through October 1, 2046.

25 b. Environmental Assistance. West Allis will utilize funds from an EPA Revolving  
26 Loan Fund as well as a WDNR Ready for Reuse Loan fund to assist with the environmental  
27 costs.

1           **6. Takeout Refinancing.** Developer anticipates a Takeout Refinancing (as hereinafter  
2 defined) of Debt Financing within twelve (12) months following Project Stabilization (as hereinafter  
3 defined). If sufficient Takeout Proceeds (as hereinafter defined) are available, Developer shall  
4 make a payment to the Authority out of the Takeout Proceeds within fifteen (15) months following  
5 Project Stabilization up to, but not in excess of \$1,250,000.

6           a. the Takeout Payment shall not cause the projected cash on cash return on the Investor  
7 Equity (as hereinafter defined) for the year immediately following the date of the Takeout Refinancing  
8 to be less than 9.00% based on the NOI (as hereinafter defined); and

9           1. [intentionally deleted]; and

10           b. the debt service coverage ratio (“DSCR”) in the year immediately following the closing of  
11 the Takeout Refinancing must be at least 1.40 based upon the actual terms of the Takeout  
12 Refinancing and the NOI.

13           As used herein, “NOI” shall mean the net operating income from the Project that is equal to  
14 the actual in-place net operating income for the twelve (12) month period immediately preceding the  
15 closing of the Takeout Refinancing.

16           c. Definition of Takeout Refinancing. As used herein, “Takeout Proceeds” shall mean  
17 proceeds available to Developer from the Takeout Refinancing less: (i) payment of all closing costs  
18 in connection with the Takeout Refinancing, (ii) payment of all sums required to satisfy existing  
19 mortgages on the Property, (iv) establishment of reasonable reserves, including, without limitation,  
20 any reserves required by the Takeout Lender (as defined below); and (vi) payment of all sums  
21 required to pay the current year and any and all accrued preferred returns to investors in the  
22 Project, under the Project’s limited liability company agreement.

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

4 **7. Application of Tax Increments.** The West Allis annual budget, as prepared by staff  
5 and as submitted to City's Common Council for approval, will include payments on the D-MRO to  
6 be made in such budget year, and that its staff will request the necessary appropriation from the  
7 Common Council for 85% of the amount of the Tax Increments of the Property minus  
8 administrative fees, to be generated that year, will advise the Common Council of any effect on  
9 City's credit rating of any failure to appropriate sufficient funds toward payment of D-MRO, and will  
10 exhaust all available administrative reviews and appeals in the event that that portion of the budget  
11 is not approved.

12 Increments shall be applied as follows:

- 13 a. Payment of any outstanding City administration fees for certain expenses in  
14 connection with the administration of the TIF #16 and administration of the D-MRO as outlined in  
15 the **Exhibit II**.
- 16 b. Payment of annual payment of the D-MRO as set forth in **Exhibit IV** attached hereto.
- 17 c. The Tax Increments shall be calculated based on the tax incremental base value  
18 and the actual value increment for the Property, as determined annually by the City.

19 Any amounts due in any year for the City TID Administration Fee and the D- shall carry over  
20 until paid or waived upon closure of TID #16. The City TID Administration Fee and D-MRO shall  
21 carry over without interest.

1           **8. Developer Completion Guaranty.** Developer shall provide West Allis with a Guaranty of  
2 Completion for the Project. “Completion” shall be defined as the issuance of the Certificate of  
3 Completion (as defined in the Development Agreement). Upon Completion, the Guaranty of  
4 Completion shall be released in its entirety.

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

12           a.       **Cost Savings Definition.** “Cost Savings” shall mean the difference, if any,  
13 between (i) total disbursements by or on behalf of the Developer, its affiliates, or their  
14 assignees in connection with the Project and (ii) the Project Budget. Amounts remaining  
15 unspent in any category within the Project Budget may be used to offset cost overruns in  
16 any other category of the Project Budget.

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

19                   i. The Developer shall fund into an account (the “Capital Reserve Account”)  
20 an amount equal to \$161,500 to pay for replacement costs, capital improvements  
21 and non-routine operating expenses associated with the Project, including without  
22 limitation, construction defects and failures to the extent not covered by applicable



1 warranties, and deductibles on insurance claims without the prior consent of the  
2 West Allis; then

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

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

16 d. Calculation of Net Savings. Final determination of Net Savings shall be  
17 made by West Allis’s construction cost consultant, in good faith and acting  
18 reasonably, subject to the reasonable review and approval of Developer. The  
19 calculation of the actual cost of the Project and therefore the determination of Net  
20 Savings will conform to the disbursement records of the Developer’s construction  
21 lender and First American Title Insurance Company. Within 60 days following  
22 Project Stabilization, Developer shall provide West Allis and its construction cost  
23 consultant with a detailed description of the actual costs of the Project in a manner

1 and format consistent with the original Project Budget. West Allis or its consultant  
2 may request any additional support or verification as may be reasonably needed,  
3 including invoices and other proof of payments to compare the final cost to the  
4 original Project Budget.

5 **10. Project Stabilization Definition.** “Project Stabilization” shall mean the earlier of

- 6 (a) the date upon which the Project has achieved and maintained 95% physical occupancy of  
7 apartments available for rent (i.e., excluding from total apartment count, models and units  
8 occupied for marketing and management purposes) continuously over any ninety (90) day period or  
9 (b) the fifth (5th) anniversary of the date of Closing. Notwithstanding the foregoing, Developer may  
10 make a distribution of all or any percentage of Net Savings payable to West Allis prior to achieving  
11 95% physical occupancy if necessary or desirable to comply with any applicable loan covenants  
12 and obligations in effect in connection with any Debt Financing.

13 **11. Profit Participation.**

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

1       **12. Contingent Payment and Definition.** If Net Proceeds (as hereinafter defined)  
2 resulting from a Sale or Cash Out Refinancing and provided further that the conditions  
3 outlined below are satisfied, result in the greater of: (a) the total Investor Equity (as  
4 hereinafter defined) realizing an Internal Rate of Return, to be determined based on the  
5 methodology reflected in the example calculation attached hereto as **Exhibit H –**  
6 **Calculation of Rate of Return** and in accordance with standard industry practice (“IRR”) in  
7 excess of 15%, or (b) an Equity Multiple (as defined herein) on Investor Equity in excess of  
8 2.50x then 50% of the remaining proceeds shall be paid to the Authority (the “Contingent  
9 Payment”). There shall be no Contingent Payment if the IRR is below 15% or the Equity  
10 Multiple is below 2.50x. As used herein, “Investor Equity” shall mean the cash invested into  
11 the Fund but expressly excluding from the calculated return any Sponsor Created Savings,  
12 any return on Sponsor Created Savings and any cash reinvestment of development fees by  
13 Sponsor and any return thereon and expressly excluding therefrom any promote or carried  
14 interest of Sponsor. As used herein, “Equity Multiple” shall mean a fraction whereby the  
15 numerator is all of the net cash distributions made to the Investor Equity and the  
16 denominator is the original amount of Investor Equity.

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,  
24 the amount of Net Proceeds for purposes of calculating the IRR from partial cash out

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

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

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

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

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

19 f. Timing of Payment. Upon the occurrence of a Trigger Event that requires the  
20 Developer to pay the Profit Participation, the Developer shall have up to ninety (90) days after  
21 the determination of the amount of the Profit Participation to make such payments. Any  
22 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 #16,  
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 #16 in accordance with this  
7 Agreement.

8       **13.    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       **14. 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       **15. 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 #16 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 #16 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 **16. 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 **17. 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 **18. 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: LxL Allis Yards, LLC  
2 Attn. Ian Martin  
3 Email:  
4

5 With a copy to: Attorney at Law  
6  
7  
8  
9

10 **19. REPRESENTATIONS AND WARRANTIES OF DEVELOPERS.**

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

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

17 **21. DEFAULT.** The provisions of Section 42 of the Purchase and Sale Agreement are  
18 incorporated herein.

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

23 **23. Further Assurances.** Following the Closing, each of the Parties will take such  
24 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 **24. 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 **25. 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 **26. 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 **27. 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 **28. 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 **29. 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 **30. 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 **31. 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 **32. 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 **33. Survive the Closing.** The agreements, covenants, warranties and representations  
7 contained herein shall survive the Closing of the transaction contemplated herein.

8 **34. 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 **35. 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 **36. 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]

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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: \_\_\_\_\_

**LxL Allis Yards, LLC**

By: LxL Allis Yards, its Manager

By: \_\_\_\_\_

Ian Martin, Owner and Manager

Dated: \_\_\_\_\_

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**EXHIBIT I (PROJECT COSTS)**

**TO**

**DEVELOPMENT FINANCING AGREEMENT**

| <b>Allis Yards<br/>West Allis, WI<br/>ESTIMATED DEVELOPMENT BUDGET</b> |                      |
|--|----------------------|
| <b>USES OF FUNDS</b>   |                      |
| <b>Land</b>  | \$ 3,843,750         |
| <b>Construction</b>  |                      |
| General Conditions & Winter Conditions                                 | 5,257,706            |
| Construction - Trade Subcontracts                                      | 48,240,690           |
| Construction Fee   | 2,829,804            |
| Construction Contingency   | 1,000,000            |
| Bonds  | -                    |
| Subtotal -- Construction   | <u>57,328,200</u>    |
| <b>Development Costs</b>   |                      |
| Design & Engineering   | 1,500,000            |
| Taxes & Insurance  | 715,000              |
| Fees & Permits   | 154,400              |
| Legal & Professional   | 205,000              |
| Marketing & Property Start-Up  | 700,879              |
| Subtotal -- Development Costs  | <u>3,275,279</u>     |
| <b>Financing</b>   |                      |
| Construction Interest  | 3,500,000            |
| Financing Fees   | 666,378              |
| Other Financing Costs  | 275,000              |
| Subtotal -- Financing  | <u>4,441,378</u>     |
| <b>Operating Reserve</b>   | 1,100,000            |
| <b>Development Contingency</b>   | 150,000              |
| <b>Developer Fee</b>   | <u>\$ 2,651,794</u>  |
| <b>TOTAL DEVELOPMENT BUDGET</b>  | <b>72,790,401</b>    |
|  | Per Unit 295,896     |
| <b>SOURCES OF FUNDS</b>  |                      |
| Construction Loan  | 47,750,000           |
| DNR Ready to Reuse Loan  | 2,000,000            |
| EPA Loan   | 2,000,000            |
| TIF Grant  | 2,600,000            |
| Developer's Equity--Fees Contributed                                   | 1,749,879            |
| Cash Equity  | <u>16,690,522</u>    |
| <b>TOTAL SOURCES OF FUNDS</b>  | <b>\$ 72,790,401</b> |



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**EXHIBIT II**  
**TO**  
**DEVELOPMENT FINANCING AGREEMENT**

Project Plan

The Project Plan for Tax Incremental District Number16 is on file in the office of the City Clerk  
and is incorporated herein by reference.



EXHIBIT III (Cont)

| Expenditures                                    |   |                                |                    |                                  |                         |                       |   |                       |           | Balances                |                         |       | Year |
|---|---|--------------------------------|--------------------|----------------------------------|-------------------------|-----------------------|---|-----------------------|-----------|-------------------------|-------------------------|-------|------|
| TID Admin. & Other Costs                        | Streetscape Expense <sup>a</sup>                                  | Advance Repayment <sup>a</sup> | Develop. Incentive | Develop. Incentive - Allis Yards | Finance Related Expense | Replacement Park Imp. | Reimburse Developer Shortfall Payments <sup>a</sup> | Total Expenditures    | Annual    | Cumulative Fund Balance | Liabilities Outstanding |       |      |
| 85,510  |   |                                |                    |                                  |                         |                       |   | 85,510                | (85,510)  | (85,510)                |                         | 2018  |      |
| 79,800  |   |                                | 7,200,000          |                                  |                         |                       |   | 7,279,800             | 20,200    | (65,310)                | 6,500,000               | 2019  |      |
| 57,993  |   |                                | 2,650,000          |                                  |                         |                       |   | 3,225,799             | (487,185) | (552,495)               | 9,644,768               | 2020  |      |
| 29,535  | 293,657   |                                |                    |                                  | 106,889                 |                       |   | 7,133,635             | (166,808) | (719,303)               | 9,355,000               | 2021  |      |
| 6,728   |   |                                |                    |                                  | 400                     |                       |   | 435,157               | 262,959   | (456,344)               | 9,080,000               | 2022  |      |
| 6,688   |   |                                |                    |                                  | 400                     |                       |   | 436,165               | 302,543   | (153,801)               | 8,790,000               | 2023  |      |
| 25,000  | 181,344   |                                |                    | 2,600,000                        |                         |                       |   | 3,686,572             | 147,592   | (6,210)                 | 8,418,578               | 2024  |      |
| 7,000   |   | 22,358                         |                    | 0                                |                         |                       |   | 680,511               | 29,426    | 23,216                  | 26,027,883              | 2025  |      |
| 7,000   |   | 22,358                         |                    | 0                                |                         |                       |   | 681,211               | 29,426    | 52,642                  | 25,566,272              | 2026  |      |
| 7,000   |   | 22,358                         |                    | 446,680                          |                         |                       |   | 1,128,291             | (63,610)  | (10,968)                | 24,644,314              | 2027  |      |
| 10,000  |   | 22,358                         |                    | 897,628                          |                         |                       |   | 1,582,538             | 17,708    | 6,740                   | 23,257,453              | 2028  |      |
| 25,000  |   | 22,358                         |                    | 906,806                          |                         |                       |   | 1,606,316             | 9,345     | 16,085                  | 21,847,763              | 2029  |      |
| 25,000  |   | 22,358                         |                    | 915,874                          |                         |                       |   | 1,614,884             | 16,345    | 32,430                  | 20,415,058              | 2030  |      |
| 25,000  |   | 22,358                         |                    | 925,033                          |                         |                       |   | 1,628,168             | 18,786    | 51,216                  | 18,954,148              | 2031  |      |
| 25,000  |   | 22,358                         |                    | 934,283                          |                         |                       |   | 1,633,661             | (211)     | 51,005                  | 17,474,840              | 2032  |      |
| 25,000  |   | 22,358                         |                    | 943,626                          |                         |                       |   | 1,646,468             | 3,043     | 54,048                  | 15,971,940              | 2033  |      |
| 25,000  |   | 22,358                         |                    | 953,062                          |                         |                       |   | 1,653,928             | 11,784    | 65,831                  | 14,450,246              | 2034  |      |
| 25,000  |   |                                |                    | 962,593                          |                         |                       |   | 1,638,641             | 21,075    | 86,906                  | 12,909,556              | 2035  |      |
| 25,000  |   |                                |                    | 972,219                          |                         |                       |   | 1,650,164             | 26,079    | 112,985                 | 11,344,662              | 2036  |      |
| 25,000  |   |                                |                    | 981,941                          |                         |                       |   | 1,661,068             | 31,866    | 144,851                 | 9,755,355               | 2037  |      |
| 25,000  |   |                                |                    | 991,760                          |                         |                       |   | 1,671,541             | 38,252    | 183,103                 | 8,141,418               | 2038  |      |
| 25,000  |   |                                |                    | 1,001,678                        |                         | 426,688               |   | 1,678,366             | 48,455    | 231,558                 | 6,937,635               | 2039  |      |
| 25,000  |   |                                |                    | 1,011,695                        |                         | 219,095               | 214,289   | 1,695,079             | 48,939    | 280,497                 | 5,718,782               | 2040  |      |
| 25,000  |   |                                |                    | 1,021,811                        |                         |                       | 440,148   | 1,711,959             | 49,428    | 329,925                 | 4,484,634               | 2041  |      |
| 25,000  |   |                                |                    | 1,032,030                        |                         |                       | 370,444   | 1,729,008             | 49,923    | 379,848                 | 3,158,424               | 2042  |      |
| 25,000  |   |                                |                    | 1,042,350                        |                         |                       | 819,835   | 1,887,185             | (90,535)  | 289,313                 | 2,116,074               | 2043  |      |
| 25,000  |   |                                |                    | 1,052,773                        |                         |                       |   | 1,077,773             | 736,772   | 1,026,085               | 1,063,301               | 2044  |      |
| 25,000  |   |                                |                    | 1,063,301                        |                         |                       |   | 1,088,301             | 744,319   | 1,770,405               | (0)                     | 2045  |      |
| 25,000  |   |                                |                    |                                  |                         |                       |   | 25,000                | 1,825,876 | 3,596,281               | (0)                     | 2046  |      |
| 772,253   | 475,001   | 223,581                        | 9,850,000          | 20,657,340                       | 107,688                 | 645,784               | 1,844,716   | 53,652,680            |           |                         |                         | Total |      |
| Present Value of 2027-2044 MRO Payments at 5.5% |   |                                |                    | 9,618,673                        |                         |                       |   |                       |           |                         |                         |       |      |
| Optional Redemption                             | Total Assessed Value, Debt Service and Developer Deposit Payments |                                |                    |                                  |                         |                       | 1,844,716   | Projected TID Closure |           |                         |                         |       |      |
|   | Unrecovered Amount <sup>d</sup>                                   |                                |                    |                                  |                         |                       | 0   |                       |           |                         |                         |       |      |
| MRO Payment Percentage                          | 85%   |                                |                    |                                  |                         |                       |   |                       |           |                         |                         |       |      |

**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,<br>as defined herein |

FOR VALUE RECEIVED, the City of West Allis, Milwaukee County, Wisconsin (the "City"), promises to pay to LxL Allis Yards, 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 actual Project Costs incurred by the Developers (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 LxL Allis Yards, LLC, a Wisconsin Limited Liability Company (the "Development Financing Agreement")) but not to exceed \$9,678,661 (D-MRO). The Principal Amount shall be determined initially as of the date of issuance of this Bond based on the Project Costs which Developers have contractually committed itself to incur. A final determination of the total Project costs 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 \_\_\_\_\_ 1 and ending on the following \_\_\_\_\_ 30, except that the first Bond Year shall commence on the effective date of original issue of this Bond and end on \_\_\_\_\_, \_\_\_\_.

Assuming that the Principal Amount of the Bond is equal to the maximum Principal Amount \$20,657,340 this Bond shall be payable in installments of principal due on \_\_\_\_\_, in each of the years and amounts as follows:

Year

Principal

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In the event that the total Project Costs incurred by Developers and therefore the final Principal Amount of the Bond is less than \$9,678,661 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 of the principal installments on the Bond is equal to the amount of the Project Costs incurred by Developers.

Interest shall be payable on \_\_\_\_\_ 1 in each year, commencing on \_\_\_\_\_ 1, 20\_\_ (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 16 (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, [2037] 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.

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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**

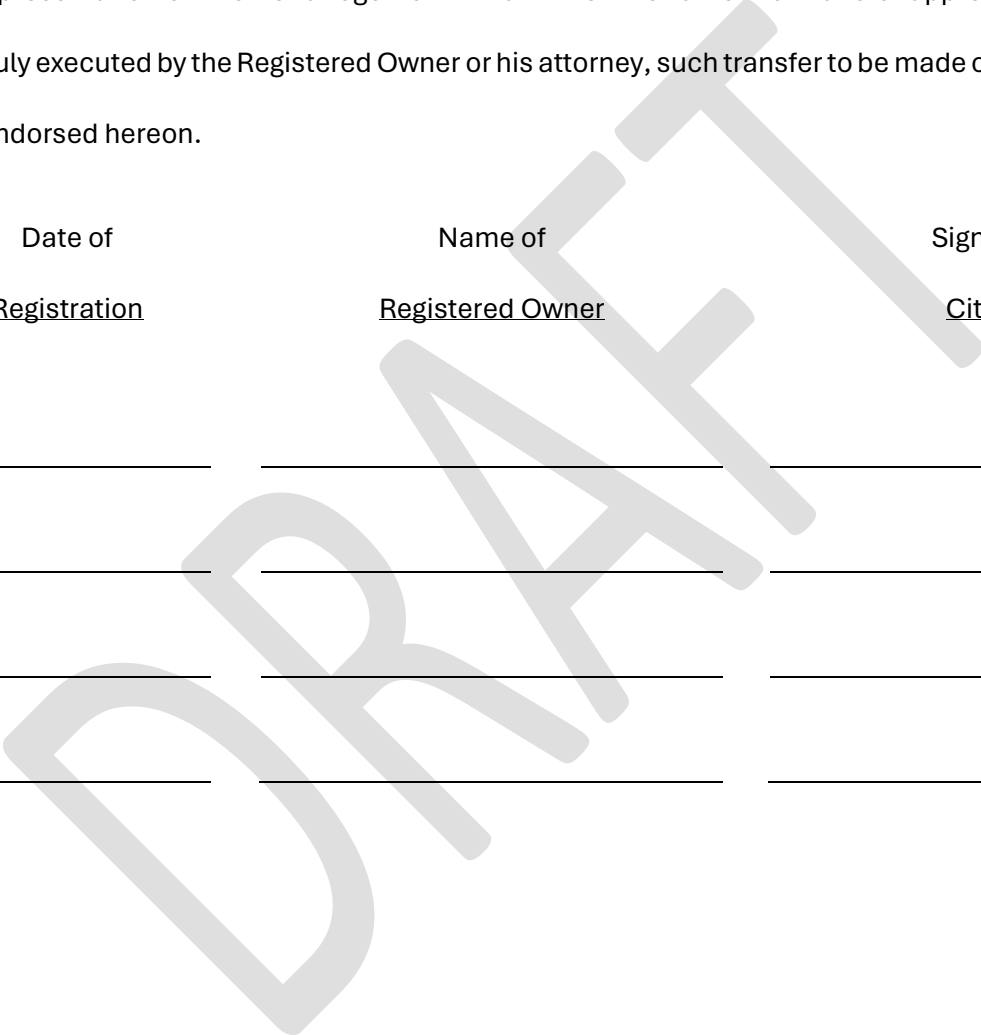
This Bond shall be registered in registration records kept by the City Clerk of the City of West Allis, Wisconsin, Milwaukee County, Wisconsin, such registration to be noted in the registration blank below and upon said registration records, and this Bond may thereafter be transferred only upon presentation 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.

Date of  
Registration

Name of  
Registered Owner

Signature of  
City Clerk

|       |       |       |
|-------|-------|-------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |



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