



AGENDA OF THE REDEVELOPMENT AUTHORITY OF THE CITY OF GREEN BAY

**TUESDAY, AUGUST 14, 2018, 1:30 PM
CITY HALL, ROOM 604**

A. Roll Call.

- I. Members: Gary Delveaux, Chair; Matt Schueller, Vice-Chair; Ald. Barbara Dorff, James Blumreich, Kathy Hinkfuss, and Melanie Parma.
Liaisons: Chelsea Kocken, Jeff Mirkes, and Leah Weycker.

B. Approval of the Agenda.

- I. Approval of the agenda for the August 14, 2018, meeting of the Redevelopment Authority.

C. Approval of Minutes.

- I. Approval of the minutes from the July 10, 2018, regular meeting of the Redevelopment Authority.

D. Regular Business.

- I. Consideration with possible action on Development Agreement 18-04 with GB Real Estate Investments, LLC, for Whitney Park Townhomes: Phase IV at 827 Cherry Street, 829 Cherry Street, 205 N. Van Buren Street, and 211 N. Van Buren Street (Tax Parcels 10-71, 10-72, 10-72-A, and 10-72-B).

The Authority may convene in closed session pursuant to Sections 19.85(1)(e), Wis. Stats., for purposes of deliberating or negotiating the sale of public properties, investing of public funds or conducting other specified public business as necessary for competitive or bargaining reasons. The Authority may thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to report the results of the closed session and consider the balance of the agenda.

2. Consideration with possible action on Development Agreement 18-05 with GB Real Estate Investments, LLC, for 901 Main at 901 Main Street, 907 Main Street, and 913 Main Street (Tax Parcels 9-48, 9-47, and 9-46).

The Authority may convene in closed session pursuant to Sections 19.85(1)(e), Wis. Stats., for purposes of deliberating or negotiating the sale of public properties, investing of public funds or conducting other specified public business as necessary for competitive or bargaining reasons. The Authority may thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to report the results of the closed session and consider the balance of the agenda.

3. Consideration with possible action to issue Request for Qualifications (RFQ) for the professional services of a Consultant to prepare a Project Plan for the Shipyard.

The Authority may convene in closed session pursuant to Sections 19.85(1)(e), Wis. Stats., for purposes of deliberating or negotiating the sale of public properties, investing of public funds or conducting other specified public business as necessary for competitive or bargaining reasons. The Authority may thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to report the results of the closed session and consider the balance of the agenda.

4. Consideration with possible action to purchase 1235 Main Street and 427 St. George Street (Tax Parcels 8-267 and 8-265) for one hundred and seventy-five thousand dollars (\$175,000.00).

The Authority may convene in closed session pursuant to Sections 19.85(1)(e), Wis. Stats., for purposes of deliberating or negotiating the sale of public properties, investing of public funds or conducting other specified public business as necessary for competitive or bargaining reasons. The Authority may thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to report the results of the closed session and consider the balance of the agenda.

5. Consideration with possible action on pre-approval of Contract "CD18-01 Beaver Dam Park Ballfield Lighting" to the low qualified bidder with CDBG funding not to exceed \$150,000.00.
6. Consideration with possible action to amend the 2017 Annual Action Plan for the transfer of \$114,397.03 from the Economic Development Facade and Demolition Program to the Economic Development Revolving Loan Program.
7. Consideration with possible action on an extension to development agreement for the property located at 1130 Stuart Street (Tax Parcel 14-997).
8. Consideration with possible action on a hold harmless agreement with On Broadway Inc. for the property located at 321 N. Broadway (Tax Parcels 5-586 and 5-587).
9. Consideration with possible action on request by Hometown Bank to release its interest in Historic Tax Credits per the Continuing Guaranty (Limited) RailYard: North at 420 N. Broadway and 520 N. Broadway (Tax Parcels 5-1756 and 5-1757).

The Authority may convene in closed session pursuant to Sections 19.85(1)(e), Wis. Stats., for purposes of deliberating or negotiating the sale of public properties, investing of public funds or conducting other specified public business as necessary for competitive or bargaining reasons. The Authority may thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to report the results of the closed session and consider the balance of the agenda.

E. Informational.

1. Financial report and check register.
2. Director's report and project updates.
3. Next meeting: September 11, 2018 at 1:30 PM

F. Adjournment.

- 1) THIS MEETING IS RECORDED: THE VIDEO OF THIS MEETING AND MINUTES ARE AVAILABLE ONLINE AT www.greenbaywi.gov

- 2) **ACCESSIBILITY:** Any person wishing to attend who requires special accommodation because of a disability, should contact the City Safety Manager at 920-448-3125 at least 48 hours before the scheduled meeting time so that arrangements can be made.
- 3) **QUORUM:** Please take notice that a majority or quorum of the Redevelopment Authority will attend this meeting and will constitute a meeting of the Redevelopment Authority I for purposes of discussion and information gathering relative to this agenda.
- 4) **REPRESENTATION:** The party requesting the communication, or their representative, should be present at this meeting.



MINUTES OF THE REDEVELOPMENT AUTHORITY OF THE CITY OF GREEN BAY

**TUESDAY, JULY 10, 2018, 1:30 PM
CITY HALL, ROOM 310**

A. ROLL CALL.

I. Members: Gary Delveaux, Chair; Matt Schueller, Vice-Chair; Ald. Barbara Dorff, James Blumreich, Kathy Hinkfuss, and Melanie Parma.

Liaisons: Chelsea Kocken, Jeff Mirkes, and Leah Weycker.

Members Present: Gary Delveaux, Chair; Matt Schueller, Vice-Chair; James Blumreich, and Ald. Barbara Dorff

Members Excused: Melanie Parma and Kathy Hinkfuss

Liaisons Present: Chelsea Kocken and Leah Weycker

Others Present: Ald. Brian Johnson

B. APPROVAL OF THE AGENDA.

I. Approval of the agenda for the July 10, 2018, meeting of the Redevelopment Authority.

Moved by James Blumreich, seconded by Ald. Barbara Dorff to approve the agenda for the July 10, 2018, meeting of the Redevelopment Authority. Motion carried.

Yes- Barbara Dorff, Gary Delveaux, James Blumreich, Matt Schueller, No- None, Abstain- None

C. APPROVAL OF MINUTES.

I. Approval of the minutes from the June 12, 2018, regular meeting and June 15, 2018, special meeting of the Redevelopment Authority.

Moved by Ald. Barbara Dorff, seconded by Matt Schueller to approve the minutes from the June 12, 2018, regular meeting and June 15, 2018, special meeting of the Redevelopment Authority. Motion carried.

Yes- Barbara Dorff, Gary Delveaux, James Blumreich, Matt Schueller, No- None, Abstain- None

D. REGULAR BUSINESS.

1. Consideration with possible action on communication from June 19, 2018, of the Common Council by Ald. Brian Johnson, to direct staff to draft a percent for the arts proposal that would assess a specified percent on all new and/or redevelopment projects for the purpose of public art installation, maintenance and funding staff to support the public arts commission.

Moved by James Blumreich, seconded by Ald. Barbara Dorff to refer to staff. Motion carried.

Yes- Barbara Dorff, Gary Delveaux, James Blumreich, Matt Schueller, No- None, Abstain- None

2. Consideration with possible action on request to borrow two million dollars (\$2,000,000.00) to fund the first phase of The Shipyard (Development Agreement 18-02), including property acquisition; geotechnical and environmental testing; architectural, structural, and civil engineering and design; and preliminary site work.

The Authority may convene in closed session pursuant to Sections 19.85(1)(e), Wis. Stats., for purposes of deliberating or negotiating the sale of public properties, investing of public funds or conducting other specified public business as necessary for competitive or bargaining reasons. The Authority may thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to report the results of the closed session and consider the balance of the agenda.

Moved by James Blumreich, seconded by Matt Schueller to recommend Common Council borrow two million dollars (\$2,000,000.00) to fund the first phase of The Shipyard (Development Agreement 18-02), including property acquisition; geotechnical and environmental testing; architectural, structural, and civil engineering and design; and preliminary site work. Motion carried.

Yes- Barbara Dorff, Gary Delveaux, James Blumreich, Matt Schueller, No- None, Abstain- None

Moved by Ald. Barbara Dorff, seconded by James Blumreich to direct staff to bring the request for proposals back to the RDA. Motion carried.

Yes- Barbara Dorff, Gary Delveaux, James Blumreich, Matt Schueller, No- None, Abstain- None

3. Consideration with possible action to acquire 505 5th Street (parcel 2-879) using Neighborhood Enhancement funds.

Moved by Ald. Barbara Dorff, seconded by James Blumreich to approve the purchase of 505 5th Street (parcel 2-879) for \$8,800.00 using Neighborhood Enhancement funds. Motion carried.

Yes- Barbara Dorff, Gary Delveaux, James Blumreich, Matt Schueller, No- None, Abstain- None

4. Consideration with possible action to acquire 1253 9th Street (parcel 1-428-C) using Community Development Block Grant funds.

Moved by Matt Schueller, seconded by Ald. Barbara Dorff to approve the purchase of 1253 9th Street (parcel 1-428-C) for \$15,100.00 using Community Development Block Grant funds. Motion carried.

Yes- Barbara Dorff, Gary Delveaux, James Blumreich, Matt Schueller, No- None, Abstain- None

5. Consideration with possible action to purchase five (5) properties from Brown County using Neighborhood Enhancement funds.

Moved by Matt Schueller, seconded by James Blumreich to approve the purchase of five (5) properties from Brown County for up to \$19,200.00 using Neighborhood Enhancement funds. Motion carried.

Yes- Barbara Dorff, Gary Delveaux, James Blumreich, Matt Schueller, No- None, Abstain- None

6. Consideration with possible action on the purchase of 1031 Winford Avenue (parcel 18-248) using Community Development Block Grant funds.

Moved by James Blumreich, seconded by Ald. Barbara Dorff to approve the purchase of 1031 Winford Avenue (parcel 18-248) using Community Development Block Grant funds. Motion carried.

Yes- Barbara Dorff, Gary Delveaux, James Blumreich, Matt Schueller, No- None, Abstain- None

7. Consideration with possible action on Resolutions designating the Redevelopment Authority (RDA) to perform all acts necessary for creating, amending, and/or closing Tax Increment Finance Districts (TID) Seven (7), Eight (8), Nine (9), Twelve (12), Seventeen (17), Twenty (20), Twenty-One (21), and Twenty-Two (22).

Moved by James Blumreich, seconded by Ald. Barbara Dorff to amend the agenda to take Informational Item #2 out of order and then return to Item 7. Motion carried.

Yes- Barbara Dorff, Gary Delveaux, James Blumreich, Matt Schueller, No- None, Abstain- None

Moved by James Blumreich, seconded by Ald. Barbara Dorff to recommend Common Council adopt Resolutions designating the Redevelopment Authority (RDA) to perform all acts necessary for creating, amending, and/or closing Tax Increment Finance Districts (TID) Seven (7), Eight (8), Nine (9), Twelve (12), Seventeen (17), Twenty (20), Twenty-One (21), and Twenty-Two (22). Motion carried.

Yes- Barbara Dorff, Gary Delveaux, James Blumreich, Matt Schueller, No- None, Abstain- None

E. INFORMATIONAL.

1. Financial report and check register.

The financial report and check register were provided in the packet.

2. Report on Tax Increment Districts.

Report on Tax Increment Districts was presented.

3. Director's Report and Project Updates.

Director's Report and Project Updates were presented.

4. Next meeting: August 14, 2018 at 1:30 PM

F. ADJOURNMENT.

Moved by Matt Schueller, seconded by Ald. Barbara Dorff to adjourn. Motion carried.

Yes- Barbara Dorff, Gary Delveaux, James Blumreich, Matt Schueller, No- None, Abstain- None



Report to the Redevelopment Authority of the City of Green Bay

MEETING DATE

August 14, 2018

PREPARED BY

Kevin J. Vonck, CED Director

AGENDA ITEM # D.I.

Consideration with possible action on Development Agreement 18-04 with GB Real Estate Investments, LLC, for Whitney Park Townhomes: Phase IV at 827 Cherry Street, 829 Cherry Street, 205 N. Van Buren Street, and 211 N. Van Buren Street (Tax Parcels 10-71, 10-72, 10-72-A, and 10-72-B).

The Authority may convene in closed session pursuant to Sections 19.85(1)(e), Wis. Stats., for purposes of deliberating or negotiating the sale of public properties, investing of public funds or conducting other specified public business as necessary for competitive or bargaining reasons. The Authority may thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to report the results of the closed session and consider the balance of the agenda.

BACKGROUND

A Developer, GB Real Estate Investments, LLC, intends to complete a Project, which includes the demolition of existing structures, followed by the construction of four (4) owner-occupied residential two (2)-story townhomes (with a full basement), each approximately one thousand, four hundred (1,400) sq. ft. in size, containing three (3) bedrooms, two and one-half (2½) bathrooms, and a two (2)-stall garage.

The project aligns with our departmental vision of developing a community that is safe, healthy, connected, and loved, as it:

- remediates environmental contamination from the parcel;
- enhances the physical landscape;
- encourages human-powered movement;
- interacts positively with adjacent properties and the neighborhood; and
- expands our range of residential and commercial real estate products.

As of January 1, 2018, the Property has an aggregate assessed value of one hundred and eighteen thousand, two hundred dollars (\$118,200.00), which based on the assessed tax rates in effect as of January 1, 2018, the Property yields approximately:

- \$2,693.00 in total real estate taxes annually (assessed mill rate of \$22.79);
- \$2,693.00 in real estate taxes to the local taxing jurisdictions (total real estate taxes less real estate taxes to the State of Wisconsin) annually (assessed mill rate of \$22.79); and
- \$1,066.00 in real estate taxes to the City of Green Bay annually (assessed mill rate of \$9.02).

Upon completion of Proposed Project, the City estimates the aggregate assessed property value of the Property to be eight hundred and forty-six thousand dollars (\$846,000.00) which is anticipated to yield approximately:

- \$19,280.00 in total real estate taxes annually (assessed mill rate of \$22.79);
- \$19,280.00 in real estate taxes to the local taxing jurisdictions (total real estate taxes less real estate taxes to the State of Wisconsin) annually (assessed mill rate of \$22.79); and

- \$7,630.00 in real estate taxes to the City of Green Bay annually (assessed mill rate of \$9.02).

The project is not economically viable without public assistance. Pursuant to the provisions of §66.1105, Wis. Stats. (the “Tax Increment Law”), the Developer requests that the RDA and City ask the Joint Review Board (JRB) to create a new conservation and rehabilitation or blight Tax Increment District (“TID 20” or the “TID”), effective January 1, 2018, which includes the Property and adjacent property, and which will provide part of the financing for certain costs of the Project.

RECOMMENDATION

Approve Development Agreement 18-04 with GB Real Estate Investments, LLC, for Whitney Park Townhomes: Phase IV at 827 Cherry Street, 829 Cherry Street, 205 N. Van Buren Street, and 211 N. Van Buren Street (Tax Parcels 10-71, 10-72, 10-72-A, and 10-72-B), subject to minor legal and technical revisions.

FISCAL IMPACT

Staff is proposing a TIF Incentive that includes:

1. Property Transfer. The City and/or RDA shall convey 827 Cherry St. (Tax Parcel 10-71) and 829 Cherry St. (Tax Parcel 10-72) to Developer, free and clear via warranty deed, for the sum of nineteen thousand dollars (\$19,000.00). The City estimates the value of such Property to be approximately thirty-one thousand dollars (\$31,000.00).
2. PAYGo Reimbursement. The City shall provide an additional TIF Incentive as a pay-as-you-go (PAYGo) obligation of the City, which shall not exceed eighty percent (80%) of the Available Tax Increment for the Property and shall be capped at the lesser of one hundred and fifty thousand dollars (\$150,000.00) or the total amount of Qualified Expenses incurred and paid by Developer.

No general levy dollars will be used for this project.

ATTACHMENTS

1. 8 - WPTH - IV - 10-72 - 180810 - Development Agreement - RDA



City of Green Bay
Department of Community and Economic Development

DEVELOPMENT AGREEMENT 18-04
WHITNEY PARK TOWNHOMES: PHASE IV

This Development Agreement is made this _____ day of _____, 2018,
by THE CITY OF GREEN BAY, a Wisconsin municipal corporation ("City"),
THE REDEVELOPMENT AUTHORITY OF THE CITY OF GREEN BAY ("RDA"),
and GB REAL ESTATE INVESTMENTS, LLC, a Wisconsin limited liability company ("Developer").

RECITALS

- A. Developer has proposed to acquire and develop certain real property, identified for real estate tax purposes and address as:

<u>Tax Parcel</u>	<u>Address</u>	<u>Acres</u>	<u>Assessed Value</u>
10-71	827 Cherry St.	0.20	\$0.00
10-72	829 Cherry St.	0.07	\$0.00
10-72-A	205 N. Van Buren St.	0.05	\$64,800.00
10-72-B	211 N. Van Buren St.	0.05	\$53,400.00

- B. The parcels listed above shall be referred to as the "Property." The Property comprises approximately thirty seven hundredths (0.37) acres of land. A map of the Property is herein attached as EXHIBIT A; legal description of the Property is herein attached as EXHIBIT B.
- C. Developer intends to complete a Project, which includes the demolition of existing structures, followed by the construction of four (4) owner-occupied residential two (2)-story townhomes (with a full basement), each approximately one thousand, four hundred (1,400) square feet in size, containing three (3) bedrooms, two and one-half (2½) bathrooms, and a two (2)-stall garage. The Proposed Project improvements are shown on a Preliminary Concept Plan, which is herein attached as EXHIBIT C.
- D. As of January 1, 2018, the Property has an aggregate assessed value of one hundred and eighteen thousand, two hundred dollars (\$118,200.00), which based on the assessed tax rates in effect as of January 1, 2018, the Property yields approximately:
1. \$2,693.00 in total real estate taxes annually (assessed mill rate of \$22.79);
 2. \$2,693.00 in real estate taxes to the local taxing jurisdictions (total real estate taxes less real estate taxes to the State of Wisconsin) annually (assessed mill rate of \$22.79); and
 3. \$1,066.00 in real estate taxes to the City of Green Bay annually (assessed mill rate of \$9.02).

- E. Upon completion of Proposed Project, the City estimates the aggregate assessed property value of the Property to be eight hundred and forty-six thousand dollars (\$846,000.00) which is anticipated to yield approximately:
1. \$19,280.00 in total real estate taxes annually (assessed mill rate of \$22.79);
 2. \$19,280.00 in real estate taxes to the local taxing jurisdictions (total real estate taxes less real estate taxes to the State of Wisconsin) annually (assessed mill rate of \$22.79); and
 3. \$7,630.00 in real estate taxes to the City of Green Bay annually (assessed mill rate of \$9.02).
- F. Pursuant to the provisions of §66.1105, Wis. Stats. (the “Tax Increment Law”), the Developer requests that the RDA and City ask the Joint Review Board (JRB) to create a new conservation and rehabilitation or blight Tax Increment District (“TID 20” or the “TID”), effective January 1, 2018, which includes the Property and adjacent property, and which will provide part of the financing for certain costs of the Project.
- G. Developer has requested Tax Incremental Finance (“TIF”) assistance from the City and RDA with regard to certain expenses, including, but not limited to environmental remediation; demolition, remodeling, repair or reconstruction of existing buildings; clearing of land; construction of new buildings; or the construction of public works infrastructure, which will constitute qualified expenditures for which TIF assistance may be afforded Developer.
- H. The City and RDA desire to have Developer perform the Project in order to generate economic activity and tax base for the community consistent with the City Comprehensive Plan.
- I. In order to induce Developer to undertake the Project, such that the project remediates environmental contamination from the parcel; enhances the physical landscape; encourages human-powered movement; interacts positively with adjacent properties and the neighborhood; expands our range of residential and commercial real estate products; and the public will generally benefit; the City has agreed to provide assistance to Developer as provided by this Agreement, all in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

I. PURPOSE

- A. Incorporation of Proceedings, Exhibits, and Recitals. All motions adopted, approvals granted, minutes documenting such motions and approvals, and plans and specifications submitted in conjunction with any and all approvals as granted by the City or RDA, including but not limited to adopted or approved plans or specifications on file with the City or RDA, along with all of the Recitals set forth above, shall be incorporated into this Agreement by reference, upon attachment, or upon consent by amendment if necessary if not referenced or attached at the time of execution of this Agreement.
- B. Implementation Schedule. TIME IS OF THE ESSENCE with regard to all dates and time periods set forth and/or incorporated herein. Any material modification or deviation from an approved schedule described in this Agreement shall occur only upon approval of the City and RDA, with any such approvals required to be in writing as an amendment to this Agreement, and which approvals shall not be unreasonably withheld. City shall cooperate and act promptly with respect to any and all permits or approvals necessary for completion of the Project. Notwithstanding the above, this

Agreement shall not limit the discretion of the City, or any of its duly appointed and authorized governing bodies, boards or entities, in approving or rejecting any aspect of the Project or improvements contemplated on or about the Property.

- C. Entire Agreement. This writing including all Exhibits hereto, and the other documents and agreements referenced herein, constitutes the entire Agreement between the parties hereto in respect to the Project and all prior letters of intent or offers, if any, are hereby terminated. This Agreement shall be deemed to include and incorporate such minutes, approvals, plans, and specifications, as referenced in this Agreement, and in the event of a conflict between this Agreement and any action of the City or RDA, granting approvals or conditions attendant with such approval, the terms of this Agreement shall be deemed controlling and the City and RDA will take the necessary action to amend any conflicting approvals or conditions.
- D. Purpose of the Agreement. In order to cause the Project to occur and to induce Developer to undertake the Project, to promote community development, industry and job creation and to expand and enhance the tax base within the City, the City intends to provide the TIF Incentives as set forth in this Agreement. The City intends to recover its costs through the Available Tax Increment generated by the Property. The parties intend to enter into this Agreement to record the understandings and undertakings of the parties and to provide a framework within which the Project may proceed.

II. DEFINITIONS; EXHIBITS

Whenever in this Agreement a pronoun is used it shall be construed to represent either the singular or the plural, masculine or feminine, as the case shall demand. As used in this Agreement, the following terms, when having an initial capital letter, shall have the following meanings:

- A. “Agreement” means this Development Agreement among the City, RDA, and Developer, as amended and supplemented from time to time.
- B. “Annual Assessed Value” means the assessed value of the Private Improvements and the Property, as defined in this Agreement, as of January 1 of any calendar year.
- C. “Available Tax Increment” means the amount of Tax Increment (as defined below) actually received by the City generated by any increase of value of the Property above the base value and attributable to development within a tax incremental finance district, during the twelve (12) month period preceding a payment date, that has not been previously used to make payment on bonds or other obligations as determined by the City. The amount of Available Tax Increment may fluctuate based on variations in the property valuations, tax rate, depreciation and other independent factors.
- D. “Base Value” means the aggregate assessed value of the Property when the TID was created, which shall be one hundred and eighteen thousand, two hundred dollars (\$118,200.00).
- E. “City” means the City of Green Bay, Brown County, Wisconsin.
- F. “Concept Plan” means the plan for the Project.
- G. “Developer” means GB REAL ESTATE INVESTMENTS, LLC, a Wisconsin limited liability company, or any assignee of the same.
- H. “Future Project” means any Private Improvements that will be constructed in the future not specifically detailed in this Agreement.

- I. "Plans and Specifications" means the plans and specifications developed for the Project.
- J. "Preliminary Concept Plan" means the initial Concept Plan, a copy of which is attached as EXHIBIT C and which is subject to such changes as Developer, the City or RDA may propose and the City and RDA may accept in its sole discretion.
- K. "Private Improvements" means the improvements to be constructed on the Property that are not Public Improvements.
- L. "Project" means the Project as defined in the Recitals.
- M. "Public Improvements" means the infrastructure improvements in connection with the Project that will ultimately be dedicated for public service, including, without limitation:
 - 1. road, pedestrian, and bicycle improvements; and
 - 2. sanitary sewer, storm sewer, and potable water and wastewater mains and laterals, and storm water management facilities; and
 - 3. telephone, high-speed cable, and related technology infrastructure; and
 - 4. natural gas, electrical power, and other public utilities; and
 - 5. any related engineering, grading, erosion control, and landscaping; and
 - 6. any related land acquisitions and anticipated and intentional corrections to adjacent property affected by the public improvements, including grading.
- N. "Qualified Expenditures" means any expenditures of Developer for the Project that are eligible for TIF Incentives as defined in Section III. B. 3.
- O. "Special Assessment" means any special assessment levied against the Property by the City under §66.0701-0733, Wis. Stats., the City Code of Ordinances and this Agreement.
- P. "Special Charge" means any special charge levied against the Property by the City under §66.0627, Wis. Stats., the City Code of Ordinances and this Agreement.
- Q. "Tax Increment" means that amount obtained by multiplying the total county, city, school and other local general property taxes levied on all taxable property within a TID in a year by a fraction having as a numerator the value increment for that year in the district and as a denominator that year's equalized value of all taxable property in the TID.
- R. "TID" means Tax Increment District Twenty 20 ("TID 20" or the "TID"), of the City of Green Bay, which will be established and will remain in good standing by the City of Green Bay, Wisconsin. The City will create TID 20 in 2018; TID 20 will terminate in 2045.
- S. "TIF" means Tax Increment Financing, as described in Section III below and in particular, Tax Increment Financing relating to the TID.
- T. "TIF Incentive" means the incentive as set forth in Section III of this Agreement including specifically the Tax Incentive Cap.

III. TAX INCREMENT FINANCING

- A. Qualification for TIF. Developer shall demonstrate to the satisfaction of City and RDA a need for TIF, with such determination to be made according to the “but for” test, that is, that but for the City and RDA providing TIF, the Project would not happen. At the request of the City or RDA, Developer shall provide an independent analysis from a consultant expert in TIF to justify to the satisfaction of the City and RDA the Developer’s qualification and need for TIF, both in terms of Qualified Expenditures and the amount of money to be paid to Developer.
- B. Nature of TIF Incentive. The TIF Incentive available to Developer under this Agreement shall be defined as the following:
1. Property Transfer. The City and/or RDA shall convey 827 Cherry St. (Tax Parcel 10-71) and 829 Cherry St. (Tax Parcel 10-72) to Developer, free and clear via warranty deed, for the sum of nineteen thousand and nine hundred dollars (\$19,900.00). The City estimates the value of such Property to be approximately thirty-one thousand dollars (\$31,000.00).
 2. PAYGo Reimbursement. The City shall provide an additional TIF Incentive as a pay-as-you-go (PAYGo) obligation of the City, which is further defined as follows:
 - a) Developer shall be responsible to incur and pay all of the upfront costs of the Project and, to the extent TID revenues are sufficient to the limits of the TID and this Agreement, Qualified Expenditures shall be reimbursed to Developer.
 - b) Commencing the first year after the first occupancy permit for the Project has been issued, the assessed value of the Property shall be determined on January 1 of each tax year and shall be compared to the assessed value of the Property as of January 1 of the year in which construction commenced. The difference in assessed values shall be known as the Incremental Property Value.
 - c) Incremental Property Value multiplied by the assessed mill rate, less payments of real estate taxes to the State of Wisconsin, shall be known as the Available TIF Increment.
 - d) PAYGo Reimbursement payments will be payable to Developer in the year following the year of the TIF Increment determination, after Developer has provided proof to the City of the full payment of the real estate taxes, special assessments and special charges against the Real Estate for the previous year. For example, if the first occupancy permit is issued on September 1, 2019, the TIF Increment would be determined as of January 1, 2020 and the PAYGo reimbursement would first be payable in 2021.
 3. Qualified Expenditures. Project Grant(s) shall be disbursed in the following priority, and only fund:
 - a) Public Improvements, environmental remediation, and asbestos abatement as required by State and Federal law; then
 - b) “Private Improvements” specifically approved by the City or RDA; then
 - c) Any other activity specifically approved by the City or RDA.
 4. Assignment. Developer may assign any of its payment rights hereunder to any future purchaser or developer of any part of the Property upon approval of the RDA, provided

however, that the City shall be obligated only to disburse TIF Incentives to the party with whom the City has an agreement. It shall be incumbent upon Developer to enter into a separate agreement with any third parties if it intends to assign its payment rights hereunder, or seek either reimbursement or allocation of any Incremental Property Value and guaranteed aggregate assessed value generated by any third party purchaser and/or developer of any part of the Property.

C. Limitations. The TIF Incentive available to Developer for the Project is limited as follows:

1. Monetary Limitation. The TIF Incentive in any year shall not exceed eighty percent (80%) of the Available Tax Increment for the Property.
2. Tax Incentive Cap. The City shall not be obligated to pay TIF Incentive in excess of the lesser of one hundred and fifty thousand dollars (\$150,000.00) or the total amount of Qualified Expenses incurred and paid by Developer.
3. Tax Receipts Limitation. Only the Available Tax Increment actually received by the City, and no other property, revenue, or asset of the City, shall be used to pay such amounts.
4. Temporal Limitation. Provided Developer qualifies for TIF Incentive and provides adequate proof to the City and RDA that Developer has incurred and paid Qualified Expenditures, and provided Developer and all transferees have paid the real estate taxes and any Special Assessments and Special Charges in full for the previous tax year by July 31, TIF Incentive payments shall be made on or before September 1 of each year; provided, however, in no event shall TIF Incentive payments continue after the earlier of the termination date of the TID or the termination of this Agreement if before the termination of the TID.

D. No General Obligation of City. The City's obligation to make TIF Incentive payments shall be a special and limited obligation only and shall not be considered a general obligation of the City, and neither the full faith and credit nor the taxing powers of the City are pledged to the payment of such amounts. The City shall take no action to dissolve the TID before payment of all TIF Incentive payments due to the Developer, subject to the provisions of this Agreement. In no circumstances shall amounts to be paid Developer hereunder be considered an indebtedness of the City, and the obligation of the City hereunder is limited to the Available Tax Increment appropriated and received by the City. Amounts due hereunder shall not count against the City's constitutional debt limitation, and no taxes will be levied for its payment or pledged to its payment other than from the Available Tax Increment.

E. Other Grants and Credits. The City and RDA, as appropriate and in its sole discretion, may also apply for such other grants and credits in regard to the Project as they shall deem appropriate for the benefit of the Project and as may be required to achieve necessary financing for the Project, provided, however, the City and RDA make no representations or warranties about the availability of such grants and credits or whether any such grants or credits that may be available will be awarded.

IV. OBLIGATIONS OF DEVELOPER

A. Concept Plan. Prior to November 30, 2018, Developer shall submit a Concept Plan to RDA for approval, which shall be based on, but may differ in minor respects from the Preliminary Concept Plan presented in the Term Sheet.

- B. Construction Documents. Prior to November 30, 2018, and prior to commencement of construction of any Phase of the Project, Developer shall submit site plans, building plans, and other drawings that fix and describe the size and character of the entire Project, along with architectural and general contracts, to RDA for approval. The Construction Documents shall include:
1. Plans and specifications for structural, mechanical and electrical systems, materials; and
 2. Full-color elevations for all sides of all proposed structures; and
 3. Descriptions and actual samples of all exterior building materials; and
 4. Descriptions and photographic examples of interior finishes; and
 5. Other such essential items as may be determined by the RDA to be appropriate.
- C. Development Budget. Prior to November 30, 2018, Developer shall submit a Development Budget, prepared in accordance with general principles for construction and development budgeting, to RDA for approval. The Development Budget shall include:
1. Not less than five hundred thousand (\$500,000.00) in “hard” construction costs for the entire Project; and
 2. A line item of not less than ten percent (10%) of total Project costs for cost overruns and change orders; and
 3. Line items for each of the Qualified Expenditures for which the Developer is seeking a TIF Incentive, as identified in Section III.
- D. RDA Approvals. The RDA shall indicate its approval or further requirements in writing within thirty (30) days from the date of receipt of the Concept Plan, Construction Documents, or Development Budget, or any revisions; provided, however, that the RDA shall approve such revised Concept Plan, Construction Documents, or Development Budget unless it determines such revisions would impair the objectives of this Agreement, impose substantial financial burdens on the City or the RDA, or adversely affect the Concept Plan. The RDA will make all reasonable efforts to determine the acceptability of plans in less than thirty (30) days, including convening for special meetings to review and consider such plans. At any time during the implementation of the development contemplated by this Agreement, the RDA or Developer may propose modifications to the Preliminary Concept Plan and the approved Concept Plan subject to the agreement of the RDA and the Developer. At any time during the implementation of the development contemplated by this Agreement, Developer may submit to the RDA proposed revisions in the approved Concept Plan, Construction Documents, or Development Budget in order to enhance the achievement of the objectives of this Agreement and to improve and refine the approved Concept Plan.
- E. Compliance with Planning; Zoning; Permits and Use. Developer will obtain from the City and all other appropriate governmental bodies (and all other councils, boards, and parties having a right to control, permit, approve, or consent to the development and use of the Property) all approvals and consents necessary to develop and use the Property as set forth above, including, but not limited to:
1. Developer shall pay all water, sewer, and other impact fees that may be due and payable in connection with the Project.

2. The acceptance of this Agreement and granting of any and all approvals, licenses, and permits by the City shall not obligate the City to grant any variances, exceptions, or conditional use grants, or approve any building or use the City determines not to be in compliance with the municipal codes and ordinances of the City, or in the best interests of the City or the RDA.
 3. Developer shall have obtained the approval of the City, RDA, and State of Wisconsin Department of Transportation to a traffic impact analysis regarding the Project.
- F. Proof of Equity. Developer shall have in place and shall provide the City and RDA no later than November 30, 2018, proof of equity in the form of the value of the Property, less any mortgages thereon, not less than twenty percent (20%) equity available for injection into the Project in an amount sufficient to obtain financing for all Project costs. Any available Developer funds obtained from sources other than lenders or the City shall be expended on the Project before any lender or City funds are expended or any third party financing is used to pay Project costs.
- G. Proof of Financing. By no later than November 30, 2018, Developer shall have delivered proof satisfactory to the City and RDA of financing, which after injection of the Developer equity into the Project, will be sufficient in the determination of the City and RDA, to complete the Project according to the plans and specifications.
- H. Acquisition of Property. By no later than November 30, 2018, Developer shall have closed on the purchase of all of the parcels comprising the Property and all of the necessary rights of way required for the Project. Developer shall provide copies of deeds and such other closing documents as requested by the City or RDA regarding the purchase of the Property and rights of way. The Property and rights of way shall be owned in the name of the Developer.
- I. Termination or Relocation of Easements. Developer shall have agreements with all holders of easements or any other rights that may be affected by the Project, regarding the termination, modification or relocation of such easements and other rights in order to accommodate the Concept Plan.
- J. Certified Survey Map. Promptly after the Property has been acquired by Developer, Developer shall cause a certified survey map to be prepared, approved by the City, RDA, and any other party whose consent is required, and shall cause the certified survey map to be recorded with the Brown County Register of Deeds.
- K. Use of Funds. Developer may use TIF supported funds only to fund Qualified Expenses as set forth in the approved Development Budget.
- L. Improvement of Property. Developer shall promptly design and complete the Project. Substantial work on the Project shall commence no later than ninety (90) days after the last to occur of approval by the City and RDA of the Preliminary Concept Plan, approval by RDA of the Development Budget and Development Plans, and/or issuance of a building permit and all other permits or licenses required to commence construction, which shall be no later than May 31, 2019. Construction shall be completed no later than November 30, 2019. Developer shall file with the RDA copies of the detailed construction plans within ninety (90) days after completion of the Project.
- M. Compliance with Planning; Zoning; Permits and Use. Developer will obtain from the City and all other appropriate governmental bodies (and all other councils, boards, and parties having a right to control, permit, approve, or consent to the development and use of the Property) all approvals and

consents necessary to develop and use the Property as set forth above. Developer shall pay all water, sewer, and other impact fees that may be due and payable in connection with the Project. The acceptance of this Agreement and granting of any and all approvals, licenses, and permits by the City shall not obligate the City to grant any variances, exceptions, or conditional use grants, or approve any building or use the City determines not to be in compliance with the municipal codes and ordinances of the City, or in the best interests of the City or the RDA.

- N. Approval of Construction Documents. Before the commencement of construction, Developer shall obtain the approval of the City and RDA to the architect contract and general contract for the Project.
- O. Reports and Information. Upon demand, the Developer shall provide any documentation, information, and reports requested relating to the Project, and any other material matters pertaining to the interests of the City and/or the RDA in the Property. In addition, after the commencement of construction, Developer shall periodically provide to the RDA information on the Project, including marketing and leasing progress relating to the Project, and any other material matters pertaining to the interests of the City and/or the RDA in the Property or under this Agreement. Developer shall file with the RDA quarterly progress reports during the course of construction. Developer shall provide RDA with a copy of annual, audited financial statements for Developer through termination of this Agreement.
- P. Copies of Documents. All documents from Developer to the City or RDA shall be submitted in triplicate.
- Q. Maintenance and Repair. Developer shall at all times keep and maintain, or cause to be kept and maintained, the Property in good condition and repair, in a safe, clean, and attractive condition, and free of all trash, litter, refuse, and waste, subject only to demolition and construction activities contemplated by this Agreement.
- R. Transfer or Sale of Project Property.
 - 1. Notice of Intent to Transfer. If Developer intends to sell, transfer or convey the Property or any part thereof before termination of this Agreement, Developer shall provide to the City and RDA a written request for transfer thirty (30) days prior to the anticipated transfer. The City or RDA may deny the request for any commercially reasonable reason. Developer may assign all rights and obligations under this Agreement only to an entity controlled and affiliated with Developer to own, manage and operate the Property. This Agreement inures to the benefit and becomes the obligation of the heirs, successors and assigns of Developer. This Agreement shall run with the land and shall be binding upon all current and future owners of the Property. Owner shall not be required to provide the City or RDA with written notice of its intent to transfer in connection with the granting of any mortgage or security agreement to finance or refinance loans for the purchase of the Property or payment of costs of the Project.
 - 2. No Transfer to Exempt Entities. Prior to the closure of the TID, the Property shall not be sold, transferred or conveyed to, leased, or owned by any entity or used in any manner that would render any part of the Project Property exempt from taxation, unless the purchaser, transferee, lessee or owner first executes a written agreement with the City and RDA in a form satisfactory to the City providing for acceptable payments to the City in lieu of taxes.

- S. Easements. Developer shall grant to the City such easements as are reasonably necessary for public improvements, infrastructure, ingress or egress, utilities, lighting or landscaping or any other access necessary to effectuate this Agreement. Developer shall cause existing easements to be relocated or terminated to accommodate the Project.
- T. Traffic Impact Analysis. Developer shall not be required to conduct a traffic impact analysis regarding the Project.
- U. Environmental.
- I. Presence of Hazardous Materials and Compliance with Environmental Laws. Before commencement of the First Phase, Developer shall be satisfied, through such means as are commercially reasonable, that the Property is free of Hazardous Materials or that any Hazardous Materials on or within the Property are being stored and handled in strict compliance with all Environmental Laws. Developer shall provide the City and RDA with copies of all environmental reports pertaining to the Property no later than ten (10) days after receiving the same.
 2. Developer's Environmental Indemnification. Developer shall indemnify, pay on behalf of, defend and hold the City, the RDA, and their respective agents, officials, employees, representatives, successors and assigns, harmless from and against any loss, damage, claim, fine, penalty, assessment, liability, or other charge or claim, and all costs (including, without limitation, reasonable legal, accounting, consulting, engineering, and similar expenses incurred with respect to such matter and/or incurred in enforcing this indemnity):
 - a) Arising from the actual existence, treatment, deposit, release, storage, or disposal of any Hazardous Materials on, within or about the Property; or
 - b) Arising from the breach of any warranty, covenant or representation of Developer to the City or RDA, or any other obligation of Developer to the City or RDA regarding Hazardous Materials under this Agreement.
 3. Hazardous Materials Defined. As used herein, the term "Hazardous Materials" means:
 - a) Hazardous wastes, hazardous substances, hazardous constituents, toxic substances or related materials, whether solids, liquids or gases, including but not limited to substances defined as "hazardous wastes," "hazardous substances," "toxic substances," "pollutants," "contaminants," "radioactive materials," or other similar designations in, or otherwise subject to regulation under, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9601 et seq.; the Toxic Substance Control Act, 15 U.S.C. 2601 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. 1802; the Resource Conservation and Recovery Act, 42 U.S.C. 9601 et seq.; the Clean Water Act, 33 U.S.C. 1251; the Safe Drinking Water Act, 42 U.S.C. 300f et seq.; the Clean Air Act, 42 U.S.C. 7401 et seq.; and in any permits, licenses, approvals, plans, rules, regulations or ordinances adopted, or other criteria and guidelines promulgated pursuant to the preceding laws or other similar federal, state or local laws, regulations, rules or ordinances now or hereafter in effect relating to environmental matters (collectively, "Environmental Laws"); and

- b) Any other substances, constituents or wastes subject to any applicable federal, state or local law, regulation or ordinance, including any Environmental Law, now or hereafter in effect, including but not limited to: petroleum, refined petroleum products, waste oil, waste aviation or motor vehicle fuel, and asbestos containing materials.
 - 4. Survival. The provisions of this Section shall survive the conveyance to Developer of any City and/or RDA Property.
- V. Insurance. Before commencement of construction activities on the Property, Developer shall deliver to the City and RDA certificates of insurance, copies of endorsements, and other evidence of insurance requested by the City or RDA, which Developer is required to purchase and maintain, or cause to be purchased or obtained, in the types and amounts of coverage listed below, each of which shall name the City and RDA as additional insured parties:
- 1. Workers Compensation and Related Coverage. Coverage for state and federal workers compensation shall be defined by state and federal statute. The amounts of employer's liability coverage shall be in not less than the following limits:
 - a) Bodily Injury by Accident - \$100,000.00 per accident;
 - b) Bodily Injury by Disease - \$100,000.00 per employee; and
 - c) \$500,000.00 policy limit.
 - 2. Waiver of Workers Compensation Subrogation. The workers' compensation policy is to be endorsed with a waiver of subrogation. The insurance company, in its endorsement, agrees to waive all rights of subrogation against the City, RDA, its officers, officials, employees, and volunteers for losses paid under the terms of the policy that arises from the work performed by the names insured for or on behalf of the City or RDA.
 - 3. Comprehensive General Liability Insurance. Coverage shall be written on a commercial general liability form, and shall protect Developer and any subcontractor during the performance of work covered by this Agreement from claims or damages for personal injury, including accidental death, as well as claims for property damages which may arise from operation under this Agreement, whether such operations be by Developer, any subcontractor, or anyone directly or indirectly employed by either of them in such manner as to impose liability on the City or RDA. The amounts of such insurance shall be not less than the following limits:
 - a) General Aggregate Limit - \$2,000,000.00; Personal and Advertising Injury Limit (per person/organization) - \$2,000,000.00;
 - b) Bodily Injury and Property Damage - \$2,000,000.00 per occurrence;
 - c) Fire Legal Liability Damage Limit - \$100,000.00 per occurrence; and
 - d) Medical Expense Limit - \$10,000.00 per person.
 - 4. Comprehensive Automobile Liability and Property Damage. Coverage shall protect Developer and any subcontractor during the performance of work covered by this Agreement from claims or damages associated with operations of owned, hired, and non-

owned motor vehicles. The amounts of such insurance shall be not less than the following limits:

- a) Bodily Injury - \$250,000.00 per person; and
 - b) \$1,000,000.00 per occurrence; and Property Damage - \$250,000.00 per occurrence.
5. Umbrella Coverage. Coverage shall protect Developer and any subcontractor during the performance of work covered by this Agreement with limits of \$1,000,000.00 for bodily injury, personal injury, and property damage on a combined basis with the stated underlying limits of Paragraphs IV. S. 1. to IV S. 3. above.
6. Builder's Risk Insurance. Before commencing construction of any improvements on the Property and during any construction activities contemplated by this Agreement, Developer shall obtain and keep in full force and effect and all builders risk insurance policy for all portions of the Property with coverage equal to the total amount of the construction contracts for all such construction activities. Nothing in this Agreement is intended to relieve Developer of its obligation to perform under this Agreement and, in the event of loss, Developer shall use the proceeds of such insurance to promptly reconstruct the damaged or lost improvements.
7. Fire and Casualty Insurance. Developer shall obtain and keep in full force adequate fire and casualty insurance with coverage in an amount equal to the assessed value of such improvements. In the event of loss the Developer shall use the proceeds of such insurance to promptly reconstruct the damaged or lost improvements.

W. General Indemnity.

1. Protection Against Losses. Developer shall indemnify, defend and hold harmless the City, RDA, and their respective officers, employees, agents, attorneys, insurers and the successors and assigns of all of the foregoing, from any and all liabilities, claims, losses, damages, judgments or awards, costs or expenses, including reasonable attorneys' fees, of whatsoever nature and by whomsoever asserted, whether asserted by a third party or by a party to this Agreement (hereinafter "Losses"), directly or indirectly, arising out of, resulting from or in any way connected with:
- a) Any breach by Developer of the terms of this Agreement;
 - b) Any non-compliance with laws, ordinances, rules or regulations applicable to Developer's obligations under this Agreement; or
 - c) Any governmental, regulatory or other proceedings to the extent any such proceedings result from Developer's failure to comply with its obligations under this Agreement or otherwise.
2. Indemnification Procedures. Developer shall promptly assume full and complete responsibility for the investigation, defense, compromise and settlement of any claim, suit or action arising out of or relating to the indemnified matters following written notice thereof from the City or RDA, which notice shall be given by the City or RDA within ten (10) days of their knowledge of such claim, suit or action. Failure to provide such timely notice shall not eliminate Developer's indemnification obligations to the City and RDA unless, and only to the extent to which, such failure has substantially prejudiced Developer.

Notwithstanding the foregoing, in its sole discretion and at its expense, the City and RDA may participate in or defend or prosecute, through their own counsel(s), any claim suit or action for which either of them is entitled to indemnification by Developer; provided, however, that if the City or RDA is advised in writing by its legal counsel that there is a conflict between the positions of Developer and City or RDA, as appropriate, in conducting the defense of such action or that there are legal defenses available to the City or RDA different from or in addition to those available to Developer, then counsel for the City or RDA, at Developer's expense, shall be entitled to conduct the defense only to the extent necessary to protect the interests of the City or RDA. Developer shall not enter into any compromise or settlement without the prior written consent of the City or RDA, as appropriate, which consent shall not be unreasonably withheld. The absence of a complete and general release of all claims against the City or RDA shall be reasonable grounds for the City or RDA to refuse to provide written consent to a compromise or settlement. If Developer does not assume the defense of such claim, suit or action, Developer shall reimburse the City and RDA for the reasonable fees and expenses of counsel(s) retained by the City and by RDA, and shall be bound by the results obtained by the City and RDA; provided, however, that no such claim, suit or action shall be settled without Developer's prior written consent, which consent shall not be unreasonably withheld. The absence of a complete and general release of all claims against Developer shall be reasonable grounds for Developer to refuse to provide written consent to a compromise or settlement.

V. CONDITIONS PRECEDENT TO OBLIGATIONS OF CITY AND RDA

The City's and RDA's obligations under this Agreement are conditioned upon the following:

- A. Existence. Developer shall have provided City and/or RDA a certified copy of its organizational documents and a certificate from the Department of Financial Institutions for the State of Wisconsin indicating Developer's existence and good standing.
- B. Incumbency; Due Authorization. Developer shall have provided a certificate of incumbency and resolutions of the company, demonstrating Developer has been duly authorized to enter into this Agreement and authorizing the person signing this Agreement to execute and deliver it to the City and/or RDA, and to bind Developer to its terms.
- C. No Violation or Default. Developer shall not be in violation of any of its governing documents or other contracts subject to this Agreement or of any other agreement between Developer and the City and/or RDA.
- D. Insurance. Developer shall have delivered to the City and/or RDA certificates of all insurance required under this Agreement.
- E. TID District. The TID shall be in effect and in good standing certified by the Wisconsin Department of Revenue.

VI. CONDITIONS PRECEDENT TO OBLIGATIONS OF DEVELOPER

The obligations of Developer under this Agreement are conditioned upon the following:

- A. TID. The TID shall be in effect and in good standing certified by the Wisconsin Department of Revenue.

- B. Due Authorization. The City Council shall consent to the City entering into this Agreement and shall authorize the person(s) signing this Agreement to execute and deliver it to Developer and to bind the City to its terms. All actions required to authorize RDA to enter into this Agreement shall have been taken and evidence of such actions, including authorization of the person signing this Agreement on behalf of RDA shall have been provided to Developer.

VII. REPRESENTATIONS, WARRANTIES AND COVENANTS

Developer represents and warrants to the City and RDA as follows:

- A. No Material Change in Documents. All contract documents and agreements have been furnished to the City and RDA, as the case may be, and are true and correct and there has been no material change in any of the same.
- B. No Material Change in Developer Operations. There has been no material change in the business operations of Developer since the date the parties began negotiation to enter into this Agreement.
- C. Compliance with Zoning. The Property now conforms and will continue to conform at all times and in all respects with applicable zoning and land division laws, rules, regulations and ordinances.
- D. Payment. Developer shall pay for all work performed or materials furnished for the Project when and as the same become due and payable. Developer shall not suffer any construction or other involuntary lien to be imposed upon the Property, except for liens for claims to payment that are subject to a bona fide dispute, and, in that case, such liens shall be removed by Developer posting bond or other security, paying one hundred and twenty percent (120%) of the lien claimed into court, escrowing funds or promptly taking other steps to remove the lien of record. Developer shall pay all other obligations relating to the Project, including all creditors holding liens or mortgages against the Property when and as the same become due. Developer will pay all taxes and assessments levied against the Property when and as the same become due.
- E. Certification of Facts. No statement of fact by Developer contained in this Agreement and no statement of fact furnished or to be furnished by Developer to the City or RDA pursuant to this Agreement contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary in order to make the statements herein or therein contained not misleading.
- F. Good Standing. Developer is a limited liability company organized and existing in good standing under the laws of the State of Wisconsin and has the power and all necessary licenses, permits and franchises to own its assets and properties and to carry on its business.
- G. Due Authorization. The execution, delivery and performance of this Agreement and all other agreements requested to be executed and delivered by Developer hereunder have been duly authorized by all necessary company action of Developer and constitute valid and binding obligations of Developer, in accordance with their terms, subject only to applicable bankruptcy, insolvency, reorganization, moratorium, general principles of equity, and other similar laws of general application affecting the enforceability of creditors' rights generally.
- H. No Conflict. The execution, delivery, and performance of the obligations of Developer pursuant to this Agreement will not violate or conflict with the Articles of Organization or Operating Agreement of Developer or any indenture, instrument or material agreement by which Developer is bound, nor will the execution, delivery, or performance of obligations of Developer pursuant to this Agreement violate or conflict with any law applicable to Developer.

- I. No Litigation. There is no litigation or proceeding pending or threatened against or affecting Developer or the Property that would adversely affect the Project, Developer or the priority or enforceability of this Agreement, the ability of Developer to complete the Project or the ability of Developer to perform its obligations under this Agreement.
- J. No Default. No default, or event that with the giving of notice or lapse of time or both would be a default, exists under this Agreement, and Developer is not in default (beyond any applicable period of grace) of any of its obligations under any other material agreement or instrument to which Developer is a party or an obligor.
- K. Compliance with Laws and Codes. The Project, when completed, will conform and comply in all respects with all applicable laws, rules, regulations and ordinances, including without limitation, all building codes and ordinances of the City. Developer will comply with, and will cause the Project to be in compliance with all applicable federal, state, local and other laws, rules, regulations and ordinances, including without limitation, all environmental laws, rules, regulations and ordinances.
- L. Fees or Commissions. Neither the City nor RDA shall be liable for any broker fees or commissions incurred by Developer in connection with the Property or any transactions contemplated by this Agreement.

VIII. DEFAULT

- A. Developer Default. Each of the following shall be an Event of Default by Developer:
 - 1. Failure to Make Payment. Developer fails to make any payment required and such failure continues for a period of ten (10) days after its due date;
 - 2. Failure to Abide by Other Terms. Developer fails to perform any other of its obligations under this Agreement and such failure continues for a period of thirty (30) days from the date of notice from the City or RDA; provided, however, if such cure cannot reasonably be accomplished within such thirty (30) days and the delay in cure does not materially impair the financial interests of the City or RDA, and if Developer promptly commences cure within the initial thirty (30) days and diligently pursues cure thereafter, Developer shall have a reasonable time, not to exceed sixty (60) days after the initial thirty (30) days, for a total of ninety (90) days to cure;
 - 3. Misrepresentation. Any representation or warranty of Developer in this Agreement or any agreement contemplated by this Agreement is untrue in any material respect;
 - 4. Fraud and Other Illicit Behavior. Developer or any of its members is convicted of, pleads no contest to, or enters into any other agreement other than a dismissal with no conditions as to any allegation of:
 - a) Fraud; or
 - b) Indecent or illicit behavior that in the determination of the City or RDA would threaten the reputation of Developer or its ability to complete the Project according to the requirements of this Agreement;
 - 5. Insolvency. Developer or any guarantor of the obligations of Developer hereunder is insolvent or becomes the subject of a petition in bankruptcy, a receivership, a composition

or any other proceeding designed for the benefit of creditors generally that is not dismissed within sixty (60) days of the date of filing;

6. Involuntary Liens. Any lien is imposed upon the Property involuntarily due to the acts or omissions of Developer and such lien is not removed within sixty (60) days of it being imposed upon the Property.
- B. Remedies Upon Default. In the event of the occurrence of an Event of Default by Developer, the City may in its discretion:
1. Termination. Terminate this Agreement without further notice to Developer;
 2. Offset and Recoupment. Offset or recoup against any amounts that may then or thereafter come due from the City or RDA to Developer, whether under this Agreement or otherwise, an amount of damages reasonably estimated by the City or RDA resulting from Developer's breach;
 3. Specific Performance. Sue for specific performance;
 4. Sue for Damages. Sue for all damages caused by the Event of Default;
 5. Other Remedies. Pursue any other remedies available to the City or RDA at law or in equity;
 6. Interest. Collect interest on all delinquent amounts at the rate of twelve percent (12%) per annum from the date such amount was due; and
 7. Costs and Attorney Fees. Collect all costs and fees, including reasonable attorney fees incurred by the City and RDA, or either of them, by virtue of the Event of Default.
- C. City or RDA Default. Developer shall have all rights and remedies available under law or equity with respect to any failure of the City and/or RDA to perform their obligations under this Agreement, but only after providing the City and RDA notice of such default and a failure by the City and/or RDA to commence attempts to cure such default within the thirty (30)-day notice period. If the City and/or RDA, as appropriate, commences cure within the thirty (30)-day notice period and thereafter reasonably and continuously takes action to complete such cure, then the failure to perform shall not be an Event of Default.
- D. Limitation of Damages. The foregoing notwithstanding, none of the parties shall be liable to any other party for any incidental, consequential, indirect, punitive or exemplary damages. All claims and damages asserted against the City or RDA shall be subject to statutory protections of municipalities and their officials and employees, including the immunity and limitations set forth in §893.80 Wis. Stats.
- E. No Waiver. Any delay in instituting or prosecuting any actions or proceedings or otherwise asserting the rights granted in this Agreement, shall not operate as a waiver of such rights to, or deprive it of or limit such rights in any way, nor shall any waiver in fact made with respect to any specific default, be considered or treated as a waiver of any rights with respect to other defaults or with respect to the particular default except to the extent specifically waived in writing.
- F. Remedies Cumulative. Except as expressly provided otherwise in this Agreement, the rights and remedies of the parties to this Agreement, whether provided by law or by this Agreement, shall be

cumulative, and the exercise by any party of any one or more of such remedies shall not preclude the exercise of it, at the same or different times, of any other such remedies for any other default or breach by any other party.

IX. TERMINATION

- A. Date of Termination. This Agreement shall terminate upon the earliest of the date:
1. All Qualified Expenditures have been repaid in full by Tax Increment;
 2. The City closes and terminates the TID;
 3. The Wisconsin Department of Revenue fails to certify or revokes certification of all or any portion of the TID or the Property;
 4. This Agreement is terminated because of an Event of Default;
 5. The parties agree in writing to terminate this Agreement.
- B. TIF Payments termination. TIF payments shall only continue for a period of no longer than twelve (12) years after the date of execution of this Agreement and therefore shall terminate at the end of tax year 2030.
- C. Survival of Certain Provisions. Sections III.D, IV.E, IV.I, IV.K, IV.R.2, IV.S, IV.U.2, IV.W, V.A, V.B, V.C, V.D, V.E, VII.C, VII.D, VII.E, VII.G, VII.K, VII.L, VIII.B, VIII.D, VIII.E, VIII.F, X.B, X.C, X.G, X.J, X.M, X.O, X.P, and X.R. shall survive the termination of this Agreement.

X. MISCELLANEOUS PROVISIONS

- A. Assignment. Developer may not assign its rights under this Agreement without the express prior written consent of the City and RDA, until the obligations of the Developer under Section III hereof are fully performed and satisfied. Thereafter, this Agreement may be assigned by Developer only upon the prior, written consent of the City and RDA, which shall not be unreasonably withheld.
- B. Nondiscrimination. In the performance of work under this Agreement, Developer shall not discriminate against any employee or applicant for employment nor shall the Property or any portion thereof be sold to, leased or used by any party in any manner to permit discrimination or restriction on the basis of the basis of race, color, national or ethnic origin, ancestry, age, religion or religious creed, disability or handicap, sex or gender (including pregnancy), gender identity and/or expression, sexual orientation, military or veteran status, genetic information, or any other characteristic protected under applicable federal, state or local law. Retaliation is also prohibited. The construction and operation of the Property shall be in compliance with all effective laws, ordinances and regulations relating to discrimination on any of the foregoing grounds.
- C. No Personal Liability. Under no circumstances shall any trustee, officer, official, commissioner, director, member, partner or employee of the City or RDA have any personal liability arising out of this Agreement, and Developer shall not seek or claim any such personal liability.
- D. No Personal Interest of Public Employee. No official or employee of the City or RDA shall have any personal interest in this Agreement, nor shall any such person voluntarily acquire any ownership interest, direct or indirect, in the legal entities that are parties to this Agreement. No official or employee of the City or RDA shall be personally liable to Developer or any successor in interest, in

the event of any default or breach by the City or RDA, or for any amount that becomes due to the Developer or its successors under this Agreement.

- E. Relationship of Parties. The City and the RDA are not partners or joint venturers with Developer in the Project or otherwise. Under no circumstances shall the City or RDA be liable for any of the obligations of Developer under this Agreement or otherwise. There are no third party beneficiaries of this Agreement.
- F. Force Majeure. No party shall be responsible to any other party for any resulting losses and it shall not be a default hereunder if the fulfillment of any of the terms of this Agreement is delayed or prevented by revolutions or other civil disorders, wars, acts of enemies, strikes, fires, floods, acts of God, adverse weather conditions, legally required environmental remedial actions, industry-wide shortage of materials, or by any other cause not within the control of the party whose performance was interfered with, and which exercise of reasonable diligence, such party is unable to prevent, whether of the class of causes herein above enumerated or not, and the time for performance shall be extended by the period of delay occasioned by any such cause. The foregoing notwithstanding, a Force Majeure event may not be used to avoid an Event of Default if the delay caused by the Force Majeure event exceeds ninety (90) days from the date the event occurred.
- G. Parties and Survival of Agreement. Except as otherwise expressly provided herein, this Agreement is made solely for the benefit of the parties hereto and no other person, partnership, association or corporation shall acquire or have any rights hereunder or by virtue hereof. All representations and agreements in this Agreement shall remain operative and in full force and effect until fulfilled and shall survive the closing.
- H. Time. TIME IS OF THE ESSENCE with regard to all dates and time periods set forth herein.
- I. Notices. All notices, demands, certificates or other communications under this Agreement shall be given in writing and shall be considered given upon receipt if hand delivered to the party or person intended, or one (1) business day after deposit with a nationally recognized over-night commercial courier service, air bill pre-paid, or forty-eight (48) hours after deposit in the United States mail postage prepaid, by certified mail, return receipt requested, addressed by name and address to the party or person intended as follows:

To the City: City of Green Bay
 Attn: City Clerk
 100 North Jefferson Street
 Green Bay, WI 54301

To RDA: Redevelopment Authority of the City of Green Bay
 Attention: Executive Director
 100 North Jefferson Street, Room 608
 Green Bay, WI 54301

To the Developer: GB REAL ESTATE INVESTMENTS, LLC
 Attention: Garritt R. Bader
 300 N. Van Buren Street
 Green Bay, Wisconsin 54301

The foregoing addresses shall be presumed to be correct until notice of a different address is given according to this paragraph.

- J. Governing Law. The laws of the State of Wisconsin shall govern this Agreement.
- K. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any of the provisions of this Agreement.
- L. Execution in Counterparts. This Agreement may be signed in any number of counterparts with the same effect as if the signature thereto and hereto were upon the same instrument.
- M. Severability. If any provision of this Agreement shall be determined to be unenforceable as applied in any particular case or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstance shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained unenforceable to any extent whatever.
- N. Recording of Agreement. The City may record this Development Agreement or a Memorandum of this Agreement with the Register of Deeds for Brown County, Wisconsin. Upon request of the City, Developer shall execute and deliver to the City any such Memorandum or any other document in connection with such recording.
- O. Priority Over Subsequent Liens. This Agreement shall run with the land and shall be binding upon and inure to the benefit of the parties and their heirs, successors and assigns. As such, the current and all future owners of the Property shall be subject to all of the obligations stated herein. Owner warrants and represents that there will not be any mortgage or any other lien against the Property at the time this Development Agreement is recorded other than mortgages for the purchase of the Property and to finance costs of constructing the Project. This Development Agreement shall have precedence and shall take priority over any mortgage, lien or other encumbrance that may be recorded against the Property (or any portion thereof) after the recording of this Development Agreement (or Memorandum thereof).
- P. No Construction Against Drafter. This Agreement is a product of the negotiation and drafting of attorneys for the parties, and, as such, the rule of construing ambiguous contracts against the drafter shall not apply to this Agreement.
- Q. Venue. The venue for any proceeding involving the negotiation, drafting, interpretation or enforcement of this Agreement shall be the circuit court for Brown County, Wisconsin, all other venues being inappropriate for any such proceeding.
- R. Signatures and Counterparts. Electronic, facsimile and photocopy signatures shall have the same effect as original signatures.

[Signature pages follow]

Signature page 1 of 3

IN WITNESS WHEREOF, the parties to this Agreement have caused this instrument to be signed by duly authorized representatives of Developer, City and RDA as of the day and year first written above.

**DEVELOPER:
GB REAL ESTATE INVESTMENTS, LLC**

By: _____

Print Name and Title

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) SS
COUNTY OF BROWN)

Personally came before me this _____ day of _____ 2018, the above named _____, a member of GB REAL ESTATE INVESTMENTS, LLC, a Wisconsin limited liability company, to me known to be the person who executed the foregoing instrument and acknowledged the same.

*

Notary Public, _____ County, Wisconsin

My Commission Expires _____

Signature page 2 of 3

THE CITY OF GREEN BAY, THE REDEVELOPMENT AUTHORITY OF THE CITY OF GREEN BAY,
and GB REAL ESTATE INVESTMENTS, LLC

THE CITY OF GREEN BAY

By: _____
James Schmitt, Mayor

By: _____
Kris A. Teske, Clerk

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) SS
COUNTY OF BROWN)

Personally came before me this _____ day of _____ 2018, the above named
_____ and _____, on behalf of the City of Green
Bay, a Wisconsin municipal corporation, to me known to be the person who executed the foregoing
instrument and acknowledged the same.

*

Notary Public, _____ County, Wisconsin
My Commission Expires _____

Signature page 3 of 3

THE CITY OF GREEN BAY, THE REDEVELOPMENT AUTHORITY OF THE CITY OF GREEN BAY,
and GB REAL ESTATE INVESTMENTS, LLC

**REDEVELOPMENT AUTHORITY OF THE
CITY OF GREEN BAY**

By: _____
Gary Delveaux, Chair

Attest: _____
Kevin J. Vonck, Executive Director

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) SS
COUNTY OF BROWN)

Personally came before me this _____ day of _____ 2018, the above named
_____ and _____, on behalf of the City of Green
Bay, a Wisconsin municipal corporation, to me known to be the person who executed the foregoing
instrument and acknowledged the same.

*

Notary Public, _____ County, Wisconsin
My Commission Expires _____

EXHIBIT A

Property Map



EXHIBIT B
Legal Description

827 Cherry Street: Tax Parcel Number 10-71

Lot Five Hundred Sixty (560), according to the recorded Plat of Navarino, in the City of Green Bay, East side of the Fox River, Brown County, Wisconsin.

829 Cherry Street: Tax Parcel Number 10-72

The South 53 feet of Lot Five Hundred Sixty One (561), according to the recorded Plat of Navarino, in the City of Green Bay, East side of the Fox River, Brown County, Wisconsin.

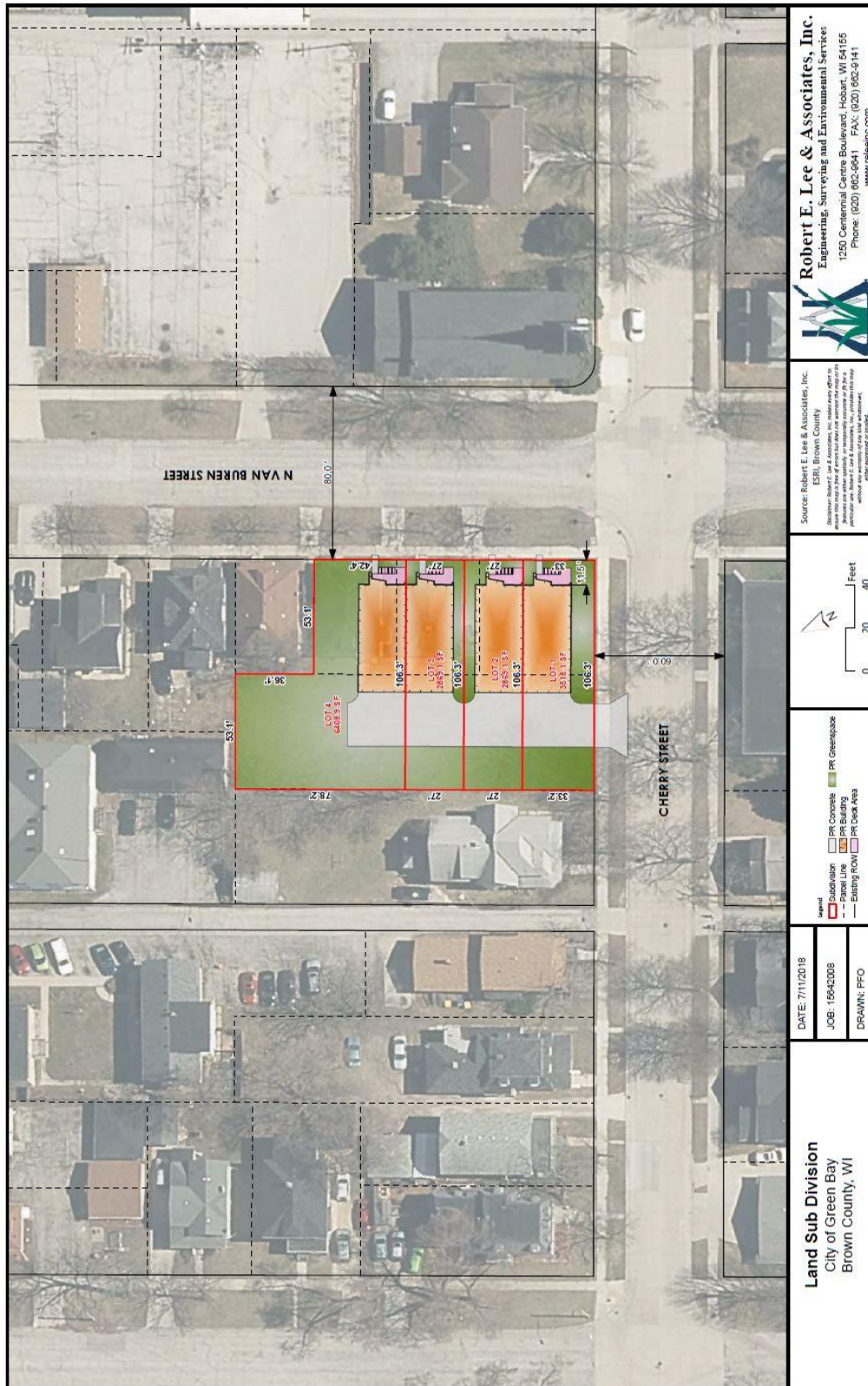
205 N. Van Buren Street: Tax Parcel Number 10-72-A

The Northerly 38 feet of the Southerly 91 feet of Lot Five Hundred Sixty One (561), according to the recorded Plat of Navarino, in the City of Green Bay, East side of the Fox River, Brown County, Wisconsin.

211 N. Van Buren Street: Tax Parcel Number 10-72-B

The Northerly 38 feet of the Southerly 129 feet of Lot Five Hundred Sixty One (561), according to the recorded Plat of Navarino, in the City of Green Bay, East side of the Fox River, Brown County, Wisconsin.

EXHIBIT C Preliminary Concept Plan





Report to the
Redevelopment Authority
of the City of Green Bay

MEETING DATE

August 14, 2018

PREPARED BY

Kevin J. Vonck, CED Director

AGENDA ITEM # D.2.

Consideration with possible action on Development Agreement 18-05 with GB Real Estate Investments, LLC, for 901 Main at 901 Main Street, 907 Main Street, and 913 Main Street (Tax Parcels 9-48, 9-47, and 9-46).

The Authority may convene in closed session pursuant to Sections 19.85(1)(e), Wis. Stats., for purposes of deliberating or negotiating the sale of public properties, investing of public funds or conducting other specified public business as necessary for competitive or bargaining reasons. The Authority may thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to report the results of the closed session and consider the balance of the agenda.

BACKGROUND

A Developer, GB Real Estate Investments, LLC, intends to complete a Project, which includes construction of a three (3)-story, mixed use building with approximately six thousand three hundred (6,300) sq. ft. of retail space on the ground floor, twenty (20) one (1) and two (2)-bedroom market-rate residential apartment units on the second and third floors, and twenty (20) underground parking spaces.

The project aligns with our departmental vision of developing a community that is safe, healthy, connected, and loved, as it:

- remediates environmental contamination from the parcel;
- enhances the physical landscape;
- includes high-performance design elements, mechanical systems, and interior finishes;
- encourages human-powered movement;
- interacts positively with adjacent properties and the neighborhood; and
- expands our range of residential and commercial real estate products.

As of January 1, 2018, the Property has an aggregate assessed value of zero dollars (\$0.00), which based on the assessed tax rates in effect as of January 1, 2018, the Property yields approximately:

- \$0.00 in total real estate taxes annually (assessed mill rate of \$22.79);
- \$0.00 in real estate taxes to the local taxing jurisdictions (total real estate taxes less real estate taxes to the State of Wisconsin) annually (assessed mill rate of \$22.79); and
- \$0.00 in real estate taxes to the City of Green Bay annually (assessed mill rate of \$9.02).

Upon completion of Proposed Project, the City estimates the aggregate assessed property value of the Property to be two million, three hundred thousand dollars (\$2,300,000.00), which is anticipated to yield approximately:

- \$52,417.00 in total real estate taxes annually (assessed mill rate of \$22.79);
- \$52,417.00 in real estate taxes to the local taxing jurisdictions (total real estate taxes less real estate

- taxes to the State of Wisconsin) annually (assessed mill rate of \$22.79); and
- \$20,746.00 in real estate taxes to the City of Green Bay annually (assessed mill rate of \$9.02).

The project is not economically viable without public assistance. Pursuant to the provisions of §66.1105, Wis. Stats. (the “Tax Increment Law”), the Developer requests that the RDA and City ask the Joint Review Board (JRB) to create a new conservation and rehabilitation or blight Tax Increment District (“TID 20” or the “TID”), effective January 1, 2018, which includes the Property and adjacent property, and which will provide part of the financing for certain costs of the Project.

RECOMMENDATION

Approve Development Agreement 18-05 with GB Real Estate Investments, LLC, for 901 Main at 901 Main Street, 907 Main Street, and 913 Main Street (Tax Parcels 9-48, 9-47, and 9-46), subject to minor legal and technical revisions.

FISCAL IMPACT

Staff is proposing a TIF Incentive that includes:

1. Property Transfer. The City and/or RDA shall convey the Property to Developer, free and clear via warranty deed, for the sum of one dollar (\$1.00). The City estimates the value of such Property to be approximately ninety-three thousand dollars (\$93,000.00).
2. PAYGo Reimbursement. The City shall provide an additional TIF Incentive as a pay-as-you-go (PAYGo) obligation of the City, which shall not exceed the Available Tax Increment for the first four (4) years, and then eighty percent (80%) of the Available Tax Increment for the Property, and shall be capped at the lesser of five hundred and forty thousand dollars (\$540,000.00) or the total amount of Qualified Expenses incurred and paid by Developer.

No general levy dollars will be used for this project.

ATTACHMENTS

1. 8 - Main 901 - 9-48 - 180809 - Development Agreement - RDA



City of Green Bay
Department of Community and Economic Development

DEVELOPMENT AGREEMENT 18-05

901 MAIN

This Development Agreement is made this _____ day of _____, 2018,
by THE CITY OF GREEN BAY, a Wisconsin municipal corporation ("City"),
THE REDEVELOPMENT AUTHORITY OF THE CITY OF GREEN BAY ("RDA"),
and GB REAL ESTATE INVESTMENTS, LLC, a Wisconsin limited liability company ("Developer").

RECITALS

- A. Developer has proposed to acquire and develop certain real property, identified for real estate tax purposes and address as:

<u>Tax Parcel</u>	<u>Address</u>	<u>Acres</u>	<u>Assessed Value</u>
9-48	901 Main St.	0.19	\$0.00
9-47	907 Main St.	0.10	\$0.00
9-46	913 Main St.	0.10	\$0.00

- B. The parcels listed above shall be referred to as the "Property." The Property comprises approximately thirty-nine hundredths (0.39) acres of land. A map of the Property is herein attached as EXHIBIT A; a legal description of the Property is herein attached as EXHIBIT B.
- C. Developer intends to complete a Project, which includes construction of a three (3)-story, mixed use building with approximately six thousand three hundred (6,300) square feet of retail space on the ground floor, twenty (20) one (1) and two (2)-bedroom market-rate residential apartment units on the second and third floors, and twenty (20) underground parking spaces. The Proposed Project improvements are shown on a Preliminary Concept Plan, which is herein attached as EXHIBIT C.
- D. As of January 1, 2018, the Property has an aggregate assessed value of \$0.00, which based on the assessed tax rates in effect as of January 1, 2018, the Property yields approximately:
1. \$0.00 in total real estate taxes annually (assessed mill rate of \$22.79);
 2. \$0.00 in real estate taxes to the local taxing jurisdictions (total real estate taxes less real estate taxes to the State of Wisconsin) annually (assessed mill rate of \$22.79); and
 3. \$0.00 in real estate taxes to the City of Green Bay annually (assessed mill rate of \$9.02).
- E. Upon completion of Proposed Project, the City estimates the aggregate assessed property value of the Property to be two million, three hundred thousand dollars (\$2,300,000.00), which is anticipated to yield approximately:
1. \$52,417.00 in total real estate taxes annually (assessed mill rate of \$22.79);

2. \$52,417.00 in real estate taxes to the local taxing jurisdictions (total real estate taxes less real estate taxes to the State of Wisconsin) annually (assessed mill rate of \$22.79); and
 3. \$20,746.00 in real estate taxes to the City of Green Bay annually (assessed mill rate of \$9.02).
- F. Pursuant to the provisions of §66.1105, Wis. Stats. (the “Tax Increment Law”), the Developer requests that the RDA and City ask the Joint Review Board (JRB) to create a new conservation and rehabilitation or blight Tax Increment District (“TID 20” or the “TID”), effective January 1, 2018, which includes the Property and adjacent property, and which will provide part of the financing for certain costs of the Project.
- G. Developer has requested Tax Incremental Finance (“TIF”) assistance from the City and RDA with regard to certain expenses, including, but not limited to environmental remediation; demolition, remodeling, repair or reconstruction of existing buildings; clearing of land; construction of new buildings; or the construction of public works infrastructure, which will constitute qualified expenditures for which TIF assistance may be afforded Developer.
- H. The City and RDA desire to have Developer perform the Project in order to generate economic activity and tax base for the community consistent with the City Comprehensive Plan.
- I. In order to induce Developer to undertake the Project, such that the project remediates environmental contamination from the parcel; enhances the physical landscape; includes high-performance design elements, mechanical systems, and interior finishes; encourages human-powered movement; interacts positively with adjacent properties and the neighborhood; expands our range of residential and commercial real estate products; and the public will generally benefit; the City has agreed to provide assistance to Developer as provided by this Agreement, all in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

I. PURPOSE

- A. Incorporation of Proceedings, Exhibits, and Recitals. All motions adopted, approvals granted, minutes documenting such motions and approvals, and plans and specifications submitted in conjunction with any and all approvals as granted by the City or RDA, including but not limited to adopted or approved plans or specifications on file with the City or RDA, along with all of the Recitals set forth above, shall be incorporated into this Agreement by reference, upon attachment, or upon consent by amendment if necessary if not referenced or attached at the time of execution of this Agreement.
- B. Implementation Schedule. TIME IS OF THE ESSENCE with regard to all dates and time periods set forth and/or incorporated herein. Any material modification or deviation from an approved schedule described in this Agreement shall occur only upon approval of the City and RDA, with any such approvals required to be in writing as an amendment to this Agreement, and which approvals shall not be unreasonably withheld. City shall cooperate and act promptly with respect to any and all permits or approvals necessary for completion of the Project. Notwithstanding the above, this Agreement shall not limit the discretion of the City, or any of its duly appointed and authorized governing bodies, boards or entities, in approving or rejecting any aspect of the Project or improvements contemplated on or about the Property.

- C. Entire Agreement. This writing including all Exhibits hereto, and the other documents and agreements referenced herein, constitutes the entire Agreement between the parties hereto in respect to the Project and all prior letters of intent or offers, if any, are hereby terminated. This Agreement shall be deemed to include and incorporate such minutes, approvals, plans, and specifications, as referenced in this Agreement, and in the event of a conflict between this Agreement and any action of the City or RDA, granting approvals or conditions attendant with such approval, the terms of this Agreement shall be deemed controlling and the City and RDA will take the necessary action to amend any conflicting approvals or conditions.
- D. Purpose of the Agreement. In order to cause the Project to occur and to induce Developer to undertake the Project, to promote community development, industry and job creation and to expand and enhance the tax base within the City, the City intends to provide the TIF Incentives as set forth in this Agreement. The City intends to recover its costs through the Available Tax Increment generated by the Property. The parties intend to enter into this Agreement to record the understandings and undertakings of the parties and to provide a framework within which the Project may proceed.

II. DEFINITIONS; EXHIBITS

Whenever in this Agreement a pronoun is used it shall be construed to represent either the singular or the plural, masculine or feminine, as the case shall demand. As used in this Agreement, the following terms, when having an initial capital letter, shall have the following meanings:

- A. "Agreement" means this Development Agreement among the City, RDA, and Developer, as amended and supplemented from time to time.
- B. "Annual Assessed Value" means the assessed value of the Private Improvements and the Property, as defined in this Agreement, as of January 1 of any calendar year.
- C. "Available Tax Increment" means the amount of Tax Increment (as defined below) actually received by the City generated by any increase of value of the Property above the base value and attributable to development within a tax incremental finance district, during the twelve (12) month period preceding a payment date, that has not been previously used to make payment on bonds or other obligations as determined by the City. The amount of Available Tax Increment may fluctuate based on variations in the property valuations, tax rate, depreciation and other independent factors.
- D. "Base Value" means the aggregate assessed value of the Property when the TID was created, which shall be zero dollars (\$0.00).
- E. "City" means the City of Green Bay, Brown County, Wisconsin.
- F. "Concept Plan" means the plan for the Project.
- G. "Developer" means GB REAL ESTATE INVESTMENTS, LLC, a Wisconsin limited liability company, or any assignee of the same.
- H. "Future Project" means any Private Improvements that will be constructed in the future not specifically detailed in this Agreement.
- I. "Plans and Specifications" means the plans and specifications developed for the Project.

- J. "Preliminary Concept Plan" means the initial Concept Plan, a copy of which is attached as EXHIBIT C and which is subject to such changes as Developer, the City or RDA may propose and the City and RDA may accept in its sole discretion.
- K. "Private Improvements" means the improvements to be constructed on the Property that are not Public Improvements.
- L. "Project" means the Project as defined in the Recitals.
- M. "Public Improvements" means the infrastructure improvements in connection with the Project that will ultimately be dedicated for public service, including, without limitation:
1. road, pedestrian, and bicycle improvements; and
 2. sanitary sewer, storm sewer, and potable water and wastewater mains and laterals, and storm water management facilities; and
 3. telephone, high-speed cable, and related technology infrastructure; and
 4. natural gas, electrical power, and other public utilities; and
 5. any related engineering, grading, erosion control, and landscaping; and
 6. any related land acquisitions and anticipated and intentional corrections to adjacent property affected by the public improvements, including grading.
- N. "Qualified Expenditures" means any expenditures of Developer for the Project that are eligible for TIF Incentives as defined in Section III. B. 3.
- O. "Special Assessment" means any special assessment levied against the Property by the City under §66.0701-0733, Wis. Stats., the City Code of Ordinances and this Agreement.
- P. "Special Charge" means any special charge levied against the Property by the City under §66.0627, Wis. Stats., the City Code of Ordinances and this Agreement.
- Q. "Tax Increment" means that amount obtained by multiplying the total county, city, school and other local general property taxes levied on all taxable property within a TID in a year by a fraction having as a numerator the value increment for that year in the district and as a denominator that year's equalized value of all taxable property in the TID.
- R. "TID" means Tax Increment District Twenty 20 ("TID 20" or the "TID"), of the City of Green Bay, which will be established and will remain in good standing by the City of Green Bay, Wisconsin. The City will create TID 20 in 2018; TID 20 will terminate in 2045.
- S. "TIF" means Tax Increment Financing, as described in Section III below and in particular, Tax Increment Financing relating to the TID.
- T. "TIF Incentive" means the incentive as set forth in Section III of this Agreement including specifically the Tax Incentive Cap.

III. TAX INCREMENT FINANCING

- A. Qualification for TIF. Developer shall demonstrate to the satisfaction of City and RDA a need for TIF, with such determination to be made according to the “but for” test, that is, that but for the City and RDA providing TIF, the Project would not happen. At the request of the City or RDA, Developer shall provide an independent analysis from a consultant expert in TIF to justify to the satisfaction of the City and RDA the Developer’s qualification and need for TIF, both in terms of Qualified Expenditures and the amount of money to be paid to Developer.
- B. Nature of TIF Incentive. The TIF Incentive available to Developer under this Agreement shall be defined as the following:
1. Environmental Remediation. The City and RDA have conducted Phase I and Phase II Environmental Site Assessments (ESA’s) on the Property at their sole cost. Pursuant to a Planning Option Agreement dated August 25, 2017, and extended by an Amendment to such Planning Option Agreement dated February 28, 2018, the City agrees to bear the costs of the work identified in the aforementioned ESA. The City and RDA shall enter into an agreement for engineering services for the soil removal oversight and closure required by the ESA, herein attached as EXHIBIT D, for which all expenses identified in such agreement shall be paid by Developer and reimbursed as Qualified Expenses pursuant to this Agreement. The City shall not be responsible for any costs of remediation other than those identified in the ESA and the agreement for engineering services in EXHIBIT D.
 2. Property Transfer. The City and/or RDA shall convey the Property to Developer, free and clear via warranty deed, for the sum of one dollar (\$1.00). The City estimates the value of such Property to be approximately ninety-three thousand dollars (\$93,000.00).
 3. PAYGo Reimbursement. The City shall provide an additional TIF Incentive as a pay-as-you-go (PAYGo) obligation of the City, which is further defined as follows:
 - a) Developer shall be responsible to incur and pay all of the upfront costs of the Project except those set forth in Section III. B. I. above, and, to the extent TID revenues are sufficient to the limits of the TID and this Agreement, Qualified Expenditures shall be reimbursed to Developer.
 - b) Commencing the first year after the first occupancy permit for the Project has been issued, the assessed value of the Property shall be determined on January 1 of each tax year and shall be compared to the assessed value of the Property as of January 1 of the year in which construction commenced. The difference in assessed values shall be known as the Incremental Property Value.
 - c) Incremental Property Value multiplied by the assessed mill rate, less payments of real estate taxes to the State of Wisconsin, shall be known as the Available TIF Increment.
 - d) PAYGo Reimbursement payments will be payable to Developer in the year following the year of the TIF Increment determination, after Developer has provided proof to the City of the full payment of the real estate taxes, special assessments and special charges against the Real Estate for the previous year. For example, if the first occupancy permit is issued on September 1, 2019, the TIF Increment would be determined as of January 1, 2020 and the PAYGo reimbursement would first be payable in 2021.
 4. Qualified Expenditures. The PAYGo TIF Incentive shall only fund:

- a) Public Improvements, environmental remediation, and asbestos abatement as required by State and Federal law; then
 - b) "Private Improvements" specifically approved by the City or RDA; then
 - c) Any other activity specifically approved by the City or RDA.
 - 5. Assignment. Developer may assign any of its payment rights hereunder to any future purchaser or developer of any part of the Property upon approval of the RDA, provided however, that the City shall be obligated only to disburse TIF Incentives to the party with whom the City has an agreement. It shall be incumbent upon Developer to enter into a separate agreement with any third parties if it intends to assign its payment rights hereunder, or seek either reimbursement or allocation of any Incremental Property Value and guaranteed aggregate assessed value generated by any third party purchaser and/or developer of any part of the Property.
- C. Limitations. The TIF Incentive available to Developer for the Project is limited as follows:
- 1. Monetary Limitation. The TIF Incentive for the first four (4) years of PAYGo reimbursement payments shall not exceed the Available Tax Increment for the Property; the TIF Incentive in any year thereafter shall not exceed eighty percent (80%) of the Available Tax Increment for the Property.
 - 2. Tax Incentive Cap. The City shall not be obligated to pay PAYGo TIF Incentive in excess of the lesser of five hundred and forty thousand dollars (\$540,000.00) or the total amount of Qualified Expenses incurred and paid by Developer.
 - 3. Tax Receipts Limitation. Only the Available Tax Increment actually received by the City, and no other property, revenue, or asset of the City, shall be used to pay such amounts.
 - 4. Temporal Limitation. Provided Developer qualifies for TIF Incentive and provides adequate proof to the City and RDA that Developer has incurred and paid Qualified Expenditures, and provided Developer and all transferees have paid the real estate taxes and any Special Assessments and Special Charges in full for the previous tax year by July 31, TIF Incentive payments shall be made on or before September 1 of each year; provided, however, in no event shall TIF Incentive payments continue after the earlier of the termination date of the TID or the termination of this Agreement if before the termination of the TID.
- D. No General Obligation of City. The City's obligation to make TIF Incentive payments shall be a special and limited obligation only and shall not be considered a general obligation of the City, and neither the full faith and credit nor the taxing powers of the City are pledged to the payment of such amounts. The City shall take no action to dissolve the TID before payment of all TIF Incentive payments due to the Developer, subject to the provisions of this Agreement. In no circumstances shall amounts to be paid Developer hereunder be considered an indebtedness of the City, and the obligation of the City hereunder is limited to the Available Tax Increment appropriated and received by the City. Amounts due hereunder shall not count against the City's constitutional debt limitation, and no taxes will be levied for its payment or pledged to its payment other than from the Available Tax Increment.
- E. Other Grants and Credits. The City and RDA, as appropriate and in its sole discretion, may also apply for such other grants and credits in regard to the Project as they shall deem appropriate for the benefit of the Project and as may be required to achieve necessary financing for the Project,

provided, however, the City and RDA make no representations or warranties about the availability of such grants and credits or whether any such grants or credits that may be available will be awarded.

IV. OBLIGATIONS OF DEVELOPER

- A. Concept Plan. Prior to November 30, 2018, Developer shall submit a Concept Plan to RDA for approval, which shall be based on, but may differ in minor respects from the Preliminary Concept Plan presented in the Term Sheet.
- B. Construction Documents. Prior to November 30, 2018, and prior to commencement of construction of any Phase of the Project, Developer shall submit site plans, building plans, and other drawings that fix and describe the size and character of the entire Project, along with architectural and general contracts, to RDA for approval. The Construction Documents shall include:
 - 1. Plans and specifications for structural, mechanical and electrical systems, materials; and
 - 2. Full-color elevations for all sides of all proposed structures; and
 - 3. Descriptions and actual samples of all exterior building materials; and
 - 4. Descriptions and photographic examples of interior finishes; and
 - 5. Other such essential items as may be determined by the RDA to be appropriate.
- C. Development Budget. Prior to November 30, 2018, Developer shall submit a Development Budget, prepared in accordance with general principles for construction and development budgeting, to RDA for approval. The Development Budget shall include:
 - 1. Not less than two million dollars (\$2,000,000.00) in “hard” construction costs for the entire Project; and
 - 2. A line item of not less than ten percent (10%) of total Project costs for cost overruns and change orders; and
 - 3. Line items for each of the Qualified Expenditures for which the Developer is seeking a TIF Incentive, as identified in Section III.
- D. RDA Approvals. The RDA shall indicate its approval or further requirements in writing within thirty (30) days from the date of receipt of the Concept Plan, Construction Documents, or Development Budget, or any revisions; provided, however, that the RDA shall approve such revised Concept Plan, Construction Documents, or Development Budget unless it determines such revisions would impair the objectives of this Agreement, impose substantial financial burdens on the City or the RDA, or adversely affect the Concept Plan. The RDA will make all reasonable efforts to determine the acceptability of plans in less than thirty (30) days, including convening for special meetings to review and consider such plans. At any time during the implementation of the development contemplated by this Agreement, the RDA or Developer may propose modifications to the Preliminary Concept Plan and the approved Concept Plan subject to the agreement of the RDA and the Developer. At any time during the implementation of the development contemplated by this Agreement, Developer may submit to the RDA proposed revisions in the approved Concept Plan, Construction Documents, or Development Budget in order to enhance the achievement of the objectives of this Agreement and to improve and refine the approved Concept Plan.

- E. Compliance with Planning; Zoning; Permits and Use. Developer will obtain from the City and all other appropriate governmental bodies (and all other councils, boards, and parties having a right to control, permit, approve, or consent to the development and use of the Property) all approvals and consents necessary to develop and use the Property as set forth above, including, but not limited to:
1. Developer shall pay all water, sewer, and other impact fees that may be due and payable in connection with the Project.
 2. The acceptance of this Agreement and granting of any and all approvals, licenses, and permits by the City shall not obligate the City to grant any variances, exceptions, or conditional use grants, or approve any building or use the City determines not to be in compliance with the municipal codes and ordinances of the City, or in the best interests of the City or the RDA.
 3. Developer shall have obtained the approval of the City, RDA, and State of Wisconsin Department of Transportation to a traffic impact analysis regarding the Project.
- F. Proof of Equity. Developer shall have in place and shall provide the City and RDA no later than November 30, 2018, proof of equity in the form of the value of the Property, less any mortgages thereon, not less than twenty percent (20%) equity available for injection into the Project in an amount sufficient to obtain financing for all Project costs. Any available Developer funds obtained from sources other than lenders or the City shall be expended on the Project before any lender or City funds are expended or any third party financing is used to pay Project costs.
- G. Proof of Financing. By no later than November 30, 2018, Developer shall have delivered proof satisfactory to the City and RDA of financing, which after injection of the Developer equity into the Project, will be sufficient in the determination of the City and RDA, to complete the Project according to the plans and specifications.
- H. Acquisition of Property. By no later than November 30, 2018, Developer shall have closed on the purchase of all of the parcels comprising the Property and all of the necessary rights of way required for the Project. Developer shall provide copies of deeds and such other closing documents as requested by the City or RDA regarding the purchase of the Property and rights of way. The Property and rights of way shall be owned in the name of the Developer.
- I. Termination or Relocation of Easements. Developer shall have agreements with all holders of easements or any other rights that may be affected by the Project, regarding the termination, modification or relocation of such easements and other rights in order to accommodate the Concept Plan.
- J. Certified Survey Map. Promptly after the Property has been acquired by Developer, Developer shall cause a certified survey map to be prepared, approved by the City, RDA, and any other party whose consent is required, and shall cause the certified survey map to be recorded with the Brown County Register of Deeds.
- K. Use of Funds. Developer may use TIF supported funds only to fund Qualified Expenses as set forth in the approved Development Budget.
- L. Improvement of Property. Developer shall promptly design and complete the Project. Substantial work on the Project shall commence no later than ninety (90) days after the last to occur of approval by the City and RDA of the Preliminary Concept Plan, approval by RDA of the Development Budget and Development Plans, and/or issuance of a building permit and all other

permits or licenses required to commence construction, which shall be no later than February 28, 2019. Construction shall be completed no later than November 30, 2019. Developer shall file with the RDA copies of the detailed construction plans within ninety (90) days after completion of the Project.

- M. Compliance with Planning; Zoning; Permits and Use. Developer will obtain from the City and all other appropriate governmental bodies (and all other councils, boards, and parties having a right to control, permit, approve, or consent to the development and use of the Property) all approvals and consents necessary to develop and use the Property as set forth above. Developer shall pay all water, sewer, and other impact fees that may be due and payable in connection with the Project. The acceptance of this Agreement and granting of any and all approvals, licenses, and permits by the City shall not obligate the City to grant any variances, exceptions, or conditional use grants, or approve any building or use the City determines not to be in compliance with the municipal codes and ordinances of the City, or in the best interests of the City or the RDA.
- N. Approval of Construction Documents. Before the commencement of construction, Developer shall obtain the approval of the City and RDA to the architect contract and general contract for the Project.
- O. Reports and Information. Upon demand, the Developer shall provide any documentation, information, and reports requested relating to the Project, and any other material matters pertaining to the interests of the City and/or the RDA in the Property. In addition, after the commencement of construction, Developer shall periodically provide to the RDA information on the Project, including marketing and leasing progress relating to the Project, and any other material matters pertaining to the interests of the City and/or the RDA in the Property or under this Agreement. Developer shall file with the RDA quarterly progress reports during the course of construction. Developer shall provide RDA with a copy of annual, audited financial statements for Developer through termination of this Agreement.
- P. Copies of Documents. All documents from Developer to the City or RDA shall be submitted in triplicate.
- Q. Maintenance and Repair. Developer shall at all times keep and maintain, or cause to be kept and maintained, the Property in good condition and repair, in a safe, clean, and attractive condition, and free of all trash, litter, refuse, and waste, subject only to demolition and construction activities contemplated by this Agreement.
- R. Transfer or Sale of Project Property.
 - I. Notice of Intent to Transfer. If Developer intends to sell, transfer or convey the Property or any part thereof before termination of this Agreement, Developer shall provide to the City and RDA a written request for transfer thirty (30) days prior to the anticipated transfer. The City or RDA may deny the request for any commercially reasonable reason. Developer may assign all rights and obligations under this Agreement only to an entity controlled and affiliated with Developer to own, manage and operate the Property. This Agreement inures to the benefit and becomes the obligation of the heirs, successors and assigns of Developer. This Agreement shall run with the land and shall be binding upon all current and future owners of the Property. Owner shall not be required to provide the City or RDA with written notice of its intent to transfer in connection with the granting of any mortgage or security agreement to finance or refinance loans for the purchase of the Property or payment of costs of the Project.

2. No Transfer to Exempt Entities. Prior to the closure of the TID, the Property shall not be sold, transferred or conveyed to, leased, or owned by any entity or used in any manner that would render any part of the Project Property exempt from taxation, unless the purchaser, transferee, lessee or owner first executes a written agreement with the City and RDA in a form satisfactory to the City providing for acceptable payments to the City in lieu of taxes.
- S. Easements. Developer shall grant to the City such easements as are reasonably necessary for public improvements, infrastructure, ingress or egress, utilities, lighting or landscaping or any other access necessary to effectuate this Agreement. Developer shall cause existing easements to be relocated or terminated to accommodate the Project.
- T. Traffic Impact Analysis. Developer shall not be required to conduct a traffic impact analysis regarding the Project.
- U. Environmental.
1. Presence of Hazardous Materials and Compliance with Environmental Laws. Before commencement of the First Phase, Developer shall be satisfied, through such means as are commercially reasonable, that the Property is free of Hazardous Materials or that any Hazardous Materials on or within the Property are being stored and handled in strict compliance with all Environmental Laws. Developer shall provide the City and RDA with copies of all environmental reports pertaining to the Property no later than ten (10) days after receiving the same.
 2. Developer's Environmental Indemnification. Developer shall indemnify, pay on behalf of, defend and hold the City, the RDA, and their respective agents, officials, employees, representatives, successors and assigns, harmless from and against any loss, damage, claim, fine, penalty, assessment, liability, or other charge or claim, and all costs (including, without limitation, reasonable legal, accounting, consulting, engineering, and similar expenses incurred with respect to such matter and/or incurred in enforcing this indemnity):
 - a) Arising from the actual existence, treatment, deposit, release, storage, or disposal of any Hazardous Materials on, within or about the Property; or
 - b) Arising from the breach of any warranty, covenant or representation of Developer to the City or RDA, or any other obligation of Developer to the City or RDA regarding Hazardous Materials under this Agreement.
 3. Hazardous Materials Defined. As used herein, the term "Hazardous Materials" means:
 - a) Hazardous wastes, hazardous substances, hazardous constituents, toxic substances or related materials, whether solids, liquids or gases, including but not limited to substances defined as "hazardous wastes," "hazardous substances," "toxic substances," "pollutants," "contaminants," "radioactive materials," or other similar designations in, or otherwise subject to regulation under, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9601 et seq.; the Toxic Substance Control Act, 15 U.S.C. 2601 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. 1802; the Resource Conservation and Recovery Act, 42 U.S.C. 9601. et seq.; the Clean Water Act, 33 U.S.C. 1251; the Safe Drinking Water Act, 42 U.S.C. 300f et seq.; the Clean Air Act, 42 U.S.C. 7401 et seq.; and in any permits, licenses, approvals, plans, rules, regulations or ordinances adopted, or other criteria and guidelines promulgated

pursuant to the preceding laws or other similar federal, state or local laws, regulations, rules or ordinances now or hereafter in effect relating to environmental matters (collectively, "Environmental Laws"); and

- b) Any other substances, constituents or wastes subject to any applicable federal, state or local law, regulation or ordinance, including any Environmental Law, now or hereafter in effect, including but not limited to: petroleum, refined petroleum products, waste oil, waste aviation or motor vehicle fuel, and asbestos containing materials.

- 4. Survival. The provisions of this Section shall survive the conveyance to Developer of any City and/or RDA Property.

V. Insurance. Before commencement of construction activities on the Property, Developer shall deliver to the City and RDA certificates of insurance, copies of endorsements, and other evidence of insurance requested by the City or RDA, which Developer is required to purchase and maintain, or cause to be purchased or obtained, in the types and amounts of coverage listed below, each of which shall name the City and RDA as additional insured parties:

- 1. Workers Compensation and Related Coverage. Coverage for state and federal workers compensation shall be defined by state and federal statute. The amounts of employer's liability coverage shall be in not less than the following limits:

- a) Bodily Injury by Accident - \$100,000.00 per accident;
- b) Bodily Injury by Disease - \$100,000.00 per employee; and
- c) \$500,000.00 policy limit.

- 2. Waiver of Workers Compensation Subrogation. The workers' compensation policy is to be endorsed with a waiver of subrogation. The insurance company, in its endorsement, agrees to waive all rights of subrogation against the City, RDA, its officers, officials, employees, and volunteers for losses paid under the terms of the policy that arises from the work performed by the names insured for or on behalf of the City or RDA.

- 3. Comprehensive General Liability Insurance. Coverage shall be written on a commercial general liability form, and shall protect Developer and any subcontractor during the performance of work covered by this Agreement from claims or damages for personal injury, including accidental death, as well as claims for property damages which may arise from operation under this Agreement, whether such operations be by Developer, any subcontractor, or anyone directly or indirectly employed by either of them in such manner as to impose liability on the City or RDA. The amounts of such insurance shall be not less than the following limits:

- a) General Aggregate Limit - \$2,000,000.00; Personal and Advertising Injury Limit (per person/organization) - \$2,000,000.00;
- b) Bodily Injury and Property Damage - \$2,000,000.00 per occurrence;
- c) Fire Legal Liability Damage Limit - \$100,000.00 per occurrence; and
- d) Medical Expense Limit - \$10,000.00 per person.

4. Comprehensive Automobile Liability and Property Damage. Coverage shall protect Developer and any subcontractor during the performance of work covered by this Agreement from claims or damages associated with operations of owned, hired, and non-owned motor vehicles. The amounts of such insurance shall be not less than the following limits:
 - a) Bodily Injury - \$250,000.00 per person; and
 - b) \$1,000,000.00 per occurrence; and Property Damage - \$250,000.00 per occurrence.
5. Umbrella Coverage. Coverage shall protect Developer and any subcontractor during the performance of work covered by this Agreement with limits of \$1,000,000.00 for bodily injury, personal injury, and property damage on a combined basis with the stated underlying limits of Paragraphs IV. S. 1. to IV S. 3. above.
6. Builder's Risk Insurance. Before commencing construction of any improvements on the Property and during any construction activities contemplated by this Agreement, Developer shall obtain and keep in full force and effect and all builders risk insurance policy for all portions of the Property with coverage equal to the total amount of the construction contracts for all such construction activities. Nothing in this Agreement is intended to relieve Developer of its obligation to perform under this Agreement and, in the event of loss, Developer shall use the proceeds of such insurance to promptly reconstruct the damaged or lost improvements.
7. Fire and Casualty Insurance. Developer shall obtain and keep in full force adequate fire and casualty insurance with coverage in an amount equal to the assessed value of such improvements. In the event of loss the Developer shall use the proceeds of such insurance to promptly reconstruct the damaged or lost improvements.

W. General Indemnity.

1. Protection Against Losses. Developer shall indemnify, defend and hold harmless the City, RDA, and their respective officers, employees, agents, attorneys, insurers and the successors and assigns of all of the foregoing, from any and all liabilities, claims, losses, damages, judgments or awards, costs or expenses, including reasonable attorneys' fees, of whatsoever nature and by whomsoever asserted, whether asserted by a third party or by a party to this Agreement (hereinafter "Losses"), directly or indirectly, arising out of, resulting from or in any way connected with:
 - a) Any breach by Developer of the terms of this Agreement;
 - b) Any non-compliance with laws, ordinances, rules or regulations applicable to Developer's obligations under this Agreement; or
 - c) Any governmental, regulatory or other proceedings to the extent any such proceedings result from Developer's failure to comply with its obligations under this Agreement or otherwise.
2. Indemnification Procedures. Developer shall promptly assume full and complete responsibility for the investigation, defense, compromise and settlement of any claim, suit or action arising out of or relating to the indemnified matters following written notice thereof from the City or RDA, which notice shall be given by the City or RDA within ten (10) days

of their knowledge of such claim, suit or action. Failure to provide such timely notice shall not eliminate Developer's indemnification obligations to the City and RDA unless, and only to the extent to which, such failure has substantially prejudiced Developer. Notwithstanding the foregoing, in its sole discretion and at its expense, the City and RDA may participate in or defend or prosecute, through their own counsel(s), any claim suit or action for which either of them is entitled to indemnification by Developer; provided, however, that if the City or RDA is advised in writing by its legal counsel that there is a conflict between the positions of Developer and City or RDA, as appropriate, in conducting the defense of such action or that there are legal defenses available to the City or RDA different from or in addition to those available to Developer, then counsel for the City or RDA, at Developer's expense, shall be entitled to conduct the defense only to the extent necessary to protect the interests of the City or RDA. Developer shall not enter into any compromise or settlement without the prior written consent of the City or RDA, as appropriate, which consent shall not be unreasonably withheld. The absence of a complete and general release of all claims against the City or RDA shall be reasonable grounds for the City or RDA to refuse to provide written consent to a compromise or settlement. If Developer does not assume the defense of such claim, suit or action, Developer shall reimburse the City and RDA for the reasonable fees and expenses of counsel(s) retained by the City and by RDA, and shall be bound by the results obtained by the City and RDA; provided, however, that no such claim, suit or action shall be settled without Developer's prior written consent, which consent shall not be unreasonably withheld. The absence of a complete and general release of all claims against Developer shall be reasonable grounds for Developer to refuse to provide written consent to a compromise or settlement.

V. CONDITIONS PRECEDENT TO OBLIGATIONS OF CITY AND RDA

The City's and RDA's obligations under this Agreement are conditioned upon the following:

- A. Existence. Developer shall have provided City and/or RDA a certified copy of its organizational documents and a certificate from the Department of Financial Institutions for the State of Wisconsin indicating Developer's existence and good standing.
- B. Incumbency; Due Authorization. Developer shall have provided a certificate of incumbency and resolutions of the company, demonstrating Developer has been duly authorized to enter into this Agreement and authorizing the person signing this Agreement to execute and deliver it to the City and/or RDA, and to bind Developer to its terms.
- C. No Violation or Default. Developer shall not be in violation of any of its governing documents or other contracts subject to this Agreement or of any other agreement between Developer and the City and/or RDA.
- D. Insurance. Developer shall have delivered to the City and/or RDA certificates of all insurance required under this Agreement.
- E. TID District. The TID shall be in effect and in good standing certified by the Wisconsin Department of Revenue.

VI. CONDITIONS PRECEDENT TO OBLIGATIONS OF DEVELOPER

The obligations of Developer under this Agreement are conditioned upon the following:

- A. TID. The TID shall be in effect and in good standing certified by the Wisconsin Department of Revenue.
- B. Due Authorization. The City Council shall consent to the City entering into this Agreement and shall authorize the person(s) signing this Agreement to execute and deliver it to Developer and to bind the City to its terms. All actions required to authorize RDA to enter into this Agreement shall have been taken and evidence of such actions, including authorization of the person signing this Agreement on behalf of RDA shall have been provided to Developer.

VII. REPRESENTATIONS, WARRANTIES AND COVENANTS

Developer represents and warrants to the City and RDA as follows:

- A. No Material Change in Documents. All contract documents and agreements have been furnished to the City and RDA, as the case may be, and are true and correct and there has been no material change in any of the same.
- B. No Material Change in Developer Operations. There has been no material change in the business operations of Developer since the date the parties began negotiation to enter into this Agreement.
- C. Compliance with Zoning. The Property now conforms and will continue to conform at all times and in all respects with applicable zoning and land division laws, rules, regulations and ordinances.
- D. Payment. Developer shall pay for all work performed or materials furnished for the Project when and as the same become due and payable. Developer shall not suffer any construction or other involuntary lien to be imposed upon the Property, except for liens for claims to payment that are subject to a bona fide dispute, and, in that case, such liens shall be removed by Developer posting bond or other security, paying one hundred and twenty percent (120%) of the lien claimed into court, escrowing funds or promptly taking other steps to remove the lien of record. Developer shall pay all other obligations relating to the Project, including all creditors holding liens or mortgages against the Property when and as the same become due. Developer will pay all taxes and assessments levied against the Property when and as the same become due.
- E. Certification of Facts. No statement of fact by Developer contained in this Agreement and no statement of fact furnished or to be furnished by Developer to the City or RDA pursuant to this Agreement contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary in order to make the statements herein or therein contained not misleading.
- F. Good Standing. Developer is a limited liability company organized and existing in good standing under the laws of the State of Wisconsin and has the power and all necessary licenses, permits and franchises to own its assets and properties and to carry on its business.
- G. Due Authorization. The execution, delivery and performance of this Agreement and all other agreements requested to be executed and delivered by Developer hereunder have been duly authorized by all necessary company action of Developer and constitute valid and binding obligations of Developer, in accordance with their terms, subject only to applicable bankruptcy, insolvency, reorganization, moratorium, general principles of equity, and other similar laws of general application affecting the enforceability of creditors' rights generally.
- H. No Conflict. The execution, delivery, and performance of the obligations of Developer pursuant to this Agreement will not violate or conflict with the Articles of Organization or Operating

Agreement of Developer or any indenture, instrument or material agreement by which Developer is bound, nor will the execution, delivery, or performance of obligations of Developer pursuant to this Agreement violate or conflict with any law applicable to Developer.

- I. No Litigation. There is no litigation or proceeding pending or threatened against or affecting Developer or the Property that would adversely affect the Project, Developer or the priority or enforceability of this Agreement, the ability of Developer to complete the Project or the ability of Developer to perform its obligations under this Agreement.
- J. No Default. No default, or event that with the giving of notice or lapse of time or both would be a default, exists under this Agreement, and Developer is not in default (beyond any applicable period of grace) of any of its obligations under any other material agreement or instrument to which Developer is a party or an obligor.
- K. Compliance with Laws and Codes. The Project, when completed, will conform and comply in all respects with all applicable laws, rules, regulations and ordinances, including without limitation, all building codes and ordinances of the City. Developer will comply with, and will cause the Project to be in compliance with all applicable federal, state, local and other laws, rules, regulations and ordinances, including without limitation, all environmental laws, rules, regulations and ordinances.
- L. Fees or Commissions. Neither the City nor RDA shall be liable for any broker fees or commissions incurred by Developer in connection with the Property or any transactions contemplated by this Agreement.

VIII. DEFAULT

- A. Developer Default. Each of the following shall be an Event of Default by Developer:
 - 1. Failure to Make Payment. Developer fails to make any payment required and such failure continues for a period of ten (10) days after its due date;
 - 2. Failure to Abide by Other Terms. Developer fails to perform any other of its obligations under this Agreement and such failure continues for a period of thirty (30) days from the date of notice from the City or RDA; provided, however, if such cure cannot reasonably be accomplished within such thirty (30) days and the delay in cure does not materially impair the financial interests of the City or RDA, and if Developer promptly commences cure within the initial thirty (30) days and diligently pursues cure thereafter, Developer shall have a reasonable time, not to exceed sixty (60) days after the initial thirty (30) days, for a total of ninety (90) days to cure;
 - 3. Misrepresentation. Any representation or warranty of Developer in this Agreement or any agreement contemplated by this Agreement is untrue in any material respect;
 - 4. Fraud and Other Illicit Behavior. Developer or any of its members is convicted of, pleads no contest to, or enters into any other agreement other than a dismissal with no conditions as to any allegation of:
 - a) Fraud; or
 - b) Indecent or illicit behavior that in the determination of the City or RDA would threaten the reputation of Developer or its ability to complete the Project according to the requirements of this Agreement;

5. Insolvency. Developer or any guarantor of the obligations of Developer hereunder is insolvent or becomes the subject of a petition in bankruptcy, a receivership, a composition or any other proceeding designed for the benefit of creditors generally that is not dismissed within sixty (60) days of the date of filing;
 6. Involuntary Liens. Any lien is imposed upon the Property involuntarily due to the acts or omissions of Developer and such lien is not removed within sixty (60) days of it being imposed upon the Property.
- B. Remedies Upon Default. In the event of the occurrence of an Event of Default by Developer, the City may in its discretion:
1. Termination. Terminate this Agreement without further notice to Developer;
 2. Offset and Recoupment. Offset or recoup against any amounts that may then or thereafter come due from the City or RDA to Developer, whether under this Agreement or otherwise, an amount of damages reasonably estimated by the City or RDA resulting from Developer's breach;
 3. Specific Performance. Sue for specific performance;
 4. Sue for Damages. Sue for all damages caused by the Event of Default;
 5. Other Remedies. Pursue any other remedies available to the City or RDA at law or in equity;
 6. Interest. Collect interest on all delinquent amounts at the rate of twelve percent (12%) per annum from the date such amount was due; and
 7. Costs and Attorney Fees. Collect all costs and fees, including reasonable attorney fees incurred by the City and RDA, or either of them, by virtue of the Event of Default.
- C. City or RDA Default. Developer shall have all rights and remedies available under law or equity with respect to any failure of the City and/or RDA to perform their obligations under this Agreement, but only after providing the City and RDA notice of such default and a failure by the City and/or RDA to commence attempts to cure such default within the thirty (30)-day notice period. If the City and/or RDA, as appropriate, commences cure within the thirty (30)-day notice period and thereafter reasonably and continuously takes action to complete such cure, then the failure to perform shall not be an Event of Default.
- D. Limitation of Damages. The foregoing notwithstanding, none of the parties shall be liable to any other party for any incidental, consequential, indirect, punitive or exemplary damages. All claims and damages asserted against the City or RDA shall be subject to statutory protections of municipalities and their officials and employees, including the immunity and limitations set forth in §893.80 Wis. Stats.
- E. No Waiver. Any delay in instituting or prosecuting any actions or proceedings or otherwise asserting the rights granted in this Agreement, shall not operate as a waiver of such rights to, or deprive it of or limit such rights in any way, nor shall any waiver in fact made with respect to any specific default, be considered or treated as a waiver of any rights with respect to other defaults or with respect to the particular default except to the extent specifically waived in writing.

- F. Remedies Cumulative. Except as expressly provided otherwise in this Agreement, the rights and remedies of the parties to this Agreement, whether provided by law or by this Agreement, shall be cumulative, and the exercise by any party of any one or more of such remedies shall not preclude the exercise of it, at the same or different times, of any other such remedies for any other default or breach by any other party.

IX. TERMINATION

- A. Date of Termination. This Agreement shall terminate upon the earliest of the date:
1. All Qualified Expenditures have been repaid in full by Tax Increment;
 2. The City closes and terminates the TID;
 3. The Wisconsin Department of Revenue fails to certify or revokes certification of all or any portion of the TID or the Property;
 4. This Agreement is terminated because of an Event of Default;
 5. The parties agree in writing to terminate this Agreement.
- B. TIF Payments termination. TIF payments shall only continue for a period of no longer than fifteen (15) years after the date of execution of this Agreement and therefore shall terminate at the end of tax year 2033.
- C. Survival of Certain Provisions. Sections III.D, IV.E, IV.I, IV.K, IV.P.2, IV.Q, IV.R.2, IV.T, V.A, V.B, V.C, V.D, V.E, VII.C, VII.D, VII.E, VII.G, VII.K, VII.L, VIII.B, VIII.D, VIII.E, VIII.F, X.B, X.C, X.G, X.J, X.M, X.O, X.P, and X.R. shall survive the termination of this Agreement.

X. MISCELLANEOUS PROVISIONS

- A. Assignment. Developer may not assign its rights under this Agreement without the express prior written consent of the City and RDA, until the obligations of the Developer under Section III hereof are fully performed and satisfied. Thereafter, this Agreement may be assigned by Developer only upon the prior, written consent of the City and RDA, which shall not be unreasonably withheld.
- B. Nondiscrimination. In the performance of work under this Agreement, Developer shall not discriminate against any employee or applicant for employment nor shall the Property or any portion thereof be sold to, leased or used by any party in any manner to permit discrimination or restriction on the basis of the basis of race, color, national or ethnic origin, ancestry, age, religion or religious creed, disability or handicap, sex or gender (including pregnancy), gender identity and/or expression, sexual orientation, military or veteran status, genetic information, or any other characteristic protected under applicable federal, state or local law. Retaliation is also prohibited. The construction and operation of the Property shall be in compliance with all effective laws, ordinances and regulations relating to discrimination on any of the foregoing grounds.
- C. No Personal Liability. Under no circumstances shall any trustee, officer, official, commissioner, director, member, partner or employee of the City or RDA have any personal liability arising out of this Agreement, and Developer shall not seek or claim any such personal liability.
- D. No Personal Interest of Public Employee. No official or employee of the City or RDA shall have any personal interest in this Agreement, nor shall any such person voluntarily acquire any ownership

interest, direct or indirect, in the legal entities that are parties to this Agreement. No official or employee of the City or RDA shall be personally liable to Developer or any successor in interest, in the event of any default or breach by the City or RDA, or for any amount that becomes due to the Developer or its successors under this Agreement.

- E. Relationship of Parties. The City and the RDA are not partners or joint venturers with Developer in the Project or otherwise. Under no circumstances shall the City or RDA be liable for any of the obligations of Developer under this Agreement or otherwise. There are no third party beneficiaries of this Agreement.
- F. Force Majeure. No party shall be responsible to any other party for any resulting losses and it shall not be a default hereunder if the fulfillment of any of the terms of this Agreement is delayed or prevented by revolutions or other civil disorders, wars, acts of enemies, strikes, fires, floods, acts of God, adverse weather conditions, legally required environmental remedial actions, industry-wide shortage of materials, or by any other cause not within the control of the party whose performance was interfered with, and which exercise of reasonable diligence, such party is unable to prevent, whether of the class of causes herein above enumerated or not, and the time for performance shall be extended by the period of delay occasioned by any such cause. The foregoing notwithstanding, a Force Majeure event may not be used to avoid an Event of Default if the delay caused by the Force Majeure event exceeds ninety (90) days from the date the event occurred.
- G. Parties and Survival of Agreement. Except as otherwise expressly provided herein, this Agreement is made solely for the benefit of the parties hereto and no other person, partnership, association or corporation shall acquire or have any rights hereunder or by virtue hereof. All representations and agreements in this Agreement shall remain operative and in full force and effect until fulfilled and shall survive the closing.
- H. Time. TIME IS OF THE ESSENCE with regard to all dates and time periods set forth herein.
- I. Notices. All notices, demands, certificates or other communications under this Agreement shall be given in writing and shall be considered given upon receipt if hand delivered to the party or person intended, or one (1) business day after deposit with a nationally recognized over-night commercial courier service, air bill pre-paid, or forty-eight (48) hours after deposit in the United States mail postage prepaid, by certified mail, return receipt requested, addressed by name and address to the party or person intended as follows:

To the City: City of Green Bay
 Attn: City Clerk
 100 North Jefferson Street
 Green Bay, WI 54301

To RDA: Redevelopment Authority of the City of Green Bay
 Attention: Executive Director
 100 North Jefferson Street, Room 608
 Green Bay, WI 54301

To the Developer: GB REAL ESTATE INVESTMENTS, LLC
 Attention: Garritt R. Bader
 300 N. Van Buren Street
 Green Bay, Wisconsin 54301

The foregoing addresses shall be presumed to be correct until notice of a different address is given according to this paragraph.

- J. Governing Law. The laws of the State of Wisconsin shall govern this Agreement.
- K. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any of the provisions of this Agreement.
- L. Execution in Counterparts. This Agreement may be signed in any number of counterparts with the same effect as if the signature thereto and hereto were upon the same instrument.
- M. Severability. If any provision of this Agreement shall be determined to be unenforceable as applied in any particular case or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstance shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained unenforceable to any extent whatever.
- N. Recording of Agreement. The City may record this Development Agreement or a Memorandum of this Agreement with the Register of Deeds for Brown County, Wisconsin. Upon request of the City, Developer shall execute and deliver to the City any such Memorandum or any other document in connection with such recording.
- O. Priority Over Subsequent Liens. This Agreement shall run with the land and shall be binding upon and inure to the benefit of the parties and their heirs, successors and assigns. As such, the current and all future owners of the Property shall be subject to all of the obligations stated herein. Owner warrants and represents that there will not be any mortgage or any other lien against the Property at the time this Development Agreement is recorded other than mortgages for the purchase of the Property and to finance costs of constructing the Project. This Development Agreement shall have precedence and shall take priority over any mortgage, lien or other encumbrance that may be recorded against the Property (or any portion thereof) after the recording of this Development Agreement (or Memorandum thereof).
- P. No Construction Against Drafter. This Agreement is a product of the negotiation and drafting of attorneys for the parties, and, as such, the rule of construing ambiguous contracts against the drafter shall not apply to this Agreement.
- Q. Venue. The venue for any proceeding involving the negotiation, drafting, interpretation or enforcement of this Agreement shall be the circuit court for Brown County, Wisconsin, all other venues being inappropriate for any such proceeding.
- R. Signatures and Counterparts. Electronic, facsimile and photocopy signatures shall have the same effect as original signatures.

[Signature pages follow]

Signature page 1 of 3

IN WITNESS WHEREOF, the parties to this Agreement have caused this instrument to be signed by duly authorized representatives of Developer, City and RDA as of the day and year first written above.

DEVELOPER:
GB REAL ESTATE INVESTMENTS, LLC

By: _____

Print Name and Title

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) SS
COUNTY OF BROWN)

Personally came before me this _____ day of _____ 2018, the above named _____, a member of GB REAL ESTATE INVESTMENTS, LLC, a Wisconsin limited liability company, to me known to be the person who executed the foregoing instrument and acknowledged the same.

*

Notary Public, _____ County, Wisconsin

My Commission Expires _____

Signature page 2 of 3

THE CITY OF GREEN BAY, THE REDEVELOPMENT AUTHORITY OF THE CITY OF GREEN BAY,
and GB REAL ESTATE INVESTMENTS, LLC

THE CITY OF GREEN BAY

By: _____
James Schmitt, Mayor

By: _____
Kris A. Teske, Clerk

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) SS
COUNTY OF BROWN)

Personally came before me this _____ day of _____ 2018, the above named
_____ and _____, on behalf of the City of Green
Bay, a Wisconsin municipal corporation, to me known to be the person who executed the foregoing
instrument and acknowledged the same.

*

Notary Public, _____ County, Wisconsin
My Commission Expires _____

Signature page 3 of 3

THE CITY OF GREEN BAY, THE REDEVELOPMENT AUTHORITY OF THE CITY OF GREEN BAY,
and GB REAL ESTATE INVESTMENTS, LLC

**REDEVELOPMENT AUTHORITY OF THE
CITY OF GREEN BAY**

By: _____
Gary Delveaux, Chair

Attest: _____
Kevin J. Vonck, Executive Director

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) SS
COUNTY OF BROWN)

Personally came before me this _____ day of _____ 2018, the above named
_____ and _____, on behalf of the City of Green
Bay, a Wisconsin municipal corporation, to me known to be the person who executed the foregoing
instrument and acknowledged the same.

*

Notary Public, _____ County, Wisconsin
My Commission Expires _____

EXHIBIT A
Property Map



EXHIBIT B
Legal Description

901 Main Street: Tax Parcel Number 9-48

The South Ninety (90) feet of Lot Two Hundred Sixteen (216), Plat of Navarino, in the City of Green Bay, East side of the Fox River, Brown County, Wisconsin and the Easterly $\frac{1}{2}$ of vacated Van Buren Street lying Westerly of and adjacent to said parcel.

907 Main Street: Tax Parcel Number 9-47

The Westerly one-half ($\frac{1}{2}$) of Lot 215, Plat of Navarino, in the City of Green Bay, East side of the Fox River, Brown County, Wisconsin.

913 Main Street: Tax Parcel Number 9-46

The Easterly one-half ($\frac{1}{2}$) of Lot 215, Plat of Navarino, in the City of Green Bay, East side of the Fox River, Brown County, Wisconsin.

EXHIBIT C Preliminary Concept Plan

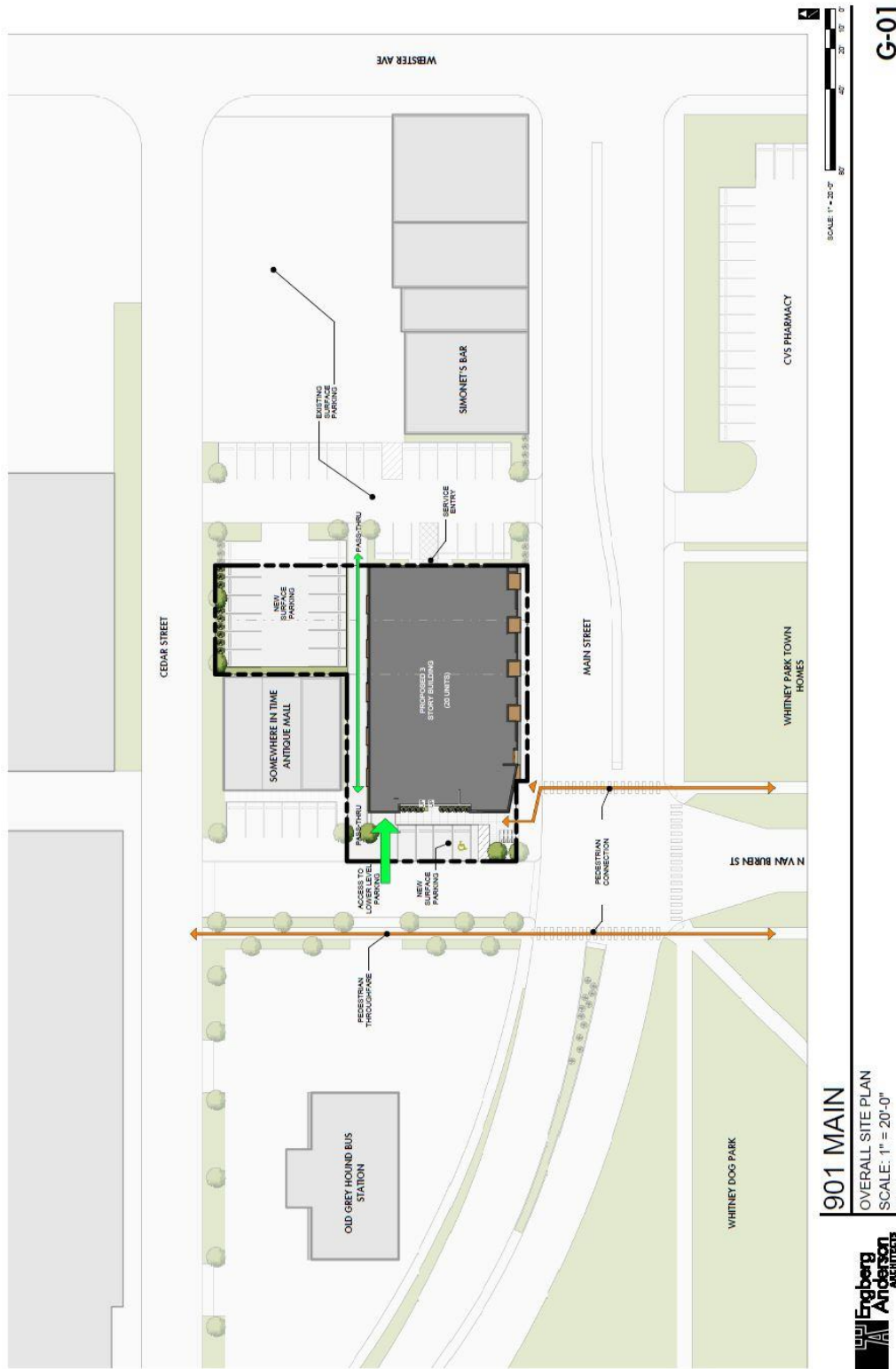


EXHIBIT D
Agreement for Engineering Services



Report to the
Redevelopment Authority
of the City of Green Bay

MEETING DATE

August 14, 2018

PREPARED BY

Kevin J. Vonck, CED Director

AGENDA ITEM # D.3.

Consideration with possible action to issue Request for Qualifications (RFQ) for the professional services of a Consultant to prepare a Project Plan for the Shipyard.

The Authority may convene in closed session pursuant to Sections 19.85(1)(e), Wis. Stats., for purposes of deliberating or negotiating the sale of public properties, investing of public funds or conducting other specified public business as necessary for competitive or bargaining reasons. The Authority may thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to report the results of the closed session and consider the balance of the agenda.

BACKGROUND

In June, the RDA and Common Council approved Development Agreement 18-02: The Shipyard, which involves remediating brownfields, repurposing vacant and underused structures, and enhancing a residential neighborhood on the near west side of the City. The catalyst for development involves the construction of a signature public recreation and entertainment facility at 100 W. Mason Street (Parcel 2-78).

Staff is seeking approval to hire a Consultant (which may be either a single entity or collaboration of firms) to prepare a Project Plan for the Shipyard that shall include all architectural, structural, and civil engineering and design documents necessary for construction of all improvements. The RFQ (attached) provides additional information on the scope of the work involved, requirements for submission of a proposal, and the anticipated process for moving forward.

RECOMMENDATION

Approve the Request for Qualifications (RFQ) for the professional services of a Consultant to prepare a Project Plan for the Shipyard.

FISCAL IMPACT

In July, the RDA and Common Council approved borrowing two million dollars (\$2,000,000.00) to fund the first phase of this project. Approximately five hundred thousand dollars (\$500,000.00) will be used to hire a Consultant to prepare the Project Plan.

ATTACHMENTS

- I. 8 - Shipyard - 180814 - Request for Qualifications - Final



City of Green Bay
Department of Community and Economic Development

Request for Qualifications **The Shipyard**



Redevelopment Authority of the City of Green Bay

Released 14 August 2018

PROJECT



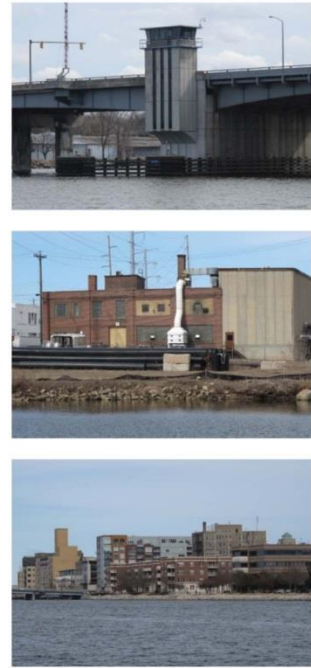
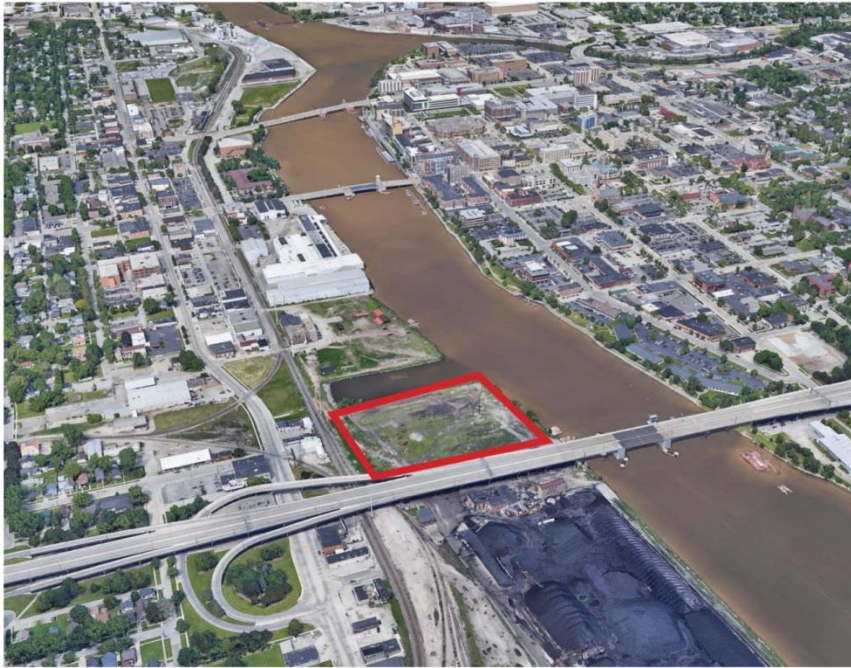
The City of Green Bay (“City”) and the Redevelopment Authority of Green Bay (“RDA”) seek to complete a major redevelopment project known as The Shipyard, which involves remediating brownfields, repurposing vacant and underused structures, and enhancing a residential neighborhood on the near west side of the City. The catalyst for development involves the construction of a signature public recreation and entertainment facility at 100 W. Mason Street (Tax Parcel 2-78) along with related public improvements.

The Shipyard is an attraction that will draw people, year round, to the waterfront for events and daily activities. It is a combination of well-designed buildings and spaces and social interaction. The athletic field will be used over two hundred (200) days per year for soccer, football, rugby, lacrosse, ice hockey, ice skating, and other sports; concerts, festivals, large-screen viewing, runs and walks, markets, and other special events by a wide-variety of semi-professional and youth clubs. The waterfront amenities (an urban beach, playground, and splash pad) encourage healthy outdoor movement and provide the adjacent neighborhood with access to the waterfront. The container park provides a place for food, beverage, and retail entrepreneurs to start and grow their business, without having to invest in significant amounts of capital for a brick-and-mortar establishment. These businesses will also provide employment opportunities.

The project aligns with our departmental vision of developing a community that is safe, healthy, connected, and loved, as it makes our community more:

- safe: builds new structures using the latest codes, removes attractive nuisances and other problem properties, invests in neighborhoods with high complaint and/or police call volumes
- healthy: remediates environmental contamination from the parcel and/or structures, enhances the physical (soil, water, air) landscape, encourages human-powered movement
- connected: interacts positively with adjacent properties, the neighborhood, and community, strengthens and/or expand pedestrian, bicycle, and transit transportation networks, creates and/or enhance public spaces and amenities
- loved: removes blighted and neglected structures, expands our range of residential and commercial real estate products

The Shipyard



The Shipyard
Green Bay, Wisconsin

May 7, 2018

CUNINGHAM
GROUP

Design Principles and Goals

Create an attraction that draws people, year round, to the waterfront for events and daily activities. The attraction should be a combination of well designed building and spaces that encourage recreation, interaction, and entertainment.

Ensure the site is not an island - connect it to the City and weave it into it's surroundings.

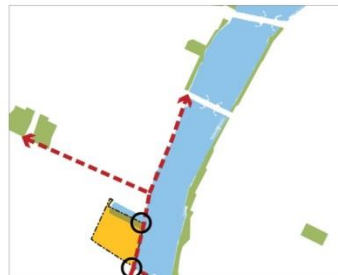
Create a strong image and brand, based on the physical qualities of the site, it's history and the events/activities of the site and its surroundings.



Connect to the Broadway District



Third Destination



Complete the Loops



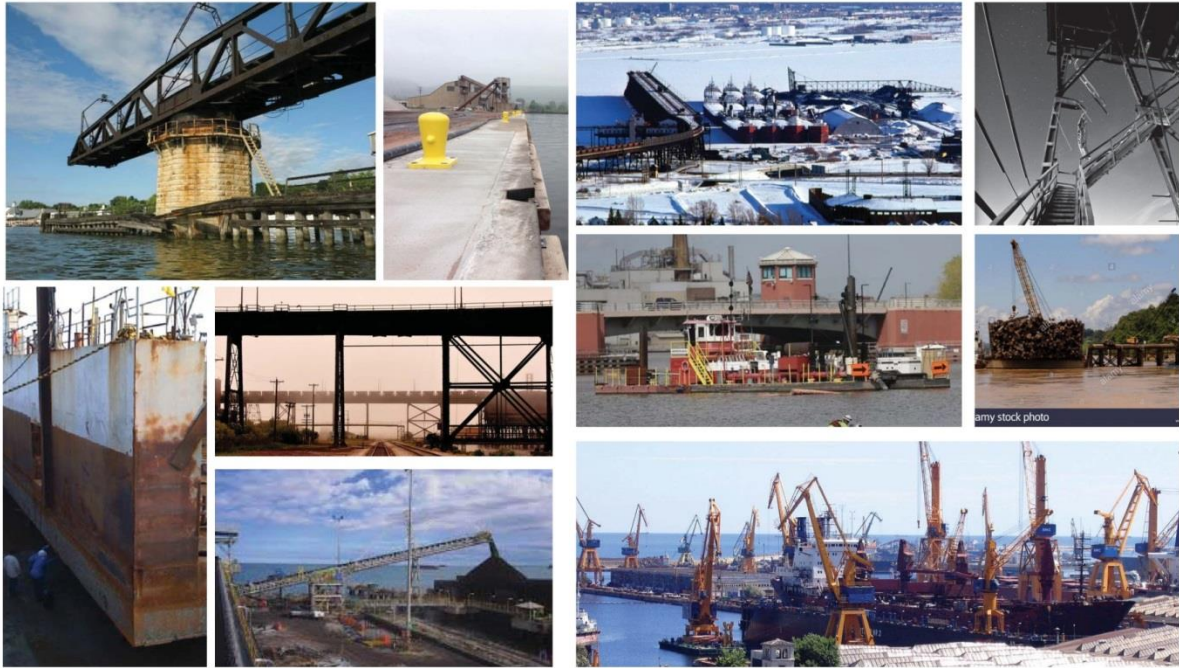
Extend the City to the Water

The Shipyard
Green Bay, Wisconsin

May 7, 2018

CUNINGHAM
GROUP

Shipyards Imagery

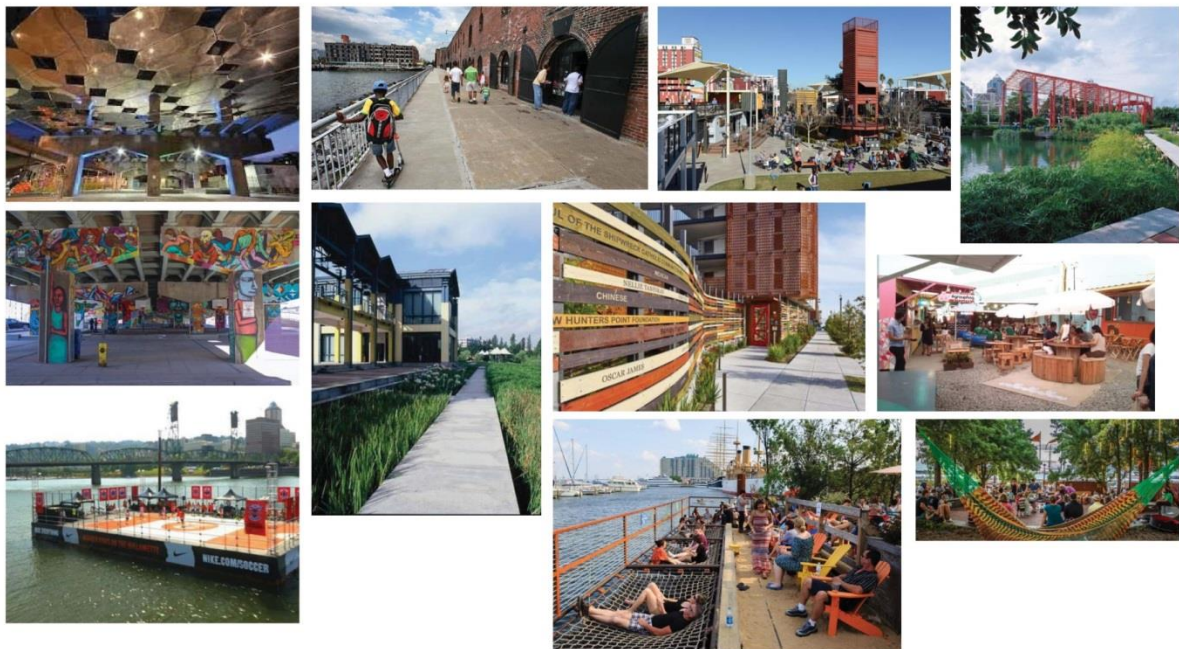


The Shipyard
Green Bay, Wisconsin

May 7, 2018

CUNINGHAM
GROUP

Transformed Industrial Spaces



The Shipyard
Green Bay, Wisconsin

May 7, 2018

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GROUP

Successful Waterfronts



Surrounding buildings enhance the public space



Easy access....by boat, bike, and foot.



The water itself is a draw



Basic human comfort and comforts



Activities around the clock and throughout the year



Flexible design and adaptability



Local Identity is showcased

The Shipyard
Green Bay, Wisconsin

May 7, 2018

CUNINGHAM
GROUP

Pop Up Events and Activities



The Shipyard
Green Bay, Wisconsin

May 7, 2018

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GROUP

Phase 1

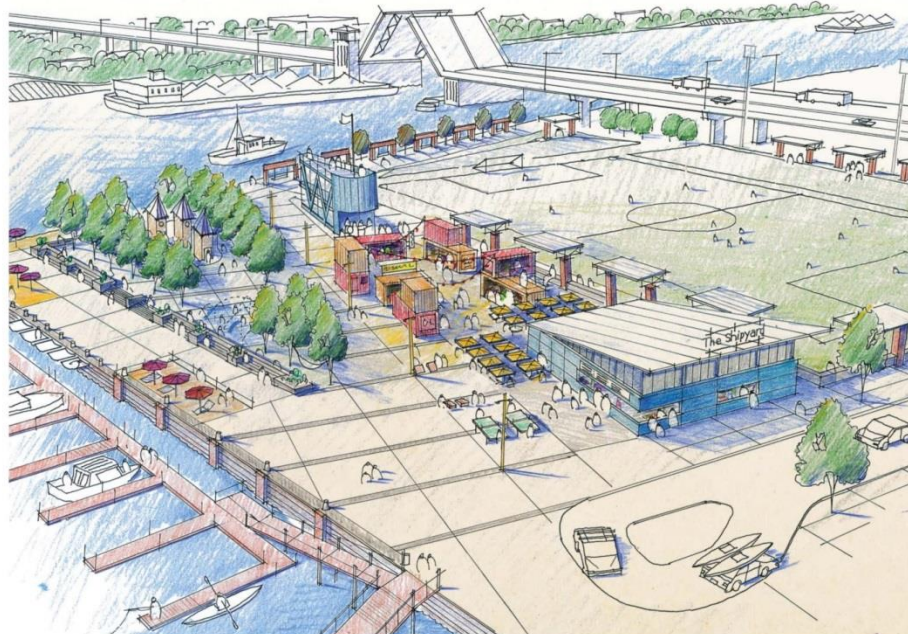


The Shipyard
Green Bay, Wisconsin

May 7, 2018

CUNINGHAM
GROUP

Phase 1



The Shipyard
Green Bay, Wisconsin

May 7, 2018

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GROUP

Master Plan



The Shipyard
Green Bay, Wisconsin

May 7, 2018

CUNINGHAM
GROUP

Master Plan



The Shipyard
Green Bay, Wisconsin

May 7, 2018

CUNINGHAM
GROUP

The Shipyard is critical to the future redevelopment of the South Broadway corridor. The City and/or RDA will continue to work on agreements with interested parties to construct additional projects that will generate additional economic activity and tax base, including, but not limited to, residential, commercial (e.g. retail, restaurant, and hotel), office, and recreational uses.



The South Zone will contain the improvements as described above. The project enhances our regional portfolio of attractions, which helps keep us competitive for tourists, but more importantly in the battle to retain and attract smart and skilled people to our City. The mix of a downtown and waterfront facility is unique to the state, if not the upper Midwest, and will provide visitors a unique game-day or event experience. The addition of two new performance spaces allows for a wider variety of touring acts.

The North Zone will contain office space and/or medium-to-high-density residential housing. A desirable site with waterfront access and views of both the downtown skyline and outdoor events center, there is ample capacity for one hundred thousand (100,000) square feet of office space and/or one hundred (100) one hundred and fifty (150) housing units. The City has been working with a number of interested developers and anticipates moving forward with a project in 2018 or 2019.

The Broadway Zone will involve redeveloping underused industrial and commercial properties in order to expand the successful Broadway District further south. The City will focus its efforts on two major sites: the four (4)-acre Badger Sheet Metal at 420 S. Broadway, 402 S. Broadway, and 419 S. Maple (Tax Parcels 3-569, 3-572, and 2-947) site and the one (1)-acre White Store at 606 S. Broadway (Tax Parcel 2-81) and anticipates moving forward with projects in 2019 or 2020.

The West Zone focuses on neighborhood enhancement. The City and/or RDA will retain its commitment to invest one million dollars (\$1,000,000.00) during the first three (3) years of the project into residential acquisition, rehabilitation, and development projects in the neighborhood to the immediate west of the Property. These funds will be leveraged through targeted partnerships with Habitat for Humanity, NeighborWorks, and other private construction contractors.

REQUEST

The RDA is seeking the professional services of a Consultant (which may be either a single entity or collaboration of firms) to prepare a Project Plan that shall include all architectural, structural, and civil engineering and design documents for necessary for construction of the following:

- A. Site Improvements. General site work improvements in accordance with all applicable codes and ordinances, to prepare the site for the construction of buildings and other structures, including:
1. Site Fill. Removal and disposal of all necessary earthen material unsuitable for construction purposes and importation of a sufficient amount of customary and typical earthen material from a source selected by the City and/or RDA, compacted in place, to raise the existing elevation of the property above the existing base flood level established by the Federal Emergency Management Agency (FEMA), which is approximately four (4) feet above the current elevation at 100 W. Mason St. (Tax Parcel 2-78), 239 Arndt St. (Tax Parcel 3-551), 101 Bridge St. (Tax Parcel 3-554-A), and 119 Bridge St. (Tax Parcel 3-556).
 2. Environmental Remediation. Amendments to the environmental closure report in accordance with requirements of the Wisconsin Department of Natural Resources (“DNR”) and take all such appropriate measures to implement such actions required to achieve compliance.
 3. Stormwater Management. Construction of customary and typical storm water management facilities necessary to service the Project and potential Future Projects on the Property.
- B. Public Improvements. Infrastructure improvements in connection with the Project that will ultimately be dedicated for public service, including, but not limited to:
1. Arndt Street. Approximately two hundred and ten (210) feet of appropriate paving, landscaping, lighting, controls, and other improvements required to ensure a safe, comfortable crossing of the CN railroad tracks for both motorized and non-motorized users.
 2. Bridge Street. Approximately two hundred and ten (210) feet of appropriate paving, landscaping, lighting, controls, and other improvements required to ensure a safe, comfortable crossing of the CN railroad tracks for both motorized and non-motorized users.
 3. S. Pearl Street. Approximately one thousand and five hundred (1,500) feet of appropriate paving, landscaping, lighting, and other improvements required to ensure safe, comfortable, and contiguous pedestrian and bicycle accommodations on S. Pearl Street between Arndt Street and Walnut Street. The purpose of these improvements is to continue the riverfront trail northward from the Shipyard to an existing trail north of Walnut Street.
 4. CN Railroad Crossings. Construction of appropriate paving, landscaping, lighting, controls, and other improvements required to ensure a safe, comfortable crossing of the CN railroad tracks for both motorized and non-motorized users at Mason Street, Arndt Street, and Bridge Street. The City and/or RDA will seek appropriate approvals for an additional CN railroad crossing with the future eastward extension of Clinton Street.
 5. Parking. Construction of approximately eight hundred (800) surface parking spaces with appropriate paving, landscaping, lighting, and other improvements, including:
 - a) Approximately eighty (80) spaces adjacent to the Stadium within 100 W. Mason St. (Tax Parcel 2-78); and

- b) Approximately one hundred and twenty (120) spaces within S. Broadway and 613 S. Broadway (Tax Parcels 2-107 and 2-109) and the Mason Street right-of-way between S. Broadway and the Fox River; and
- c) Approximately twenty (20) spaces within 525 S. Broadway and 531 S. Broadway (Tax Parcels 2-76 and 2-77); and
- d) Approximately one hundred and twenty (120) spaces within 401 S. Broadway, S. Broadway, 505 S. Broadway, 511-513 S. Broadway, 515 S. Broadway, and 517 S. Broadway (Tax Parcels 3-568, 3-568-1, 2-946, 2-949-A, 2-70, and 2-71); and
- e) Approximately one hundred and sixty (160) spaces within the Mason Street right-of-way between S. Ashland Avenue and Maple Street; and
- f) Approximately three hundred (300) spaces within 419 S. Maple, 420 S. Broadway, and 402 S. Broadway (Tax Parcels 2-947, 3-569, and 3-572).

C. The Shipyard. A signature public recreation and entertainment facility at 100 W. Mason St. (Tax Parcel 2-78) and surrounding property including, but not limited to:

- 1. A multi-purpose, multi-season Outdoor Events Center (“Stadium”) with an artificial turf field (for soccer, football, rugby, lacrosse, and similar sports), scoreboard, lighting, grass berm seating, and related improvements, capable of holding approximately two thousand (2,000) persons for sporting events and eight thousand (8,000) persons for concerts, festivals, and community events; and
- 2. A permanent structure for restrooms, lockers, and/or concessions; and
- 3. Permanent and/or seasonal structures (e.g. shipping containers) for food, beverage, retail, and recreation; and
- 4. A multi-modal public path and/or boardwalk along the entire waterfront boundaries of the slip, composed of a combination of concrete, pavers, asphalt, crushed limestone, wood or engineered decking, and/or similar hard surfaces; and
- 5. An urban beach, children’s playground, splash pad and/or similar amenities; and
- 6. A floating dock for transient boaters and an accessible kayak launch.

Representatives from the Departments of Community and Economic Development; Parks, Recreation, and Forestry, and Public Works will be available to answer specific questions about the Project and Property The RDA will use the Project Plan to solicit bids for the actual construction of the Project.

REQUIREMENTS

Each Consultant Qualification Proposal (“CQP”) shall include the following items placed in this order:

- A. A statement that provides general information about the Consultant(s), including the scope and nature of services the Consultant routinely provides and how you have worked together in the past. *Preference will be given to Consultants with expertise in the “hard engineering” of environmental remediation and site preparation as well as the “soft social skills” for designing attractive and engaging public spaces.*

- B. A statement, with specific examples, that describes past performance on this type of work, including experience with working with local, state, and federal regulatory agencies on permitting and approvals. *Preference will be given to Consultants with past experience and good working relationships.*
- C. A statement that identifies the professional and technical qualifications and specific roles and duties of key personnel who will be involved in the project. Resumes should be included as appendices. *Preference will be given to consultants who involve principals and high-level staff in the actual work.*
- D. A work program describing the precise scope of the work the Consultant will undertake. It should identify any modification to, or expansion of, the general scope of work outlined in this RFQ.
- E. A detailed project timeline that indicates milestones and/or when the Consultant will produce the drafts and final versions of the Project Plan and other deliverables. *Preference will be given to Consultants that can complete the Project Plan by the end of 2018.*
- F. A statement that describes how the Consultant will communicate with City staff, interested stakeholders, and the public through all phases of the project, including addressing public health concerns. *Preference will be given to Consultants that engage the public in creative ways.*
- G. Detailed descriptions of the quantifiable deliverables and/or products produced, including verification that electronic formats will be compatible with City software and GIS systems.
- H. A proposed fee schedule with not to exceed limits for the work effort. *Preference will be given to firms that offer the greatest value.*

PROCESS

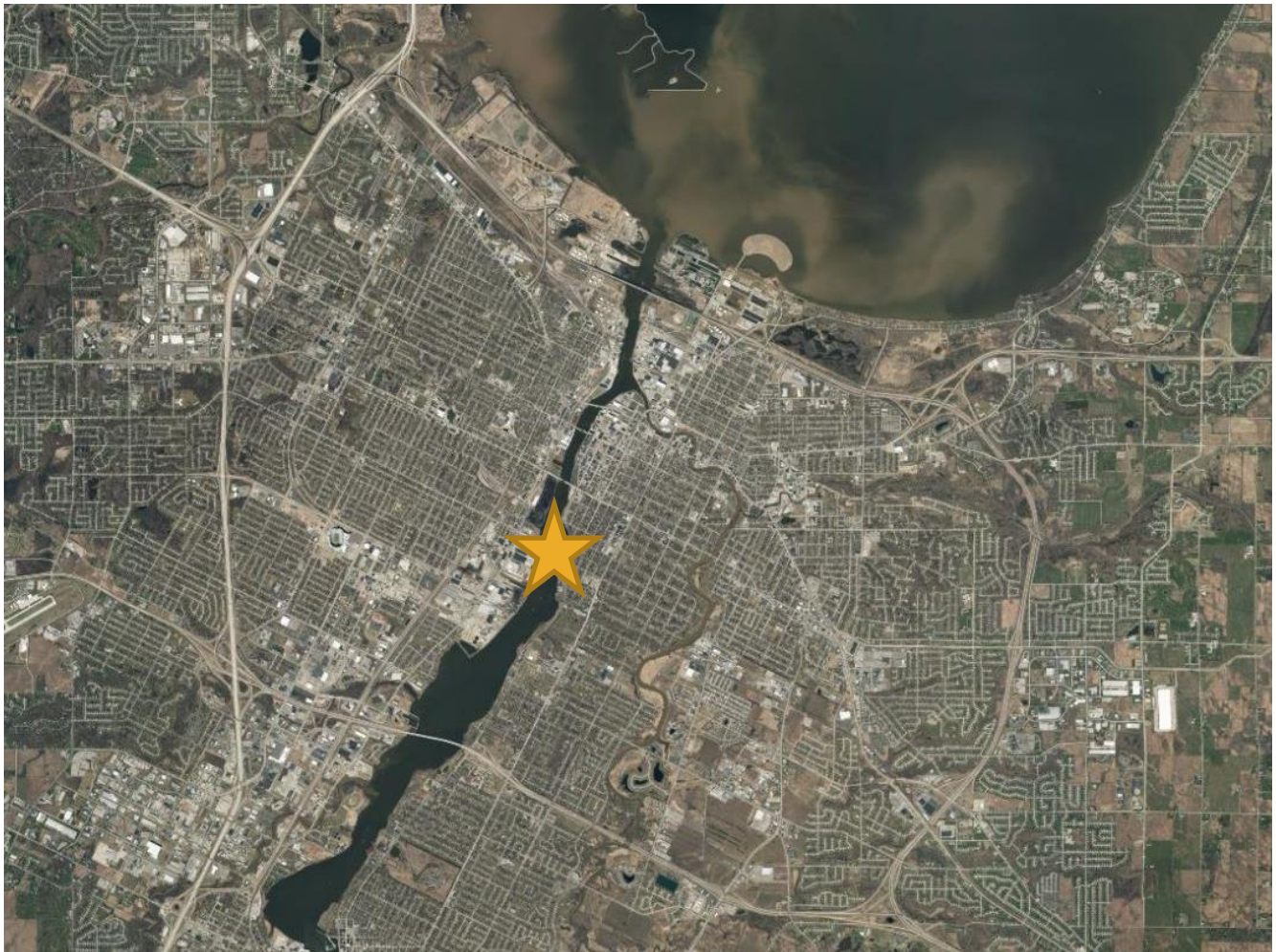
This is a high-priority project for the RDA and City, and thus is reflected in an aggressive schedule:

Tuesday 14 August	RDA releases Request for Qualifications
Tuesday 4 September	Consultants submit questions via e-mail (kevinvo@greenbaywi.gov) to RDA by 11:59 p.m. CDT
Tuesday 11 September	RDA posts answers to questions as Addendum to RFQ on City website
Tuesday 18 September	Consultants submit Qualification Proposals via e-mail (kevinvo@greenbaywi.gov) to RDA by 11:59 p.m. CDT
Tuesday 25 September	RDA selects Consultant
early October	RDA and Consultant negotiate and execute final contract

DISCLAIMER

This RFQ prepared by the RDA does not purport to be all-inclusive or to contain all of the information a prospective private developer may desire. No legal liability is assumed or shall be implied with respect to the accuracy or completeness of this RFQ. The RDA reserves the right to revise any part of this RFQ by issuing an Addendum at any time prior to the submittal deadline. The RDA reserves the right to accept or reject, in whole or part, all proposals submitted and/or to cancel this request if any such action is determined to be in the best interest of the RDA and/or City. All materials submitted in response to this RFQ become the property of the RDA. The RDA will not be responsible for costs associated with preparing a Proposal. By submitting a Proposal, each Consultant agrees to be bound in this respect and waives all claims regarding such costs and fees.

PROJECT LOCATION



<u>Tax Parcel</u>	<u>Address</u>	<u>Acres</u>	<u>Assessed Value</u>
2-70	515 S. Broadway	0.085	\$0.00
2-71	517 S. Broadway	0.064	\$0.00
2-76	525 S. Broadway	0.066	\$0.00
2-77	531 S. Broadway	0.301	\$0.00
2-78	100 W. Mason St.	7.974	\$0.00
2-107	S. Broadway	0.023	\$0.00
2-109	613 S. Broadway	0.079	\$0.00
2-945	S. Pearl St.	1.266	\$0.00
2-946	505 S. Broadway	0.362	\$0.00
2-947	419 S. Maple	2.310	\$293,000.00
2-949-A	511-513 S. Broadway	0.145	\$0.00
3-551	239 Arndt St.	4.665	\$0.00
3-554-A	101 Bridge St.	0.293	\$0.00
3-556	119 Bridge St.	0.702	\$0.00
3-568	401 S. Broadway	0.568	\$0.00
3-568-I	S. Broadway	0.372	\$0.00
3-569	420 S. Broadway	2.190	\$611,500.00
3-572	402 S. Broadway	0.110	\$39,100.00

PARCEL MAP





Report to the
Redevelopment Authority
of the City of Green Bay

MEETING DATE

August 14, 2018

PREPARED BY

Kevin J. Vonck, CED Director

AGENDA ITEM # D.4.

Consideration with possible action to purchase 1235 Main Street and 427 St. George Street (Tax Parcels 8-267 and 8-265) for one hundred and seventy-five thousand dollars (\$175,000.00).

The Authority may convene in closed session pursuant to Sections 19.85(1)(e), Wis. Stats., for purposes of deliberating or negotiating the sale of public properties, investing of public funds or conducting other specified public business as necessary for competitive or bargaining reasons. The Authority may thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to report the results of the closed session and consider the balance of the agenda.

BACKGROUND

To be discussed at meeting.

RECOMMENDATION

To be discussed at meeting.

FISCAL IMPACT

The purchase will use one hundred and seventy-five thousand dollars (\$175,000.00) of Neighborhood Enhancement Funds. The RDA will replenish the fund with the proceeds of any future sale or development.

ATTACHMENTS

- I. 8 - Van Boxels - 8-267 - 180713 - Parcel Map





Report to the
Redevelopment Authority
of the City of Green Bay

MEETING DATE

August 14, 2018

PREPARED BY

Krista Cisneroz, Staff

AGENDA ITEM # D.5.

Consideration with possible action on pre-approval of Contract "CD18-01 Beaver Dam Park Ballfield Lighting" to the low qualified bidder with CDBG funding not to exceed \$150,000.00.

BACKGROUND

The Department of Public Works is bidding out a CDBG and City funded neighborhood park project for the Parks Department, "CD18-01 Beaver Dam Park Ballfield Lighting". The bid opening for Contract "CD18-01 Beaver Dam Park Ballfield Lighting" is scheduled for August 21, 2018. In an effort to expedite the start date of this contract, Parks staff is requesting the RDA authorize the award of contract "CD18-01 Beaver Dam Park Ballfield Lighting" to the low qualified bidder with CDBG funding not to exceed \$150,000.00.

RECOMMENDATION

Authorize staff to award Contract "CD18-01 Beaver Dam Park Ballfield Lighting" to the low qualified bidder with CDBG funding not to exceed \$150,000.00.

FISCAL IMPACT

ATTACHMENTS

None



Report to the
Redevelopment Authority
of the City of Green Bay

MEETING DATE

August 14, 2018

PREPARED BY

Krista Cisneroz, Staff

AGENDA ITEM # D.6.

Consideration with possible action to amend the 2017 Annual Action Plan for the transfer of \$114,397.03 from the Economic Development Facade and Demolition Program to the Economic Development Revolving Loan Program.

BACKGROUND

The Economic Development Revolving Loan Program is a funding tool of Community Development Block Grant funds which assist businesses to create and maintain employment opportunities in the City of Green Bay, with major emphasis on employment for persons from low-to moderate-income households. Over the last couple of years this program has been very successful and currently is in need of additional funding to assist the businesses that have applied for assistance.

The Economic Development Facade and Demolition Program has not been as sought after in the City of Green Bay and has a balance of \$114,397.03. Staff would like to transfer the balance in the Economic Development Facade and Demolition Program to the Economic Development Revolving Loan Program.

RECOMMENDATION

Approve the transfer of the balance of \$114,397.03 from the Economic Development Facade and Demolition Program to the Economic Development Revolving Loan Program.

FISCAL IMPACT

ATTACHMENTS

None



Report to the
Redevelopment Authority
of the City of Green Bay

MEETING DATE

August 14, 2018

PREPARED BY

Ken Rovinski, Staff

AGENDA ITEM # D.7.

Consideration with possible action on an extension to development agreement for the property located at 1130 Stuart Street (Tax Parcel 14-997).

BACKGROUND

The RDA approved the purchase of 1130 Stuart Street as part of the 2016 tax foreclosures from the Brown County Treasurer's Department. The goal was to sell the property to a developer for rehabilitation and final sale to an owner-occupant. Purchase price for the RDA was \$11,283.45. Staff released a request for proposals for the property, which laid out guidelines and criteria for what was expected out of the project, including an initial purchase price of \$5,000.00. Staff held walkthroughs with various contractors and investors allowing the opportunity to analyze the project. At the April 10, 2018, RDA meeting, Mitch's Hometown LLC was awarded a development agreement for the project. Mitch's Hometown LLC agreed to a project completion date of August 20, 2018, and has requested an extension as they will not be completed by the original completion date. Staff would support a 45 day extension as per the development agreement.

RECOMMENDATION

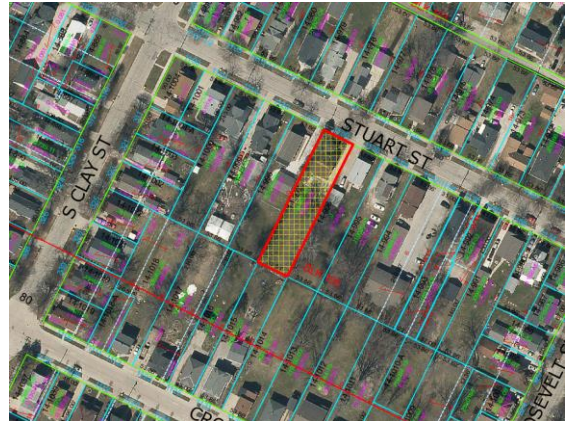
Approve a 45 day extension to the development agreement with Mitch's Hometown LLC for the property located at 1130 Stuart Street (Tax Parcel 14-997).

FISCAL IMPACT

ATTACHMENTS

1. 1130 Stuart report info
2. Stuart1130-Development_Agreement
3. Stuart1130-Exhibit_B

1130 Stuart Street



Property Information:

Parcel ID 14-997
 Lot Size..... 53' x 240'
 Building SF..... 1,624 SF
 4-bedroom, 2-bath
 Zoning..... Residential One

Current Tax Information:

Land Value..... \$15,300
 Assessed Value \$65,400
 Equalized Value..... \$80,700

Factor	Point Value Up to
Investment	28
Structural analysis	(4)
Layout	(4)
HVAC & utility analysis	(4)
Interior finishes	(4)
Exterior & landscaping	(4)
Expenses	(4)
Expected sell price	(4)
Capacity	8
Time to complete	(4)
Ability	(4)
Financials	4
Funding sources	(4)
Experience	8
Marketing strategy	(4)
Previous projects	(4)
Total Points	48

Grading scale: Exceptional Substandard

4	3	2	1	0
A	B	C	D	F

1130 Stuart Street: Request for Proposal Averaged Scores

	Ferron/Anderson	Gomez	Rollin
Grader 1	44	44	44
Grader 2	36	37	40
Grader 3	40	38	39
Average Score	40.0	39.7	41.0

DEVELOPMENT AGREEMENT

For

1130 Stuart Street

THIS AGREEMENT is made by and between the Redevelopment Authority of the City of Green Bay (hereinafter called "RDA"), and Mitch's Hometown, LLC (hereinafter called "DEVELOPER").

WHEREAS, 1130 Stuart Street and legally described in Exhibit "A" (hereinafter called the "RDA Site"), was acquired by the RDA for the purposes of blight elimination and future redevelopment, and to add to the tax base of the City of Green Bay; and

WHEREAS, the DEVELOPER desires to complete a conversion of a two-family to a single-family home and subsequently sell to owner occupants located on the RDA Site and assume the responsibilities outlined in this development agreement;

NOW, THEREFORE, in consideration of the promises and obligations herein set forth, it is mutually agreed between the RDA and DEVELOPER as follows:

I. PROJECT SCOPE. The Project includes rehabilitation of the single-family home on the RDA Site as proposed in the attached concept marked Exhibit "B" (hereinafter the "Project").

II. PROPERTY TRANSFER. RDA shall deed RDA Site to the DEVELOPER at no cost. The RDA shall transfer the RDA Site to the DEVELOPER no later than April 20, 2018.

III. DEVELOPER OBLIGATIONS.

- A. DEVELOPER is responsible for obtaining all necessary permits and shall rehabilitate the structure in conformance with all state and local building codes, rules and regulations.
- B. The Project shall be designed in such a manner that it is similar to the predominant housing style in the neighborhood and shall generally conform to the proposal as submitted in conjunction with this Agreement.
- C. During project implementation, DEVELOPER shall advise RDA staff as to the progress of the rehabilitation and allow staff on site to review the progress of the Project.

IV. PROJECT COMMENCEMENT. DEVELOPER shall commence construction of the Project by April 20, 2018 (hereinafter "Commencement Date").

V. PROJECT COMPLETION. DEVELOPER agrees to complete the Project in accordance with the RDA approved proposal completion date of August 20, 2018 (hereinafter "Completion Date"). The Project shall be deemed completed upon issuance of an Occupancy Permit by the City of Green Bay. In the event, DEVELOPER fails to complete rehabilitation by the Completion Date, the DEVELOPER and RDA shall come to an agreement with a revised timeline not to exceed forty five days of original Completion Date. If the Project is still incomplete after the revised timeline, the DEVELOPER shall transfer the RDA site back to the RDA upon written request of the RDA and at no cost to the RDA. This transfer to the RDA shall be via warranty deed and the RDA site shall be subject to no liens or other encumbrances other than those existing at the time of the original transfer by the RDA. The DEVELOPER will work in earnest to transfer the completed Project through sale and Warranty Deed to an owner occupant within 6 months of Completion Date. In the event DEVELOPER fails to sell and warrant the completed Project within the allotted time, the DEVELOPER and RDA shall come to an agreement with revised timeline for sale and transfer of Project. At no time shall the DEVELOPER convert RDA site into a rental property.

VI. TERMINATION AND REMEDIES.

- A. It is the intent of the Project to generate tax base, eliminate blight within neighborhoods, encourage home ownership and enhance the neighborhood. These goals have both tangible and intangible costs that are difficult to place a value on. Therefore, in the event the DEVELOPER fails to complete the rehabilitation of the Project by the Completion Date, the RDA may at its sole discretion take one, a combination, or all of the following actions as liquidated damages:
 - 1. The RDA may charge liquidated damages in the amount of \$100 per day for each day beyond the completion date until such time that certificate of occupancy is granted.
 - 2. The DEVELOPER shall transfer the RDA site back to the RDA upon written request of the RDA and at no cost to the RDA. This transfer to the RDA shall be via warranty deed and the RDA site shall be subject to no liens or other encumbrances other than those existing at the time of the original transfer by the RDA.
- B. Except as otherwise provided in this Agreement, in the event of any default or breach of this Agreement, the breaching party shall, upon written notice from the other party, proceed immediately to ensure or remedy such default or breach, and, in any event, within sixty days after receipt of such notice unless such default or breach cannot, with reasonable diligence, be cured within this period. In this event, the breaching party shall commence action to cure within the 60-day period and diligently proceed to cure the

breach. In case such action is not taken or not diligently pursued, or the default or breach is not be cured or remedied within a reasonable time, the aggrieved party may institute proceedings as may be necessary or desirable, in its opinion, to cure and remedy the breach, including, but not limited to, proceedings to compel specific performance by the party in default or breach of its obligation.

- C. Completion of the Project in accordance with the terms and conditions of this Agreement is the essential and unique consideration for the obligations of the RDA. Accordingly, the RDA may, in the event of legal proceedings, seek remedies to compel the specific performance of the defaulting party as the only adequate remedy and shall not seek damages in lieu of specific performance unless specific performance is legally unavailable, in which event the RDA may seek damages as authorized.

VII. MISCELLANEOUS PROVISIONS.

- A. DEVELOPER agrees not to discriminate on the basis of race, color, religion, sex, or national origin in the sale or occupancy of the property or any improvements located thereon, in violation of any applicable law or regulation; provided, however, that a violation of said covenant will not result (and any subsequent lease or deed shall so provide) in a reversion or forfeiture of title, but will entitle the RDA to such injunctive relief or other remedies as may be available at law.
- B. The time for performance of any term, covenant, condition, or agreement of this Agreement shall be extended by any period of unavoidable delays. In this Agreement, "unavoidable delays" means beyond the reasonable control of the party obligated to perform the applicable term, covenant, condition, or agreement under this Agreement and shall include, without limiting the generality of the foregoing, delays, attributable to acts of God, any other party in this Agreement, strikes, labor disputes, governmental restrictions, court injunctions, riot, civil commotion, acts of public enemy and casualty.
- C. The RDA and DEVELOPER shall have the right to institute such actions or proceedings as they may deem desirable for effectuating the purpose of this Agreement; provided that any delay in instituting or prosecuting any such actions or proceedings or otherwise asserting such rights, shall not operate as a waiver of such rights to, or deprive it of or limit such rights in any way. It is the intent of this provision that a party should not be constrained, so as to avoid the risk of being deprived of or limited in the exercise of any remedy because of concepts of waiver, laches, or otherwise, to exercise such remedy at a time when it may still hope otherwise to resolve the problems involved. No waiver in fact made with respect to any specific default, shall be

considered or treated as a waiver of any rights with respect to other defaults or with respect to the particular default except to the extent specifically waived in writing.

- D. This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin governing agreements made and fully performed in Wisconsin. If any provision of this Agreement, or the application thereof to any persons or circumstances shall, to any extent, be invalid or unenforceable, then the remainder of this Agreement or the application of such provision, or portion thereof, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. This Agreement sets forth the entire understanding between the RDA and DEVELOPER with respect to its subject matter, there being no terms, conditions, warranties, or representations with respect to its subject matter other than that contained herein. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their respective successors and assigns.
- E. ASSIGNMENT. DEVELOPER may not assign this Agreement or sell to a third party without the prior consent of the RDA. In the event that DEVELOPER violates this section, DEVELOPER shall pay to the RDA \$10,000 as damages for their action.
- F. AMENDMENTS TO AGREEMENT. This Agreement may not be changed orally, but only by agreement in writing and signed by the parties hereto.
- G. THIRD PARTIES. Except as expressly provided otherwise in this Agreement, the provisions of this Agreement are for the exclusive benefit of the parties hereto and not for the benefit of any other persons, as third party beneficiaries or otherwise, and this Agreement shall not be deemed to have conferred any rights, expressed or implied, upon any other person.
- H. NO PARTNERSHIP CREATED. This Agreement specifically does not create any partnership or joint venture between the parties hereto, or render any party liable for any of the debts or obligations of any other party.
- I. ENVIRONMENTAL ASSESSMENT. The parties understand and acknowledge that the RDA and City of Green Bay have no knowledge of activities that occurred on the premises that would have included the storage, treatment, or disposal of hazardous substances. The RDA and City of Green Bay have fully disclosed to DEVELOPER any reports, analysis, studies, or other documents that would identify contaminants on the premises. DEVELOPER acknowledges that DEVELOPER has had a full and fair opportunity to inspect the premises and to perform any tests or analysis desired by DEVELOPER as to the condition of the premises. DEVELOPER agrees to purchase the premises as is and where is.

J. FORMALITIES AND AUTHORITY. The parties hereto represent and warrant that they are validly existing and lawful entities with the power and authorization to execute and perform this Agreement. The headings set forth in this Agreement are for convenience and reference only, and in no way define or limit the scope of content of this Agreement or in any way affect its provisions.

K. NOTICES AND DEMANDS. A notice, demand, or other communications under this Agreement shall be sufficiently given or delivered if it is deposited in the United States mail, registered or certified mail, postage prepaid, return receipt requested, or delivered personally:

TO DEVELOPER: Mitch's Hometown LLC
1239 Cherry Street
Green Bay, WI 54301

TO RDA: Kevin Vonck, Director
Redevelopment Authority of the City of Green Bay
100 North Jefferson Street, Room 608
Green Bay, WI 54301

or to such other address, within the United States, with respect to a party as that party may from time to time designate in writing and forward to the other as provided in this Section. A copy of any notice, demand, or other communication under this Agreement given by a party under this Agreement to any other party under this Section shall be given to each other party to this Agreement.

L. NONMERGER AND SURVIVAL. Any provision in this Agreement which has not been fully performed prior to transfer of possession shall not be deemed to have terminated, but shall, unless expressly waived in writing, survive such transfer of possession and be in force and effect until performed.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed this 20th day of April 2018.

Redevelopment Authority of the City of Green Bay

Gary Delveaux, Chairman

Kevin Vonck, Secretary

Developer: Mitch's Hometown LLC

Mitch Rollin, Member

EXHIBIT A
Legal Description of the RDA Site

Parcel Numbers: 14-997

Legal Description: Lot 9, Block 105, according to the recorded plat of the Town of Astor, in the City of Green Bay, East Side of Fox River, Brown County, Wisconsin.

EXHIBIT B

See attached proposal for 1130 Stuart Street

Proposal For 1130 Stuart Street

To: Ken Rovinski, Redevelopment Authority
City of Green Bay
100 N Jefferson street
Green Bay, WI 54301
kennethro@greenbaywi.gov

From: Mitch Rollin
Mitch's Hometown llc
1239 Cherry Street
Green Bay, wi 54301
rollinhillsfeatherfarm18@gmail.com
920-544-7080

Summary: The property located at 1130 Stuart street is currently a two family home. This house has numerous code violations and is extremely run down. However, it has many great features that can be restored or rebuilt. The home will be converted back into a single family, 4 bedroom, 2 bath home. In order to accomplish this, there will be many costly repairs to be done. The total cost of renovations for 1130 Stuart street are estimated at \$72,051.

After a market analysts from PHD Homes and Reality, this home in remodeled condition will be worth \$85,000. And based on the selling price of other homes in the area should sell from \$85,000-\$90,000. After rehabilitation, Mitch's Hometown llc will market this home to a single family owner occupant. Seeing the current condition of the home, and the costs to make such repairs. I am asking that the home is gifted to Mitch's Hometown llc, and all financial expenses of the the rehabilitation will be my responsibility.

Background: I, Mitch Rollin of Mitch's Hometown llc have been buying and remodeling multi family and single family homes for the past 6 years. I have bought run down homes and rehabilitated them into like new condition. Some of the homes include 319 Cherry st. oconto falls, wi, 1920 Jefferson street, two rivers, wi, 811 s main street, oconto falls, wi, and 136 w main street Gillett, wi. I have encountered many issues at these homes, including leaking foundations, mold, electrical issues, plumbing issues, broken windows, leaking roofs, and of course cosmetic disasters. I have used reliable licensed professionals for nearly all the tasks that needed to be completed in these homes, and I plan to do the same for the home located at 1130 Stuart street. I have a love for making homes new again, but I also try to keep as many of the old features as possible. I always rehabilitate the house to fit in with the look of the surrounding neighborhood.

After completing the project at 1130 Stuart st, I plan to list the home with Mark Hermes of PHD reality. Mark has been selling homes for over 20 years and has been very successful in the Green Bay Area.

Rehabilitation description and costs:

All costs will include labor and materials.

Driveway: The current driveway will be torn up and replaced with a new asphalt driveway. This job will be done by American Pavement Solutions in Green Bay. \$5,000.

Garage: The garage will be constructed on a 20'x20' 4" cement pad, as a one and a half stall unit. It will have a frontage door on the house side and a window on the other. The garage will be sided with Tan to match the house, Main Street Vinyl Dbl 4" lap siding. \$5,290.00.

Landscape: The large trees close to the house on the north and west side are causing damage to the foundation of the home. The root system is pushing up against the foundation, helping it to crack in two spots. These trees will be cut out and removed from the property immediately. The border of the home will be planted with new shrubs and other perennials to make the yard look nice. If the city of Green Bay is unable to remove the shed in the back yard I can do so. All the landscape will be done by Earth Development inc. in Bellevue. \$2,000.

Furnace: Total Comfort Heating and Cooling has been doing lots of jobs for me in the past few years and they will be installing a new Ruud forced air furnace in the basement and removing the old one. \$2,800. Total comfort will also be evaluating the wood burning fireplace flue and damper to make sure that it meets NFPA 211 requirements. Cost unknown.

Windows: All the windows in the home are old and inefficient, and will be replaced. Window World of Green Bay came to the house and gave me a quote to replace all the windows with solar zone energy star windows. \$12,661.00

Foundation Repairs: The foundation has two cracks in its cinder block base, caused from moisture and tree roots protruding into it. An extra floor jack will be installed in the basement to help support the beam that supports the first floor. Sure Dry basements came to the house and gave an estimate for water proofing and repairing the foundation. \$11,500

Plumbing: The plumbing and the water heater in the house will all be inspected by Sinclair Plumbing. Anything that is not code compliant or that could pose a problem in the future will be replaced. \$5,000

Pest Control: A pest management specialist will be called to treat any rodent issues on the property. \$400

Electrical: All the electrical needs to be replaced in the entire home.

Mikes plumbing and electrical will be removing all the old electrical systems and installing all new code compliant wiring, electrical panel, and receptacles. The light fixtures will be evaluated and replaced if needed. New smoke detectors, and carbon monoxide detectors will be hardwired in. The estimate from them was \$9,400.

Kitchen: The kitchen cupboards and counter tops will be removed and replaced with new Hampton Bay cabinets from home depot. The counter tops will be replaced with Wilsonart Laminate. All colors are to be determined. \$4,000.

Bathrooms: I will be keeping both bathrooms in the home. They will be completely gutted and replaced with each a new ceramic tiled in stand up shower, and a new maple vanity. The upstairs bathroom will be part of a master suit. \$2500.

Upstairs rooms: The master suit will be where there is currently a kitchen for the upper unit of the house. All kitchen cabinets and plumbing will be removed and the room will be reshaped to create a warm feel for a bedroom. Attached to the now kitchen upstairs is a porch with a stairway to the ground level. This stairway was not installed to code. It will be removed and reinstalled professionally using the correct supports and to be code compliant. \$500

Staircase between first and second floor: the staircase is already opened but a railing will need to be installed. There is a door in the staircase that was for a second floor porch. This will

be removed and replaced with a window which was included in the quote from Window World.

Insulation and Ventilation: Blown in installation will be installed throughout the whole home by Comfort Pro Insulators. \$2,500

Front porch: All the floor boards on the front porch will be removed and replaced. Will also check for stability of the support beams. \$300

Flooring: Any room with hardwood floors will be restored to keep the integrity of the home. Other rooms that do not have hardwood will be replaced with Home Legend Gunstock Oak floors from the home depot. Estimated cost of flooring restoration and replacement is \$6000.

Walls and Trim: the trim in the house is mostly all original. it will all be restored to like new condition to keep the integrity of the home. The walls will all be plastered with skip troll texture and painted with new paint. Color is to be determined. \$2,000

Most of the interior cosmetic work will be performed by me.

Marketing: after the completion of the 1130 Stuart street property, Mark Hermes, from PHD Homes and Reality will be initially listing the house for \$90,000. The price will be adjusted accordingly if it remains on the market. Ideally the home will be sold within 4 months of completion.

Total cost of building material and labor: 72,051
(this number does not include reality fees)

Timeframe: construction will begin immediately after acceptance of the proposal. I would like to get whatever I can done on the exterior first to get it looking as good as possible right away,

weather permitting. It is the plan to have construction finished in 4 months. Moving quick, but still taking our time to ensure everything is done correctly.

Conclusion: Given the cost of Renovations plus reality fees.

There is no way Mitch's Hometown llc would be able to make a sufficient profit unless this home was gifted at no cost.

I appreciate your time and thank you for your consideration. I am exited to take on this project and have no doubt that at the end of construction, 1130 Stuart street will look almost brand new, and will stay consistent with look of the rest of the neighborhood.

Thank you,
Mitch Rollin

Mltch's Hometown llc
920-544-7080



Report to the
Redevelopment Authority
of the City of Green Bay

MEETING DATE

August 14, 2018

PREPARED BY

Ken Rovinski, Staff

AGENDA ITEM # D.8.

Consideration with possible action on a hold harmless agreement with On Broadway Inc. for the property located at 321 N. Broadway (Tax Parcels 5-586 and 5-587).

BACKGROUND

On Broadway Inc. (OBI) has requested to utilize the vacant property located at 321 N. Broadway as a pocket park. One of OBI's strategies for the corridor is the creation of a park somewhere in the district. "A pocket park is a small park accessible to the general public. Pocket parks are frequently created on a single vacant building lot or on small, irregular pieces of land." (Wikipedia)

City staff met with OBI staff to discuss the activation of the site for this use. OBI does not want this to be a permanent fixture in the area, but rather a temporary use until the site is redeveloped. OBI and City staff are still promoting this site for redevelopment and see it as a prime piece of real estate in the Broadway district. City staff is recommending entering into a hold harmless agreement with OBI to develop the pocket park. Maintenance of the site would still be contracted by the RDA.

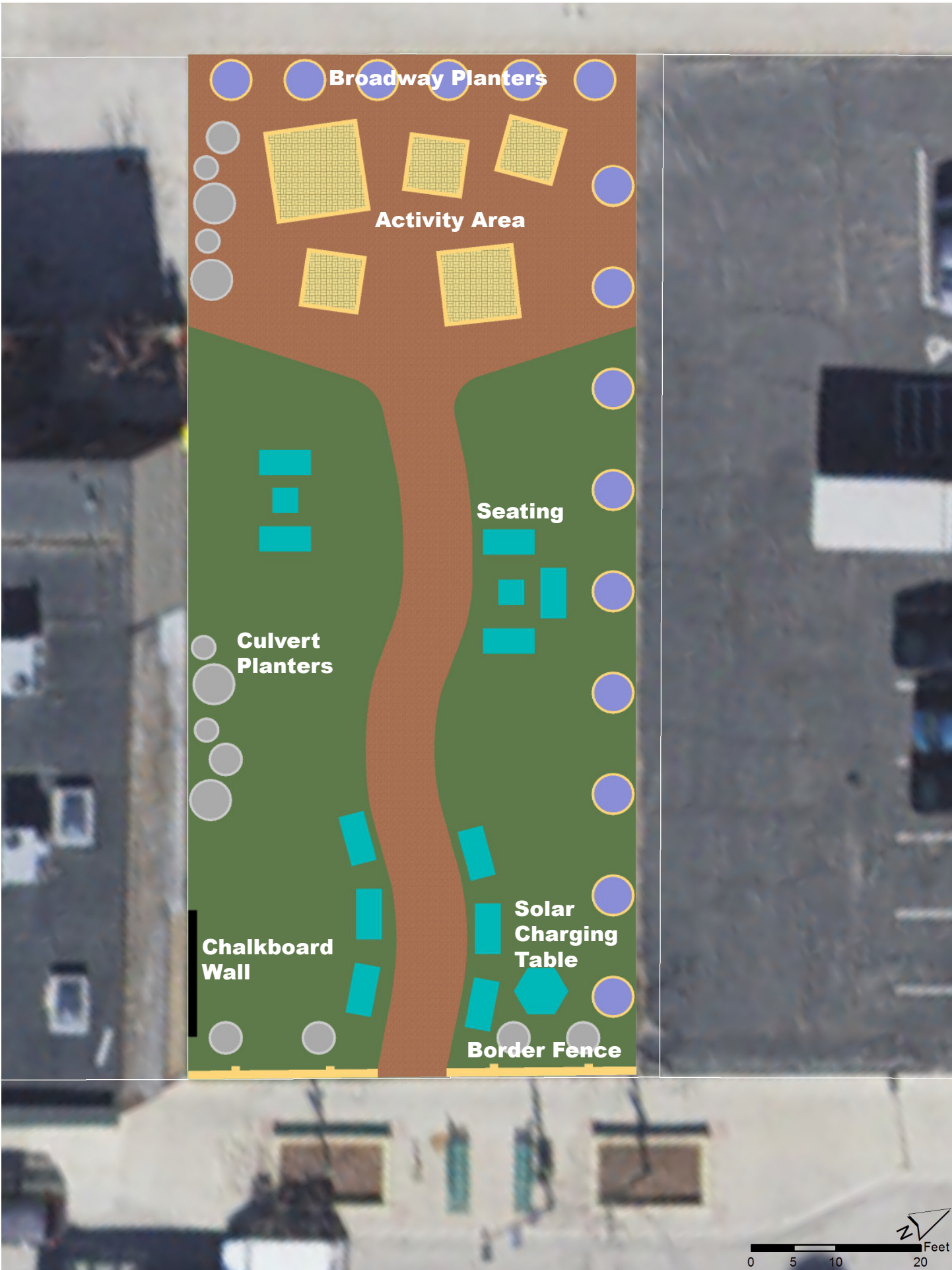
RECOMMENDATION

Approve entering into a hold harmless agreement with On Broadway Inc. for the development of a temporary pocket park on the site located at 321 N. Broadway (Tax Parcels 5-586 and 5-587).

FISCAL IMPACT

ATTACHMENTS

1. 321 N Broadway - Pocket Park
2. 321 N Broadway - Pocket Park 3D









Report to the
Redevelopment Authority
of the City of Green Bay

MEETING DATE

August 14, 2018

PREPARED BY

Kevin J. Vonck, CED Director

AGENDA ITEM # D.9.

Consideration with possible action on request by Hometown Bank to release its interest in Historic Tax Credits per the Continuing Guaranty (Limited) RailYard: North at 420 N. Broadway and 520 N. Broadway (Tax Parcels 5-1756 and 5-1757).

The Authority may convene in closed session pursuant to Sections 19.85(1)(e), Wis. Stats., for purposes of deliberating or negotiating the sale of public properties, investing of public funds or conducting other specified public business as necessary for competitive or bargaining reasons. The Authority may thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to report the results of the closed session and consider the balance of the agenda.

BACKGROUND

See Attachments.

RECOMMENDATION

Recommend Common Council consent to request by Hometown Bank to release its interest in Historic Tax Credits per the Continuing Guaranty (Limited) RailYard: North at 420 N. Broadway and 520 N. Broadway (Tax Parcels 5-1756 and 5-1757).

FISCAL IMPACT

None. No general levy dollars are impacted by this project.

ATTACHMENTS

1. 8 - RailYard - 5-1756 - 180802 - Hometown Bank Letter to City
2. 8 - RailYard - 5-1756 - 171201 - Continuing Guaranty (Limited) - Executed

101 CAMELOT DRIVE, SUITE 2B
FOND DU LAC, WISCONSIN 54935

TELEPHONE: 920.924.9878
FACSIMILE: 920.924.9895
WEB: ULLENBERGLAW.COM

REFER TO FILE:
06005-KT74

August 2, 2018

VIA CERTIFIED MAIL TO:

City of Green Bay
Attn: City Clerk
100 N. Jefferson St.
Green Bay, WI 54301

VIA CERTIFIED MAIL AND
E-MAIL TO:

Mr. Kevin J. Vonck, Ph.D
Development Director
City of Green Bay
100 N. Jefferson St., Rm. 608
Green Bay, WI 54301-5026

VIA E-MAIL TO:

Atty. Vanessa R. Chavez
City Attorney
City of Green Bay
100 N. Jefferson St.
Green Bay, WI 54301-5026

**RE: Continuing Guaranty (Limited) Rail Yard: North, Dated 12/1/17
DDL Holdings, LLC, 420/520 N. Broadway**

Dear Clerk, Mr. Vonck and Atty. Chaves:

As you may know, the City guarantees the payment of certain sums due by DDL Holdings, LLC ("**DDL**") to Hometown Bank by virtue of the above referenced written guaranty.

DDL has indicated it is seeking additional construction financing through Associated Bank, and has agreed to pledge certain assets to Associated Bank.

As part of that financing, DDL has requested that Hometown Bank release and/or subordinate to Associated Bank any interest Hometown Bank has in the following collateral:

1. Historic tax credits authorized pursuant to that certain Historic Preservation Tax Credit Certification Between the Wisconsin Economic Development Corporation and DDL Holdings, LLC, Contract # HTCQR FY16-23206, a copy of which is attached hereto as **Exhibit A**.

Hometown Bank is willing to subordinate its interest in the credits to Associated Bank. However, if the security interest must be released in order for DDL to obtain its intended financing, then Hometown is also willing to release the interest in the credits.

However, Hometown Bank is not willing to release and/or subordinate its interest in these credits unless the City, as guarantor, consents.

Section V.F. of the Guaranty provides:

"Any consents required to be obtained by Lender from the Guarantor under this Agreement, shall be submitted to the Development Director, or his/her successor. The Development Director shall be responsible for expeditiously obtaining consent binding upon the Guarantor. Consent is deemed given if Lender gives notice of request for consent to the foregoing person by means provided in Section V.F. above, and objection or denial of consent thereto is not received by Lender within twenty-one (21) calendar days after such notice is given."

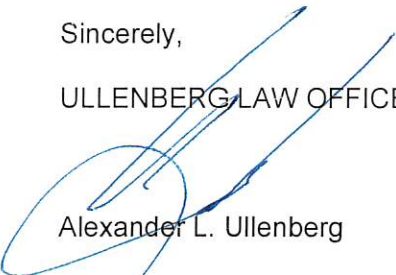
This letter constitutes Hometown Bank's formal request to the City to consent to Hometown Bank releasing and/or subordinating any security interest or other collateral lien or assignment it may have in the foregoing historic tax credits.

If the City objects to Hometown Bank releasing or subordinating its interest in the historic tax credits, please notify us **by August 25, 2018**. Otherwise, pursuant to the above section, it will be deemed the City consents to the release or subordination, and Hometown Bank, in reliance thereupon, will proceed accordingly to do so.

Thank you.

Sincerely,

ULLENBERG LAW OFFICES SC



Alexander L. Ullenberg

ALU/lks
Enc.

cc: HTB (c/o TB via e-mail)
DDL Holdings, LLC (c/o Paul Belschner via mail and e-mail)

ULLENBERG

LAW OFFICES SC

**HISTORIC PRESERVATION TAX CREDIT CERTIFICATION
BETWEEN
THE WISCONSIN ECONOMIC DEVELOPMENT
CORPORATION AND
DDL HOLDINGS, LLC**

This Agreement, related to a qualified rehabilitation project, is entered into pursuant to Chapter 238 of the Wisconsin Statutes between the Wisconsin Economic Development Corporation ("WEDC") and DDL Holdings, LLC (the "Recipient").

WHEREAS, the Recipient has submitted the Application to WEDC for allocation of Historic Preservation Tax Credits for a Qualified Rehabilitated Building to the Recipient under Chapter 238 of the Wisconsin Statutes;

WHEREAS, Recipient's Application states the Recipient plans to invest \$14,000,000 in Qualified Rehabilitation Expenditures to rehabilitate Recipient's facilities (formerly known as the Larsen Canning facilities) located at the Project Location;

WHEREAS, in reliance upon the Recipient's Application, WEDC has decided to certify that the Recipient is eligible for up to \$2,800,000 in Historic Preservation Tax Credits for a Qualified Rehabilitated Building.

NOW, THEREFORE, for valid consideration, the receipt of which is hereby acknowledged, and in consideration for the promises and covenants in this Agreement, WEDC and the Recipient agree as follows:

1. Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

(a) "Agreement" means this agreement and the attached Exhibits, together with any future amendments executed in compliance with Paragraph 21 of this Agreement.

(b) "Application" means the application and other materials submitted by the Recipient to WEDC relating to the allocation of Historic Preservation Tax Credits for a Qualified Rehabilitated Building.

(c) "Certification Date" means the effective date of the Historic Preservation Tax Credits for a Qualified Rehabilitated Building certification pursuant to this Agreement. For purposes of this Agreement, the Certification Date is January 27, 2016.

(d) "Effective Date" means the date on which this Agreement is fully executed by both parties.

(e) "Estimated Completion Date" means December 31, 2017.

(f) "Historic Preservation Tax Credits for a Qualified Rehabilitated Building" means the tax credits under Wis. Stats. §§ 71.07(9m), 71.28(6), or 71.47(6) the Recipient is certified as eligible to receive under Chapter 238 of the Wisconsin Statutes.

(g) "Project Location" means the Recipient's rehabilitation of the Qualified Rehabilitated Buildings located at 320, 328, 336 and 346 N. Broadway, Green Bay, Wisconsin (tax parcel nos. 5-1752, 5-1753, 5-1754 and 5-1755), and Qualified Rehabilitated Buildings located on any real estate contiguous thereto, whether owned now or in the future by Recipient, including, without limitation, tax parcel nos. 5-1756 and 5-1757.

(h) "Qualified Rehabilitated Building" means the building is not listed as a contributing building in the national or state register of historic places in Wisconsin and meets the requirements of section 47 (c)(1) of the Internal Revenue Code.

(i) "Qualified Rehabilitation Expenditures" means the actual cost of the qualified rehabilitation expenditures as defined in section 47 (c)(2) of the Internal Revenue Code.

(j) "Recipient" means DDL Holdings, LLC with its affiliates and subsidiaries.

(k) The "Project" means the activities, as described in Paragraph 3, for which WEDC is certifying the Recipient as eligible for receiving Historic Preservation Tax Credit for Qualified Rehabilitated Buildings.

(l) "WEDC" means the Wisconsin Economic Development Corporation, together with its lawful successors and assigns.

2. **Certification of Recipient for Historic Preservation Tax Credits for a Qualified Rehabilitated Building.** Subject to the terms and conditions set forth in this Agreement, and in Wisconsin law, WEDC shall certify the Recipient as eligible to receive up to \$2,800,000 in Historic Preservation Tax Credits for a Qualified Rehabilitated Building under Chapter 238 of the Wisconsin Statutes.

3. The Project.

(a) Project Description.

DDL will renovate any and all former Larsen Canning buildings located at the Project Location to create retail space, office space, and space for a market and/or restaurant.

(b) Estimated Qualified Rehabilitated Expenditures.

USES	TOTAL
Rehabilitate buildings located at 320, 328, 336 and 346 North Broadway, Green Bay, Wisconsin (tax parcel nos. 5-1752, 5-1753, 5-1754 and 5-1755) and buildings located on real estate contiguous thereto	\$14,000,000
TOTAL	\$14,000,000

(c) **Recipient's Obligations.** In reliance on WEDC's commitment to certify the Recipient as eligible for the Historic Preservation Tax Credits for a Qualified Rehabilitated Building and subject to the terms outlined here and in Wisconsin law, the Recipient will design and carry out the work in accordance with the Recipient's Application and section 47 of the Internal Revenue Code.

(d) **Certification Claim Historic Preservation Tax Credits for a Qualified Rehabilitated Building.** To facilitate the Project, WEDC shall certify the Recipient as eligible to receive up to \$2,800,000 in Historic Preservation Tax Credits for a Qualified Rehabilitated Building.

(i) The Historic Preservation Tax Credits for a Qualified Rehabilitated Building will be eligible to be claimed over a period of forty-seven (47) consecutive months commencing on the Certification Date, in the amount of twenty percent (20%) of the Recipient's Qualified Rehabilitated Expenditures.

(ii) The actual amount of Historic Preservation Tax Credits for a Qualified Rehabilitated Building the Recipient will be eligible to claim is dependent on the Recipient's actual Qualified Rehabilitated Expenditures to the Qualified Rehabilitated Building.

4. **Reporting.** The Recipient shall submit to WEDC by December 31, 2019 the performance report attached as Exhibit A.

5. **Eligibility, Duration, and Expiration.**

(a) **Eligibility.** The Historic Preservation Tax Credits for a Qualified Rehabilitated Building are non-refundable and may only be used to offset Wisconsin income or franchise taxes that are otherwise due by the Recipient. Partnerships, LLCs treated as partnerships and tax-option corporations cannot claim the credit, but the credit attributable to those entities' business operations passes through to the partners, members or shareholders.

(b) **Transferability.** Pursuant to Chapter 71 of the Wisconsin Statutes, the Historic Preservation Tax Credit may be transferable. Please contact the Wisconsin Department of Revenue to transfer the credit. This Agreement does not need to be amended to transfer the credit.

(c) **Duration.** The certification of Historic Preservation Tax Credits for a Qualified Rehabilitated Building under Chapter 238 of the Wisconsin Statutes may be claimed over forty-seven (47) consecutive months, commencing at 12:01 a.m. on the Certification Date and expiring at 11:59 p.m. on December 31, 2019, unless the designation expires, terminates or is otherwise revoked prior to that date.

(d) **Expiration.** Anything herein to the contrary notwithstanding, WEDC's allocation of Historic Preservation Tax Credits for a Qualified Rehabilitated Building under Chapter 238 of the Wisconsin Statutes shall expire the date that the Historic Preservation Tax Credits for a Qualified Rehabilitated Building received by the Recipient equals or exceeds the maximum amount set forth in Paragraph 3(d) above.

6. Event of Default. The occurrence of any one or more of the following events shall constitute an Event of Default for the purposes of this Agreement:

(a) The Recipient supplies false or misleading information to WEDC in connection with this Agreement, without providing a satisfactory explanation, in WEDC's sole discretion, for the noncompliance.

(b) The Recipient fails to comply with or perform, in any material respect, any of its obligations under this Agreement, without providing a satisfactory explanation, in WEDC's sole discretion, for the noncompliance.

7. Remedies in Event of Default.

(a) Upon the occurrence of any Event of Default, WEDC shall send a written notice of default to the Recipient, setting forth with reasonable specificity the nature of the default. If the Recipient fails to cure any such Event of Default to the reasonable satisfaction of WEDC within thirty (30) calendar days, WEDC may extend the cure period if WEDC determines, in its sole discretion, that the Recipient has begun to cure the Event of Default and diligently pursues such cure, or, without further written notice to the Recipient, declare the Recipient in default. The cure period shall in no event be extended more than ninety (90) days. In the Event of Default, WEDC may terminate the Agreement and WEDC or the Wisconsin Department of Revenue (DOR) may recover from the Recipient:

- (i) One Hundred percent (100%) of the tax credits verified by WEDC and claimed by the Recipient under this Agreement;
- (ii) Penalties and fees owed to DOR, if applicable; and
- (iii) All court costs and reasonable attorney's fees incurred by WEDC in terminating the Agreement and recovering the amounts owed by the Recipient under this provision.

(b) These amounts shall be paid to WEDC within thirty (30) calendar days of demand by WEDC hereunder. If the Recipient fails to pay these amounts to WEDC as and when due, the Recipient will be liable for the full unpaid balance plus interest at the annual rate of up to twelve percent (12%) from the date of the notice of Event of Default.

(c) Upon an Event of Default, WEDC may, without further notice, revoke the Recipient's certification.

8. Recipient's Warranties and Representations. In addition to the other provisions of this Agreement, the Recipient hereby warrants and represents to the best of its knowledge that as of the date of this Agreement:

(a) The Recipient is duly incorporated and validly existing under the laws of the state of its incorporation and is authorized to engage in business in the State of Wisconsin.

(b) The Recipient is qualified to engage in business in every jurisdiction where the nature of its business makes such qualification necessary, except where the failure to be so authorized would not have a material and adverse effect on the Recipient's ability to perform its obligations under this Agreement.

(c) The Recipient is in compliance with all laws, regulations, ordinances and orders of public authorities applicable to it, the violation of which would have a material, adverse effect on the Recipient's ability to perform its obligations under this Agreement.

(d) The financial statements and other information provided by the Recipient to WEDC are complete and accurate in accordance with Generally Accepted Accounting Principles where applicable, and have been relied on by WEDC in deciding whether to enter into this Agreement with the Recipient.

(e) The Recipient has available or has the capacity to secure funds necessary to cover, as and when incurred, the Qualified Rehabilitation Expenditures as identified in this Agreement.

(f) The undersigned managing members of the Recipient are fully authorized to execute and deliver this Agreement on behalf of the Recipient.

9. Wisconsin Open Records Law and Confidential Documents.

(a) The Recipient understands that this Agreement and other materials submitted to WEDC may constitute public records subject to disclosure under Wisconsin's Open Records Law, § 19.31-39.

(b) Except as otherwise required or provided by court order, legal process or applicable law including § 19.31-39, WEDC shall not, without the Recipient's consent, reveal or disclose to any non-government person or entity financial or other information or materials provided by the Recipient if the Recipient has indicated that such information or materials are sensitive and should be kept confidential. The Recipient must indicate that such materials are to be protected under this paragraph by marking the documents "confidential."

(c) If the Recipient contends that any document provided to WEDC is exempt from disclosure under Wisconsin's Open Records Law, for reasons including that the document qualifies as a trade secret under § 134.90, the Recipient shall:

(i) Clearly mark the document as not subject to disclosure under the Open Records Law. If the Recipient contends the document is a trade secret under § 134.90, the Recipient shall specifically mark the documents as "Confidential Trade Secrets."

(ii) Provide WEDC with a concise, written explanation describing the basis for contending the document is not subject to the Open Records Law.

(iii) If applicable, provide WEDC with two copies of the document the Recipient contends is exempt – a clean copy and a copy with the exempted information redacted.

10. Additional Requirements.

(a) **Project Records.** The Recipient shall prepare, keep and maintain such records as may be reasonably required by WEDC to show the Project's compliance with this Agreement.

(b) Inspection.

- (i) WEDC and its respective agents, shall, upon 48 hours advance written notice to the Recipient, have the right to enter the Recipient's premises, during normal business hours, to inspect the Project or documentation relating to the Project, provided, however, that such access does not unreasonably disrupt the normal operations of the Recipient.
- (ii) The Recipient shall produce for WEDC's inspection, examination, auditing and copying, upon reasonable advance notice, any and all records which relate to this Agreement.

(c) Consolidation or Merger. During the term of this Agreement, the Recipient shall provide written notice to WEDC of any consolidation or merger with or into any other unrelated corporation or business entity.

11. Conflicts. In the event of any conflict between the provisions of this Agreement and any accompanying documents, the terms of this Agreement control.

12. Choice of Law. THIS AGREEMENT AND ALL MATTERS RELATING TO IT OR ARISING FROM IT – WHETHER SOUNDING IN CONTRACT LAW OR OTHERWISE – SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED PURSUANT TO, THE LAWS OF THE STATE OF WISCONSIN.

13. Venue, Jurisdiction. Any judicial action relating to the construction, interpretation, or enforcement of this Agreement, or the recovery of any principal, accrued interest, court costs, attorney's fees and other amounts owed hereunder, shall be brought and venued in the U.S. District Court for the Western District of Wisconsin or the Dane County Circuit Court in Madison, Wisconsin. EACH PARTY HEREBY CONSENTS AND AGREES TO JURISDICTION IN THOSE WISCONSIN COURTS, AND WAIVES ANY DEFENSES OR OBJECTIONS THAT IT MAY HAVE ON PERSONAL JURISDICTION, IMPROPER VENUE OR FORUM NON CONVENIENS.

14. Waiver of Right to Jury Trial. EACH PARTY WAIVES ITS RIGHT TO A JURY TRIAL IN CONNECTION WITH ANY JUDICIAL ACTION OR PROCEEDING THAT MAY ARISE BY AND BETWEEN WEDC AND THE RECIPIENT CONCERNING OR RELATING TO THE CONSTRUCTION, INTERPRETATION OR ENFORCEMENT OF THIS AGREEMENT, OR THE RECOVERY OF ANY PRINCIPAL, ACCRUED INTEREST, COURT COSTS, ATTORNEY'S FEES AND OTHER AMOUNTS THAT MAY BE OWED BY THE RECIPIENT HEREUNDER.

15. LIMITATION OF LIABILITY. RECIPIENT HEREBY WAIVES ANY RIGHT IT MAY HAVE TO CLAIM OR RECOVER FROM WEDC ANY SPECIAL, EXEMPLARY, PUNITIVE, CONSEQUENTIAL, OR DAMAGES OF ANY OTHER NATURE OTHER THAN ACTUAL DAMAGES INCURRED OR SUFFERED BY RECIPIENT.

- 16. Severability.** The invalidity of any provision of this Agreement shall not affect the validity of the remaining provisions, which shall remain in full force and effect to govern the parties' relationship.
- 17. WEDC Not A Joint Venturer or Partner.** WEDC shall not, under any circumstances, be considered or represented to be a partner or joint venturer of the Recipient or any beneficiary thereof.
- 18. Documents.** All documents required to be delivered contemporaneously with the execution and delivery of this Agreement is expressly made a part of this Agreement as though completely herein, and all references to this Agreement herein shall be deemed to refer to and include all such documents.
- 19. Captions.** The captions in this Agreement are for convenience of reference only and shall not define or limit any of the terms and conditions set forth herein.
- 20. No Waiver.** No failure or delay on the part of WEDC in exercising any power or right under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any such power or right preclude any other exercise of any other power or right.
- 21. Entire Agreement.** This Agreement embodies the entire agreement of the parties concerning WEDC's and the Recipient's obligations related to the subject of this Agreement. This Agreement may not be amended, modified or altered except in writing signed by the Recipient and WEDC. This Agreement supersedes all prior agreements and understandings between the parties related to the subject matter of this Agreement.

(Signature Page Follows)

IN WITNESS WHEREOF, WEDC and the Recipient have executed and delivered this Agreement effective the date set forth next to WEDC's signature below.

WISCONSIN ECONOMIC DEVELOPMENT CORPORATION

By: Mark R. Hogan 6/22/16
Mark R. Hogan
Secretary & CEO Date

DDL HOLDINGS, LLC

By: Paul Belschner 6-15-16
Paul Belschner,
Managing Member Date

By: Brent M. Weycker 6-15-16
Brent M. Weycker,
Managing Member Date

Notices to the Recipient hereunder shall be effective upon mailing by first class mail, postage prepaid, and addressed to the following person and address or such other person and address as the Recipient may designate in writing:

DDL Holdings, LLC
300 N Broadway, Ste 2B
Green Bay, Wisconsin 54303
Attn: Paul Belschner

Notices to WEDC hereunder shall be effective upon mailing by first class mail, postage prepaid, and addressed as follows:

Wisconsin Economic Development Corporation
Division of Credit & Risk
P.O. Box 1687
Madison, WI 53701
Attn: Historic Preservation Tax Credit
Contract # HTC QR FY16-23206

EXHIBIT A PERFORMANCE REPORT

PLEASE RETURN YOUR COMPLETED REPORT AND REQUIRED SUPPORTING DOCUMENTATION TO:
reporting@wedc.org

PROJECT INFORMATION		
CONTRACT #: HTC QR FY16-23206 Awardee: DDL Holdings, LLC Project Site: Green Bay, City of	REPORTING DESIGNEE: Paul Belschner Email: pbelschner@smar.com	
PROJECT FUNDING	Planned	Actual -
TOTAL PROJECT BUDGET	\$14,000,000	
Awardee Direct Expenditures	please enter → amounts	\$
Other Privately Funded Expenditures (investors, financial institutions)		\$
Other Publicly Funded Expenditures (state, federal, other public aid)		\$
TOTAL PROJECT EXPENDITURES		\$
WEDC Tax Credits Verified	\$2,800,000	

SUMMARY OF PROGRESS
Provide a comprehensive summary of project activities that have been accomplished as of the end of the reporting period. Please describe any progress towards project deliverables, as well as any factors that may have had an adverse effect on the project or slowed progress on expected performance. Briefly address project plans for the coming year including what steps will be taken to ensure performance within agreed-upon timelines. Attach additional pages if needed. Percentage Completion of Project: ____% What project activities have been completed as of the end of the reporting period, and which would not have occurred if not for WEDC assistance? What contract deliverables were completed during the reporting period? (Please provide an explanation for any deliverables that were not met) What actions are being taken within the next year to ensure contractual performance?

GENERAL CERTIFICATIONS
Position Openings were posted with the Wisconsin Department of Workforce Development, Job Service and/or Workforce Development Board. ☐ Yes ☐ No (if No, attach a description of your organization's hiring process) Jobs have not been reduced at other locations in the State in order to increase jobs at this project site. ☐ Yes ☐ No (if No, attach an explanation)

SUPPORTING DOCUMENTATION
As required by your contract, please attach the following documentation to this report and indicate which are being submitted below: ☐ Financial Statements (Instructions): Interim Dated: ____/____/____ Fiscal Year End Dated: ____/____/____ ☒ Payroll Statements (Instructions): Tax Year End: ____/____/____

PRINCIPAL/PROJECT DIRECTOR AFFIDAVIT
As the authorized representative for this project, I hereby attest and certify that the information provided in this report is true and correct to the best of my knowledge. _____ (SIGNATURE) _____ (PRINT NAME) _____ (EMAIL ADDRESS) WEDC Review

EMPLOYMENT IMPACT					
Number of Non-Vacant, Permanent, Full-Time (2,080 hrs/yr) Positions (no construction or independent contractor positions)	Before Project	Jobs Maintained	Jobs Created	Jobs Eliminated	Net Total Number of Jobs
At the Project Site					
At All Other Wisconsin Operations	1				
NET TOTALS	0				

SUPPORTING DOCUMENTATION

Please attach your organization's most recent UCT-101e report filed with the Wisconsin Department of Workforce Development.

CAPITAL INVESTMENT	Planned	Actual -
Total expenditures related to the purchase, acquisition, construction, replacement, rehabilitation or modernization of non-current, tangible, permanent fixed or capital assets.	\$	Enter Totals Below
Fixtures, Vehicles & Permanent Equipment	\$	

PERFORMANCE REPORT ADDENDUM ECONOMIC DEVELOPMENT TAX CREDIT

PART I. GENERAL BUSINESS INFORMATION			
Business Name and Address (Street, City, State, Zip)		Telephone Number:	
		Fax Number:	
Project Location Address (Street, City, State, Zip)		FEIN	Tax Year End
Contact Person, Title	Address (Street, City, State, Zip)	Telephone Number:	
		Fax Number:	
		Email Address:	
Tax Preparer, Title	Address (Street, City, State, Zip)	Telephone Number:	
		Fax Number:	
		Email Address:	

PART II. SUMMARY OF BUSINESS ACTIVITIES
Estimated WI income tax liability (if known at this time; otherwise provide prior year's tax liability): \$ _____
► For tax-option (S) corporations, partnerships and LLCs, please provide current year net income (if known at this time; otherwise provide prior year's net income): \$ _____

PART III. JOB CREATION TAX CREDITS (where applicable)
Attach a copy of your company's Economic Development site payroll records for the fourth quarter of the previous fiscal year. Only Full-Time Positions will be counted for tax credit purposes. Each Full-Time Position must be identified individually by name and/or payroll code. Payroll information must include each Full-Time Employee's: • Name and/or payroll code (Do not include Social Security numbers) • Total hours for which each employee was compensated during the fourth quarter of the previous fiscal year • Total pay during fourth quarter of the previous fiscal year • Employment start date and termination date (where applicable) • Indication of employee's status (Full-Time or Part-Time) • State of Residency

PART IV. INVESTMENT TAX CREDITS (where applicable)
--

Attach an Itemized list of Eligible Capital Investment expenses paid by the certified business at the project location(s) during the reporting period. The list must include a description of the Eligible Capital Investment, amount of the investment and date of the investment. Eligible Capital Investment expenses include: 1) the purchase price of depreciable, tangible personal property; and 2) the amount expended to acquire, construct, rehabilitate, remodel, or repair real property.

Total eligible capital investment in the reporting period: \$ _____

PART V. TRAINING TAX CREDITS (where applicable)

Complete Exhibit B of the Economic Development Tax Credit Agreement (Economic Development Training Report) for each training activity conducted in the previous fiscal year to upgrade or improve the job-related skills of any Full-Time Employees; to train any Full-Time Employees on the use of job-related new technologies; or to provide job-related training to any Full-Time Employee whose employment represents the employee's first full-time job.

Attach a list of all trainees, identifying each by name or payroll code (Do not include Social Security numbers) and invoices from training vendors.

PART VI. ACKNOWLEDGMENT AND PREPARER INFORMATION

Annual Project Report Preparer's Contact Information

Name: _____

Phone Number: _____

Email Address: _____

Included in _____'s affidavit to the truth and accuracy of this report's content is the certification that the Economic Development tax credits claimed on all Wisconsin Department of Revenue Schedule ED forms were prepared and certified to accuracy by a certified public accountant in accordance with generally accepted accounting principles, consistently applied. Furthermore, Wisconsin Corrugated Pallets, Inc. attests that the project and capital investments, as described in Paragraph 3 of the Economic Development Tax Credit Agreement, were still in place at the Project Location at the end of the past fiscal year.

Upon completion of a review of your Annual Report, the Wisconsin Economic Development Corporation will issue you a Verification Form.

It must be attached to your Wisconsin Income Tax Return. A certified firm can file for Wisconsin Economic Development Tax Credits using the Wisconsin Department of Revenue Schedule ED tax form.





City of Green Bay
Department of Community and Economic Development

CONTINUING GUARANTY (LIMITED)
RAIL YARD: NORTH

This Continuing Guaranty (Limited) ("Guaranty")
is made this 1st day of December, 2017,
by THE CITY OF GREEN BAY, a Wisconsin municipal corporation ("City" and/or "Guarantor"),
HOMETOWN BANK, a Wisconsin-chartered commercial bank ("Lender"),
and DDL HOLDINGS, LLC a Wisconsin limited liability company ("Borrower").

RECITALS

The Guarantor acknowledges the following:

- A. DDL HOLDINGS, LLC a Wisconsin limited liability company ("Borrower") has requested that the Lender extend certain credit facilities to Borrower in the aggregate principal amount of up to two million six hundred thousand dollars (\$2,600,000.00) ("Loan").
- B. The Borrower is requesting the Loan in order to acquire and develop certain real property, identified for real estate tax purposes and address as:

<u>Tax Parcel</u>	<u>Address</u>	<u>Acres</u>
5-1756	420 N BROADWAY	14.553
5-1757	520 N BROADWAY	1.224

The parcels listed above shall be referred to as the "Property." The Property comprises approximately 15.777 acres of land.

- C. The Loan will be evidenced by:
1. A Commercial Promissory Note in the original principal amount of two million six hundred thousand dollars (\$2,600,000.00) made by Borrower in favor of Lender, dated December 1, 2017 ("Note"), secured by
 2. A Commercial Real Estate Mortgage from Borrower to Lender concerning the Property, dated December 1, 2017 ("Mortgage"),
 3. A Commercial Security Agreement from Borrower to Lender concerning business assets and fixtures located on the Property, dated December 1, 2017,
 4. An Assignment of Leases and Rents executed by Borrower to Lender concerning the Property, dated December 1, 2017 ("Assignment").

The Note, the Mortgage, and the foregoing identified documents or instruments, all as amended, modified and supplemented from time to time, are referred to as the "Loan Documents".

- D. The Lender is unwilling to make the Loan unless it receives this Guaranty from the Guarantor.
- E. In order to induce Borrower to undertake a development project on the Property, in which Borrower remediates environmental hazards, enhances the physical landscape, removes blight, expands the range of residential products, adds residents, and encourages additional investment and development, and to induce Lender to extend credit to Borrower, the Guarantor has determined it will benefit from Lender extending the Loan to Borrower and, therefore, is willing to execute this Guaranty.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

I. GUARANTY

- A. Obligations. The Guarantor, subject to the limitations set forth herein, absolutely, irrevocably and unconditionally guarantees payment of and performance of, and promises to pay or cause to be paid to the Lender when due whether at the maturity date, or by acceleration or otherwise or, to the extent not prohibited by law, at the time the Borrower becomes the subject of bankruptcy or other insolvency proceedings, the following ("Obligations"):
 - 1. The repayment by the Borrower of the Loan as evidenced by the Note and any amendments, extensions, renewals, refinancings or modifications of, or substitutes or replacements for, the Loan or the Note;
 - 2. The amount of any payments made to the Lender or another by or on behalf of the Borrower which are recovered from the Lender by a trustee, receiver, creditor or other party pursuant to applicable federal or state law with respect to the Note; and
 - 3. The performance by Borrower of all of its obligations under the Loan Documents with respect to the Note.
- B. Limitations. The amount of liability under this Guaranty is limited to the principal amount of two million five hundred thousand dollars (\$2,500,000.00) plus up to a total of \$100,000.00 of any accrued interest, late fees, and costs, expenses and fees (including reasonable attorneys' fees) paid or incurred by Lender in enforcing any of the terms, covenants or provisions of this Guaranty or realizing upon this Guaranty or any collateral securing the Obligations ("Costs of Collection"), and the foregoing principal amount of limited liability under this Guaranty shall be reduced by the principal paid on the Note, including due to net proceeds received by Lender from the sale of any portion of the Property.
- C. Duration. This Guaranty will take effect when received by Lender without the necessity of any acceptance by Lender, or any notice to Guarantor or to Borrower, and will continue in full force until the earlier of either (a) the expiration of ninety (90) days after the Guarantor gives written notice to Lender that the City intends to close City of Green Bay Tax Increment District No. Fourteen, and

Lender does not, within such period, require the City to purchase the Note, Mortgage and Assignment at their then balance due, or (b) all the Obligations shall have been fully and finally paid and satisfied and all of Guarantor's other obligations under this Guaranty shall have been performed in full.

- D. Application. All monies available to the Lender for application in payment or reduction of the Obligations, including partial payments, may be applied by the Lender to the Obligations in such manner and in such amounts and at such time or times and in such order and priority as the Lender may elect.
- E. No Release. The Lender shall not release the Borrower from any Obligations or terminate any other guaranty prior to collecting from Guarantor under the Guaranty, or any portion thereof, provided however, that nothing shall prevent the Lender from releasing a guarantor upon acceptance of a substitute guarantor, or upon death, provided that there is no estate at the time of the release.
- F. Guarantor Not Released. The Lender may, upon notice to the Guarantor, at any time and from time to time, without affecting the liability of the Guarantor hereunder:
 - 1. Amend or consent to any amendment to any provision of any Loan Document, including without limitation, any change in the interest rate therein, any change in the time or manner of any payment required thereunder, or renew or extend the time of payment, except that Lender may not extend the time of payment without the consent of Guarantor;
 - 2. Make or consent to any agreement for the extension, renewal, payment, compounding, compromise, discharge or release of any Obligations or any provision of any Loan Document, or for any modification of the terms thereof;
 - 3. Substitute or add any one or more guarantors of the Obligations;
 - 4. Accept additional security or collateral for the Obligations;
 - 5. Fail to perfect its security interest in or realize upon any collateral given as security for the Obligations;
 - 6. Fail to realize upon any of the Obligations;
 - 7. Sell, assign or otherwise transfer all or part of its interests in the Obligations and in any collateral or security for the Obligations, whether through merger, consolidation, reorganization, dissolution, assignment, or similar transaction; and
 - 8. Accept a deed in lieu of foreclosure or make a credit bid of any part or all of the amount of the unpaid Obligations at the sale of any collateral for the Obligations which results in transfer or sale of the collateral to Lender;.

Lender will not release any liens against all or part of the Property sold by Borrower without giving the Guarantor advanced notice thereof and Lender will apply the net proceeds thereof received against the balance due on the Loan Documents.

Credit may be granted or continued from time to time by the Lender to the Borrower without the consent of the Guarantor, regardless of any such Borrower's financial or other condition at the time of any such grant or continuation, provided such grant or continuance of credit does not increase the remaining principle balance of this Guaranty.

Notwithstanding anything to the contrary in this Guaranty, Lender may, from time to time, enter into other transactions with Borrower, Guarantor, or other guarantors of the Obligations, that may result in such parties executing mortgages, security interests in or other documents which may or may not concern the Property or in executing additional unlimited continuing guaranties that by their terms may also guaranty payment of the Obligations associated with this Guaranty (all these documents being the "Additional Agreements"). The provisions of this guaranty do not affect Lender's rights, interest, and powers related to those Additional Agreements, provided however, that the priority of the Guarantor's rights hereunder are preserved. Lender is not required to notify or obtain permission or consent from Guarantor to enter into, modify, release, assign, or exercise any rights pursuant to these Additional Agreements.

- G. Subordination. Guarantor agrees that the Loan, and any other indebtedness owed by Borrower to Lender hereafter created and the Lender's rights under the Loan Documents, shall be superior to any claim that Guarantor may now have or hereafter acquire against Borrower, if Borrower becomes insolvent. Guarantor hereby expressly subordinates any claim Guarantor may have against Borrower, upon any account whatsoever, to any claim that Lender may now or hereafter have against Borrower. In the event of insolvency and consequent liquidation of the assets of Borrower, through bankruptcy, by an assignment for the benefit of creditors, by voluntary liquidation, or otherwise, the assets of Borrower applicable to the payment of the claims of both Lender and Guarantor shall be paid to Lender and shall be first applied by Lender to the Loan, the Obligations, and any other indebtedness owed by Borrower to Lender hereafter created (collectively the "Lender's Priority Debt"). Guarantor does hereby assign to Lender all claims which it may have or acquire against Borrower or against any assignee or trustee in bankruptcy of Borrower; provided however, that such assignment shall be effective only for the purpose of assuring to Lender full payment in legal tender of the Lender's Priority Debt. If Lender so requests, any notes or credit agreements now or hereafter evidencing any debts or obligations of Borrower to Guarantor shall be marked with a legend that the same are subject to this Guaranty and shall be delivered to Lender.

II. CONDITIONS PRECEDENT TO OBLIGATIONS OF CITY

The City's obligations under this Guaranty are conditioned upon the following:

- A. Existence. Borrower shall have provided City certified copy of its organizational documents and a certificate from the Department of Financial Institutions for the State of Wisconsin indicating Borrower's existence and good standing.
- B. Financial Capacity. Borrower shall have provided City information concerning the Borrower's financial condition and any other matter pertinent hereto as the City may desire, the financial condition or character of the Borrower or the Borrower's ability to pay or perform the Obligations, the existence of any collateral or security for the Obligations, the existence or nonexistence of any other guaranties

of all or any part of the Obligations, any action or inaction on the part of the Lender, the Borrower or any other person, or any other matter, fact or occurrence whatsoever.

- C. Incumbency; Due Authorization. Borrower shall have provided a certificate of incumbency and resolutions of the company, demonstrating Borrower has been duly authorized to enter into Loan Documents and authorizing the person signing such Loan Documents to execute and deliver it to the City, and to bind Borrower to its terms.
- D. No Violation or Default. Borrower shall not be in violation of any of its governing documents or other contracts subject to this Guaranty or of any other agreement between Borrower and the City.
- E. No Funding Without Verification. Lender will not enter into the Loan Documents or fund the Loan until the Guarantor certifies in writing that all conditions precedent to this Guaranty have been met, and that it is binding upon the Guarantor.

III. REPRESENTATIONS, WARRANTIES AND COVENANTS

- A. The Guarantor is fully aware of the financial condition of the Borrower and is executing and delivering this Guaranty based solely upon the Guarantor's own independent investigation of all matters pertinent hereto and is not relying in any manner upon any representation or statement of the Lender as to the collectability or enforceability of any of the Obligations or the financial condition of the Borrower. Guarantor will be responsible for independently determining the credit worthiness and risk of nonpayment of the Obligations by Borrower so long as this Guaranty is in effect; and will not rely upon any statements made by Lender. The Guarantor represents and warrants that it is in a position to obtain, and hereby assumes full responsibility for obtaining, any additional information concerning the Borrower's financial condition and any other matter pertinent hereto as the Guarantor may desire, and the Guarantor is not relying upon or expecting the Lender to furnish to the Guarantor any information now or hereafter in the Lender's possession concerning the same or any other matter. The Guarantor acknowledges and agrees that the Lender (a) has not made any representations or warranties with respect to, (b) does not assume any responsibility to Guarantor for, and (c) has no duty to provide information to Guarantor regarding, the enforceability of any of the Obligations or the financial condition of any Borrower or guarantor. Guarantor shall have no right to require the Lender to obtain or disclose any information with respect to the Obligations, the financial condition or character of the Borrower or the Borrower's ability to pay or perform the Obligations, the existence of any collateral or security for the Obligations, the existence of any Additional Agreements, the existence or nonexistence of any other guaranties of all or any part of the Obligations, any action or inaction on the part of the Lender, the Borrower or any other person, or any other matter, fact or occurrence whatsoever. The Guarantor and Borrower hereby agree that the Lender may disclose any financial information or other data on the Guarantor and/or Borrower that is in the Lender's possession to any bank regulator, participant in the Loan, any purchaser of the Loan or any successor or assignee of the Lender.
- B. The Guarantor makes the following representations and warranties which shall be deemed to be continuing representations and warranties until the Obligations have been paid or performed in full:

1. The Guarantor has the requisite power, authority, capacity and legal right to execute, deliver and perform this Guaranty.
2. This Guaranty, when executed and delivered, will constitute the legal, valid and binding obligation of the Guarantor enforceable against the Guarantor in accordance with its terms, even though any Obligation is invalid and unenforceable against the Borrower.
3. Neither the execution nor delivery of this Guaranty nor the consummation of the transactions contemplated hereby will, with or without notice and/or lapse of time:
 - a) Constitute a breach of any of the terms and provisions of, or constitute a default under, any note, contract, document, instrument, agreement or undertaking, whether written or oral, to which the Guarantor is a party or to which the Guarantor's property is subject;
 - b) Accelerate or constitute an event entitling the holder of any indebtedness of the Guarantor to accelerate the maturity of any such indebtedness;
 - c) Conflict with or result in a breach of any writ, order, injunction or decree against the Guarantor or any court or governmental agency or instrumentality, whether national, state, local or other; or
 - d) Conflict with or be prohibited by any federal, state, local or other governmental law, statute, rule or regulation in effect on the date of this Guaranty.

C. The Guarantor waives, to the full extent permitted by law:

- I. Any defense that may arise by reason of:
 - a) The incapacity, lack of authority, liquidation, dissolution, termination, death or disability of the Borrower, the Guarantor or any other guarantor;
 - b) The formation, interpretation, validity, and/or unenforceability, in whole or in part, of any or all of this Guaranty, the Loan Documents, Obligations, and/or Additional Agreements, res judicata, statute of frauds, antideficiency statute, laches, impairment of collateral, equitable estoppel, failure to mitigate damages, impracticability, usury, forgery and duress; or
 - c) Any exercise by the Lender of any rights provided under, or any delay, action, inaction or neglect to enforce, assert or exercise any provisions of, this Guaranty, the Loan Documents, Obligations, and/or Additional Agreements;
 - d) Any delay, action, inaction, or neglect by the Lender or the Borrower, or any other event which should occur, after a bankruptcy proceeding is commenced by or against the Borrower;

- e) Any failure of Lender to resort to or recover from the collateral before exercising rights under this Guaranty against the Guarantor;
- 2. Notice of and consent to acceptance of this Guaranty and indulgences, the creation, extension or accrual of the Loan Documents, Obligations and any Additional Agreements, default under any obligations arising under any Additional Agreement, notice of acceleration or intent to accelerate any obligations arising under any Additional Agreement, proceedings to collect from any Borrower or anyone else, disposition of any collateral, assignment by Lender of the Guaranty, Loan Documents, Obligations and Additional Agreements; provided, however, that (a) Guarantor must be provided with notice of any modification, relaxation, extension, accrual of interest unpaid for more than 120 calendar days beyond its scheduled due date, default, any right to cure, and/or intent to accelerate any of the Obligations, and (b) Guarantor must consent to any Additional Agreements that alter the Guaranty and the disposition of any collateral referenced in the Loan Documents;
- 3. Any rights or defenses based upon an offset by the Guarantor against any obligation now or hereafter owed to the Guarantor by the Borrower; nondisclosure of events, conditions or situations or Guarantor's rights of and to subrogation (until all Obligations are paid in full to Lender);
- 4. Any right to revoke or disavow this Guaranty;
- 5. All diligence of collection and presentment, demand, notice and protest; and
- 6. Any right to disclosure from Lender regarding the financial condition of any Borrower and any guarantor of the Obligations or the enforceability of the Obligations.

Guarantor hereby acknowledges that as part of Lender's consideration for entering into the Loan, Lender has specifically bargained for the waiver and relinquishment by Guarantor of all potential defenses set forth herein, and Guarantor has had the opportunity to seek and receive legal advice from skilled legal counsel. Given the above, Guarantor does hereby represent and confirm to Lender that Guarantor is fully informed regarding, and that the guarantor does thoroughly understand (i) the nature of all such possible defenses, and (ii) the circumstances under which such defense may arise, and (iii) the benefits which such defenses might confer upon Guarantor, and (iv) the legal consequences of waiving such defenses. Guarantor acknowledges that Guarantor makes this Guaranty and all of the informed waivers herein shall each and all be fully enforceable by Lender, and that Lender is induced to enter into this transaction in material reliance upon the presumed full enforceability thereof.

It is the intention hereof that the Guarantor shall remain liable to the extent set forth herein until all of the Obligations have been paid or performed in full, notwithstanding any act, omission or thing which might otherwise operate as a legal or equitable discharge of the Guarantor.

- D. No claim, including a claim for reimbursement, subrogation, contribution or indemnification which Guarantor may, as a guarantor of the Obligations, have against a co-guarantor of any of the Obligations

or against Borrower shall be enforced nor any payment accepted by Guarantor until the Obligations are paid in full to Lender.

- E. Guarantor will provide information to Lender regarding Guarantor's financial condition with respect to this Guaranty upon receipt of a reasonable request, and, if the City declares the Borrower to be in default of the Development Agreement or Public Infrastructure Agreement (entered into between the City and Borrower concerning the Property), then when the City notifies Borrower of such default the City shall at the same time provide notice of such default to Lender
- F. Recovery of Reclaimed Funds. Guarantor agrees that, to the extent that the Borrower makes a payment or payments to the Lender or the Lender receives any proceeds of collateral, which payment or payments or proceeds or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to Borrower, its estate, trustee, receiver, or any other party, including, without limitation, any guarantor, under any bankruptcy law, state or federal law, common law, judgment, decree, or order of any court or administrative body having jurisdiction over the Lender or any of its property, or equitable cause, or any settlement or compromise of any such repayment claim effected by the Lender with the claimant (including the Borrower), then to the extent of such payment or repayment, the Obligations or part thereof which has been paid, reduced or satisfied by such amount shall be reinstated and continued in full force and effect as of the time immediately preceding such initial payment, reduction or satisfaction, and the Guarantor shall remain liable to the Lender for the amount so repaid to the same extent as if such amount had never originally been received by the Lender, notwithstanding any termination hereof or the cancellation of any note or other instrument evidencing any of the Obligations; provided that if collateral was released for such payment and such or comparable collateral is not returned to Lender as part of the repayment, then Guarantor shall not be responsible for the portion of the repaid payment that exceeds the value of collateral returned.
- G. Subordination of Development and Public Infrastructure Agreements. The Development Agreement and Public Infrastructure Agreement (entered into between the City and Borrower concerning the Property), and all terms, provisions, and conditions thereof, are and shall be subject and subordinate at all times and in all manners to the lien of the Mortgage.

IV. DEFAULT

- A. Failure by the Guarantor to perform any of the Obligations within thirty (30) days after written demand by the Lender shall constitute an Event of Default under this Guaranty.
- B. An Event of Default shall entitle the Lender to bring and prosecute a separate action or actions against the Guarantor provided the Borrower and any other guarantor is joined therein or a separate action or actions are brought against the Borrower or any other guarantor. The Lender may maintain successive actions for other Events of Default. Its rights hereunder shall not be exhausted by its exercise of any of its rights or remedies or by any such action or by any number of successive actions until all of the Obligations to the Lender have been paid or performed in full.

- C. Guarantor is jointly and severally liable with Borrower for the full and timely performance of all of the Obligations.
- D. This Guaranty may be enforced without the necessity at any time of resorting to or exhausting any other security or collateral held by or available to the Lender, or bringing action against anyone, or having recourse to any of the property covered by any Mortgage or any other Loan Document through foreclosure proceedings or otherwise.
- E. Nothing herein contained shall at any time prevent the Lender from foreclosing any Mortgage, or from exercising any other rights available to it, and the exercise of any of the aforesaid rights shall not constitute a legal or equitable discharge of the Guarantor, it being the purpose and intent of the Guarantor that its obligations hereunder shall be absolute and unconditional under any and all circumstances.
- F. Upon enforcement of this Guaranty, and Guarantor's performance of its obligations set forth in this Guaranty, the parties hereto agree that Guarantor shall have the option to require the Lender to assign the Note, Mortgage and Assignment to Guarantor and Guarantor shall have the right to enforce the remedies thereunder against Borrower up to the amount Guarantor paid Lender under this Guaranty, plus any costs of collection incurred by Guarantor in enforcing such remedies.

Lender and Borrower hereby acknowledge that as part of Guarantor's consideration for entering into this Guaranty, Guarantor has specifically bargained for the option to require Lender to assign the Note, Mortgage and Assignment to Guarantor upon enforcement of this Guaranty and Guarantor's performance of its obligations set forth herein, and Lender and Borrower have had the opportunity to seek and receive legal advice from skilled legal counsel. Lender and Borrower acknowledge that such option shall be fully enforceable by Guarantor against each, and that Guarantor is induced to enter into this transaction in material reliance upon the presumed full enforceability thereof.

V. MISCELLANEOUS PROVISIONS

- A. Nondiscrimination. Borrower agrees the Property or any portion thereof shall not be sold to, leased or used by any party in any manner to permit discrimination or restriction on the basis of the basis of race, color, national or ethnic origin, ancestry, age, religion or religious creed, disability or handicap, sex or gender (including pregnancy), gender identity and/or expression, sexual orientation, military or veteran status, genetic information, or any other characteristic protected under applicable federal, state or local law. Retaliation is also prohibited. The construction and operation of the Facility shall be in compliance with all effective laws, ordinances and regulations relating to discrimination on any of the foregoing grounds. Lender is not responsible for Borrower's failure to abide by any provision in this Section V.A., and no violation thereof shall invalidate the Guarantor's obligations to Lender under this Guaranty so long as Lender timely notifies Guarantor if it learns of any violations of this Section V.A. by Lender. Lender's failure to notify Guarantor shall not be a defense to Guarantor's payment under this Guaranty, nor entitle Guarantor to any relief, credit or payment from Lender.

- B. No Personal Liability. Under no circumstances shall any trustee, officer, official, commissioner, director, member, partner or employee of the City have any personal liability arising out of this Guaranty, and Lender or Borrower shall not seek or claim any such personal liability.
- C. No Personal Interest of Public Employee. No official or employee of the City shall have any personal interest in this Guaranty, nor shall any such person voluntarily acquire any ownership interest, direct or indirect, in the legal entities that are parties to this Guaranty. No official or employee of the City shall be personally liable to Lender or Borrower or any successor in interest, in the event of any default or breach by the City, or for any amount that becomes due to the Lender or Borrower or its successors under this Guaranty.
- D. Force Majeure. No party shall be responsible to any other party for any resulting losses and it shall not be a default hereunder if the fulfillment of any of the terms of this Guaranty is delayed or prevented by revolutions or other civil disorders, wars, acts of enemies, strikes, fires, floods, acts of God, adverse weather conditions, legally required environmental remedial actions, discovery of historical artifacts, industry-wide shortage of materials, or by any other cause not within the control of the party whose performance was interfered with, and which exercise of reasonable diligence, such party is unable to prevent, whether of the class of causes herein above enumerated or not, and the time for performance shall be extended by the period of delay occasioned by any such cause. The foregoing notwithstanding, a Force Majeure event may not be used to avoid an Event of Default if the delay caused by the Force Majeure event exceeds ninety (90) days from the date the event occurred.
- E. Parties and Survival of Guaranty. Except as otherwise expressly provided herein, this Guaranty is made solely for the benefit of the parties hereto and no other person, partnership, association or corporation shall acquire or have any rights hereunder or by virtue hereof. All representations and agreements in this Guaranty shall remain operative and in full force and effect until fulfilled and shall survive the closing.
- F. Notices. All notices, demands, certificates or other communications under this Guaranty shall be given in writing and shall be considered given upon receipt if hand delivered to the party or person intended, or one (1) business day after deposit with a nationally recognized over-night commercial courier service, air bill pre-paid, or forty-eight (48) hours after deposit in the United States mail postage prepaid, by certified mail, return receipt requested, addressed by name and address to the party or person intended as follows:

To the City: City of Green Bay
 Attn: City Clerk
 100 North Jefferson Street
 Green Bay, WI 54301

To the Lender: Hometown Bank
 Attention: Tim Beno
 80 Sheboygan St.
 Fond du Lac, WI 54935

With a copy to:

Atty. Alexander L. Ullenberg
Ullenberg Law Offices SC
101 Camelot Dr., Ste. 2b
Fond du Lac, WI 54935

To the Borrower: DDL Holdings, LLC
Attention: Paul Belschner
340 N. Broadway St.
Green Bay, WI 54303

The foregoing addresses shall be presumed to be correct until notice of a different address is given according to this paragraph.

Any consents required to be obtained by Lender from the Guarantor under this Agreement, shall be submitted to the Development Director, or his/her successor. The Development Director shall be responsible for expeditiously obtaining consent binding upon the Guarantor. Consent is deemed given if Lender gives notice of request for consent to the foregoing person by means provided in Section V.F above, and objection or denial of consent thereto is not received by Lender within twenty-one (21) calendar days after such notice is given.

- G. Governing Law. The laws of the State of Wisconsin shall govern this Guaranty.
- H. Execution in Counterparts. This Guaranty may be signed in any number of counterparts with the same effect as if the signature thereto and hereto were upon the same instrument.
- I. Severability. If any provision of this Guaranty shall be determined to be unenforceable as applied in any particular case or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstance shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained unenforceable to any extent whatever.
- J. Recording of Guaranty. The City may record this Guaranty or a Memorandum of this Guaranty with the Register of Deeds for Brown County, Wisconsin. Upon request of the City, Borrower shall execute and deliver to the City any such Memorandum or any other document in connection with such recording.
- K. Venue. The venue for any proceeding involving the negotiation, drafting, interpretation or enforcement of this Guaranty shall be the circuit court for Brown County, Wisconsin, all other venues being inappropriate for any such proceeding.
- L. Signatures and Counterparts. Electronic, facsimile and photocopy signatures shall have the same effect as original signatures.

- M. Binding Effect. This Guaranty and all provisions thereof are binding upon and inure to the benefit of the Guarantor and Lender, and their respective legal successors. The Guaranty shall continue in full force and effect notwithstanding any change in structure or status of the Guarantor, Borrower or Lender, whether by merger, consolidation, reorganization, dissolution or otherwise, or assignment of this Guaranty to a successor or assignee of Lender.
- N. Construction; Definitions. Terms defined in this Guaranty apply in both singular and plural forms. The term "and/or" means that either or all of the things mentioned may be affected or involved. Unless otherwise specified, days are measured by calendar days. Paragraph titles are for convenience of reference only.
- O. Final Agreement. This Guaranty is intended by Guarantor and Lender as a final expression of this Guaranty and as a complete and exclusive statement of its terms, there being no conditions to the full effectiveness of it; and it may not be contradicted or varied by evidence of prior, contemporaneous or subsequent oral agreements or discussions of Guarantor and Lender, said parties stipulation no such oral agreements exist. This Guaranty may not supplemented or modified except in writing signed by Guarantor and Lender.

[signature pages follow]

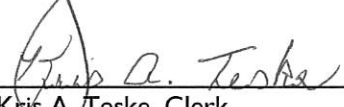
IN WITNESS WHEREOF, the parties have executed and delivered this Guaranty as of the day and year first written above.

**GUARANTOR:
CITY OF GREEN BAY, WISCONSIN**

By:


James J. Schmitt, Mayor

Attest:

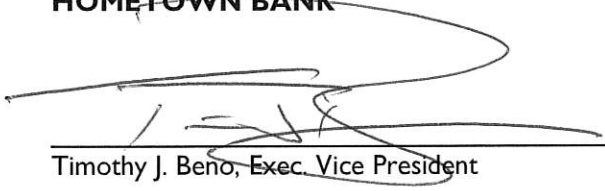

Kris A. Teske, Clerk

Signature page

THE CITY OF GREEN BAY, HOMETOWN BANK, and DDL HOLDINGS, LLC

**LENDER:
HOMETOWN BANK**

By:

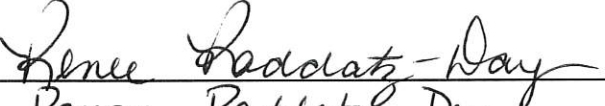

Timothy J. Beno, Exec. Vice President

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) SS
COUNTY OF BROWN)

Personally came before me this 1st day of December 2017, the above named Timothy J. Beno, an authorized representative of HOMETOWN BANK, to me known to be the person who executed the foregoing instrument and acknowledged the same.

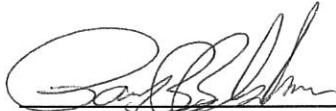


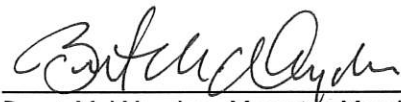

* Renee Raddatz-Day
Notary Public, Brown County, Wisconsin
My Commission Expires 10-11-2019

Signature page

THE CITY OF GREEN BAY, HOMETOWN BANK, and DDL HOLDINGS, LLC

**BORROWER:
DDL HOLDINGS, LLC**

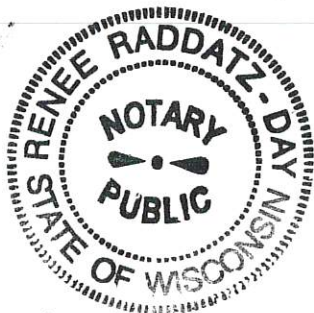
By: 
Paul B. Belschner, Managing Member

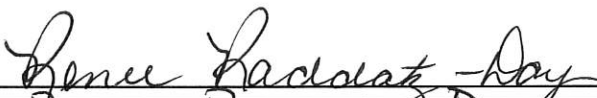
By: 
Brent M. Weycker, Managing Member

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) SS
COUNTY OF BROWN)

Personally came before me this 1st day of December 2017, the above named Paul B. Belschner and Brent M. Weycker, the managing members of DDL HOLDINGS, LLC, a Wisconsin limited liability company, to me known to be the person who executed the foregoing instrument and acknowledged the same.




* Renee Raddatz-Day
Notary Public, Brown County, Wisconsin
My Commission Expires 10-11-2019



Report to the
Redevelopment Authority
of the City of Green Bay

MEETING DATE

August 14, 2018

PREPARED BY

Krista Cisneroz, Staff

AGENDA ITEM # E.I.

Financial report and check register.

BACKGROUND

Informational.

RECOMMENDATION

Receive and place on file.

FISCAL IMPACT

ATTACHMENTS

1. RDA Financial Report 2018
2. Check Listing

Redevelopment Authority
Financial Report
CDBG
07/31/2018

	2017 Carry Over	2018 Budget	Program Income	Expenses	Obligated	Remaining Balance
Park Improvements	150,300.00	-	-	-	300.00	150,000.00
Public Works Improvements	9,296.89	-	-	1,015.48	-	8,281.41
Community Service Interns	53,563.16	-	-	27,578.63	-	25,984.53
Public Service	102,882.54	-	-	25,103.12	48,896.88	28,882.54
Fair Housing	18,750.00	-	-	7,500.00	-	11,250.00
Impact Areas	260,956.31	-	121,975.34	48,066.12	137,624.45	197,241.08
Economic Development	234,730.74	-	97,106.01	-	-	331,836.75
ED Blight Elimination-Walnut Street	185,904.21	-	-	14,433.60	-	171,470.61
Economic Development - LMI Benefit	15,001.00	-	-	-	-	15,001.00
ED Façade & Demo Loans	99,396.03	-	-	-	20,000.00	79,396.03
Administration	212,301.74	-	-	124,445.56	-	87,856.18
	\$ 1,343,082.62	\$ -	\$ 219,081.35	\$ 248,142.51	\$ 206,821.33	\$ 1,107,200.13

Redevelopment Authority
Financial Report
HOME
07/31/2018

	2017 Carry Over	2018 Budget	Program Income	Expenses	Obligated	Remaining Balance
Single Family Rehab Loan Program	266,455.88	-	160,210.39	122,134.18	76,457.15	228,074.94
Housing Development Projects	340,607.96	-	-	-	245,600.00	95,007.96
CHDO Projects	183,284.12	-	-	44,971.83	99,312.29	39,000.00
Downpayment Closing Cost Assistance	2,400.00	-	-	-	-	2,400.00
Administration	29,076.22	-	2,622.47	31,698.69	-	0.00
	\$ 821,824.18	\$ -	\$ 162,832.86	\$ 198,804.70	\$ 421,369.44	\$ 364,482.90

City of Green Bay RDA

Check Register

31-Jul

CHECK NUMBER	CHECK DATE	VENDOR NAME	AMOUNT
20837	07/16/2018	CITY OF GREEN BAY	56,414.40
20838	07/16/2018	BROWN COUNTY REGISTER OF DEEDS	30.00
20839	07/16/2018	REMODEL SHOP	16,800.00
20840	07/16/2018	EXTERIOR SOLUTIONS LLC	4,975.83
			78,220.23