VILLAGE OF WINDOSR
VILLAGE BOARD RESOLUTION 2020-74

APPROVAL OF TAX INCREMENT FINANCING (TIF) DEVELOPMENT INCENTIVE DISBURSEMENT TO WINDSOR CROSSING MULTI-FAMILY, LLC FOR LOT 1 OF CSM 14319 (PARCEL 0910-294-6973-1) OF THE TERRACES AT WINDSOR CROSSING

WHEREAS, Windsor Crossing Multi-Family, LLC ("Developer") and the Village of Windsor ("Village") entered into an Agreement to Undertake Development in Tax Increment District No 1 as shown in Exhibit A attached hereto ("Agreement"); and

WHEREAS, Section 3 of the Agreement includes a Pay As You Go Development Incentive Obligation whereby the Village shall pay to the Developer the principal amount of Five Hundred Thousand Dollars ($500,000), without interest, solely from the Project Tax Increment Funds generated by the Project and received by the Village, provided that the Developer meets the obligations of the Agreement; and

WHEREAS, the Developer has completed the development of the property in accordance with the site plan and the terms and conditions of the Agreement; and

WHEREAS, the Developer has met the Project Value Guarantee Amount of $7.0 million for 1/1/2019 (actual $9,332,700) as shown on Exhibit B, Real Property Tax Bill for 2019; and

WHEREAS, the Developer has paid in full the Real Property Tax Bill for 2019 as shown on Exhibit C, Tax Receipt; and

WHEREAS, the payment amount due to the Developer is determined per Exhibit A of the Agreement and is as calculated as shown in Exhibit D;

NOW THEREFORE, BE IT RESOLVED, by the Village Board of the Village of Windsor that it hereby authorizes payment of the development incentive set forth in the Agreement to Windsor Crossing Multi-Family, LLC for the 2019 tax year in the amount of $103,088.68. Said payment shall be attributed as a project cost of Tax Incremental District No. 1 pursuant to section 66.1105 of the Wisconsin Statutes.

The above and foregoing resolution was duly adopted at a regular meeting of the Village Board of the Village of Windsor, Dane County, Wisconsin, on the 3rd day of September, 2020, by a vote of 5 in favor and 0 opposed.

VILLAGE OF WINDSOR

Robert E. Wipperfurth

Robert E. Wipperfurth, President

Attested by:

Christine Capstran

Christine Capstran, Clerk

Exhibit A: Lot 1, CSM 14319, Village of Windsor, Dane County WI: Agreement to Undertake Development in Tax Increment District No. 1
Exhibit B: Real Estate Property Tax Bill for 2019
Exhibit C: Tax Receipt
Exhibit D: Pay As You Go 2019 Incentive Calculation

Exhibit A

9 2 2 7 6 3 7
Tx:8905197

KRISTI CHLEBOWSKI
DANE COUNTY
REGISTER OF DEEDS

DOCUMENT #
5378026
12/14/2017 10:37 AM
Trans Fee:
Exempt #:
Rec. Fee: 30.00
Pages: 18

RETURN TO:
Amy Anderson Schweppe
Village of Windsor
4084 Mueller Road
DeForest, WI 53532-2332

DRAFTED BY:
Constance L. Anderson, Village Attorney
Anderson Consults, LLC
P.O. Box 3004
Madison, WI 53704-0004
www.andersonconsultswi.com

P.I.N. – 196-0910-294-6973-1

LOT 1, CSM 14319
VILLAGE OF WINDSOR, DANE COUNTY, WI:

AGREEMENT TO UNDERTAKE DEVELOPMENT IN TAX INCREMENT DISTRICT NO. 1

THIS AGREEMENT TO UNDERTAKE DEVELOPMENT (the "**Agreement**"), is entered into by and between the Village of Windsor, a Wisconsin municipality (the "**Village**"), and Windsor Crossing Multi-Family, LLC, or assigns approved in writing by the Village Board[1] (collectively, the "**Developer**"), to be effective when approved by the Village Board of the Village of Windsor and fully executed ("**Effective Date**").

RECITALS

WHEREAS, on September 4, 2014, the Town Board of the Town of Windsor, pursuant to Wis. Stat. s. 66.1105, adopted the necessary resolutions Establishing the Boundaries for the Creation of Tax Incremental Financing District No. 1 and Approving the Project Plan for Creation of Tax Incremental District No. 1, each and all of which were thereafter approved by the Joint Review Board on September 18, 2014; and

WHEREAS, the Town of Windsor was subsequently incorporated as the Village of Windsor; and

WHEREAS, on September 1, 2016, the Village Board of the Village of Windsor, pursuant to Wis. Stat. s. 66.1105, adopted the necessary resolutions for an Amendment to the Boundaries of Tax Incremental District No. 1 (the "**District**") and an Amendment to the Project Plan of Tax Incremental District No. 1 (the "**TID Project Plan**"), each and all of which were thereafter approved by the Joint Review Board on September 28, 2016; and

WHEREAS, the Village desires to facilitate a mixed use development, as defined by Wis. Stat. s. 66.1105(2)(cm), within the District; and

WHEREAS, Developer owns the real estate described as Lot 1 of CSM 14319 in the Village of Windsor, Dane County, WI (the "**Property**") and agrees to undertake development of two multi-family residential buildings on the Property, all in accordance with the approved Site Plan and the **Private Covenants And Restrictions Concerning The Initial Development Of The Multi-Family Residential Project In Windsor Crossing** executed by and between the

[1] Any assignment of this Agreement is prohibited without first obtaining written approval from the Village of Windsor. Any assignment without Village approval shall be null and void and of no force or effect.

Village, Windsor Crossing, LLC, and the Community Development Authority of the Village of Windsor and recorded in the Dane County Register of Deeds office on September 14, 2016 as Document # 5267535 (the "**Project**"), which Project is consistent with the TID Project Plan and the Village of Windsor Comprehensive Plan; and

WHEREAS, the Village finds it appropriate to finance and construct certain public improvements, incur certain project costs and provide tax increment development incentive payments for the Project (the "**Project Costs**") as described in, and subject to the reservations contained in, this Agreement; and

WHEREAS, the Village finds and determines that, but for the Village undertaking such Project Costs, the Developer will not construct the Project in a manner that accomplishes the objectives of the Village's mixed use development projects in the District; and

WHEREAS, the Village finds that the Project and the fulfillment of the terms and conditions of this Agreement are in the vital and best interest of the Village and its residents, by generating tax increment, expanding the tax base and creating growth that will encourage further commercial development in Windsor Crossing, thereby serving public purposes in accordance with state and local law; and

WHEREAS, the Village finds that the appropriate Project Costs shall be incurred for the following, all on the terms set forth in full in this Agreement: development incentives to the Developer following commencement of construction and for Developer's construction of certain agreed-upon infrastructure on the Property, as set forth in **Private Covenants And Restrictions Concerning The Initial Development Of The Multi-Family Residential Project In Windsor Crossing,** which development incentives shall be in the form of a pay-as-you-go Municipal Revenue Obligation to be repaid solely by the Village through the increased tax revenue generated from the Project; and

WHEREAS, in consideration of such economic development assistance, the Developer has agreed to guarantee a minimum incremental value for the Project and, should the Project fail to reach said value, Developer shall pay taxes to the Village based on no less than the guaranteed incremental value, and all on the terms set forth more completely in this Agreement; and,

WHEREAS, the development contemplated by this Agreement is necessary and desirable to serve the interests of the Village and its residents by expanding the tax base of the Village, providing additional development and employment opportunities, and providing a mechanism to expand and construct necessary infrastructure, all consistent with the purpose of a Tax Incremental District and the Tax Increment Law set forth in Wis. Stat. s. 66.1105; and

WHEREAS, following consideration of the TID District, the Project, the Project Costs, the TID Project Tax Increment Guarantee, the public interest and other relevant factors, the Village Board adopted Resolution No. 2017-91 and Resolution 2017-113 approving this Agreement and authorizing the Village, through its duly authorized officials and agents, to execute this Agreement.

AGREEMENT

NOW THEREFORE, in consideration of the above recitals, which are incorporated by reference, the terms and conditions contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **DEFINITIONS.** When used in this Agreement, the terms set forth below shall have the following meanings and meet the following requirements:

   A. Agreement. This Agreement to Undertake Development in Tax Incremental District No.1 regarding Lot 1 of CSM 14319.

   B. Amendment. Any future amendment of the Tax Increment District No. 1 Project Plan, if necessary, as determined solely by the Village.

   C. District or TID 1. Tax Incremental District No. 1 in the Village of Windsor, Dane County, Wisconsin.

   D. District Property. That real estate included within the boundaries of Tax Incremental District No. 1 in the Village of Windsor.

   E. Multi-Family Buildings. The multi-family buildings, garages and structures to be constructed and maintained by the Developer for the Project, as depicted on the Site Plan and Private Covenants.

   F. Off-Site Infrastructure. The public right-of-way improvements, sanitary sewer mains, water mains and other such public facilities required for this Project that are located outside of the boundaries of CSM 14319.[2] All Off-Site Infrastructure required by this Agreement will be constructed by the Village, without contribution from the Developer. The Off-Site Infrastructure includes public right-of-way improvements to North Towne Road that runs to the south end of the TID and Stormwater Management Facilities. All Off-Site Infrastructure is owned by the public (that is, the Village).

   G. On-Site Infrastructure. The On-Site Infrastructure required for this Project is that infrastructure located within the boundaries of Lot 1 of CSM 14319.[3] All On-Site Infrastructure required by this Agreement shall be constructed by the Developer, without contribution from the Village. The On-Site Infrastructure component of this Project is described with particularity in the Site Plan and the construction plans.

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[2] The Project is the first of four phases of multi-family buildings to be constructed on the lots within CSM 14319. See the definition of "Project."

[3] For the purposes of this Agreement, the Project is limited to phase 1, which includes two multi-family buildings located on Lot 1 of CSM 14319.

The On-Site Infrastructure shall be privately constructed, owned, managed and maintained by the Developer in accordance with the Private Covenants.

H. Private Covenants. There are two Private Covenants associated with the Project: (1) **Private Covenants And Restrictions Concerning The Initial Development Of The Multi-Family Residential Project In Windsor Crossing** executed by and between the Village, Windsor Crossing, LLC, and the Community Development Authority of the Village of Windsor and recorded in the Dane County Register of Deeds office on September 14, 2016 as Document # 5267535 ("Initial Development Covenants"); and, (2) **Private Covenants and Restrictions Concerning Management and Maintenance of the Multi-Family Residential Project in Windsor Crossing,** recorded on September 14, 2016 in the Dane County Register of Deeds office as Document # 5267534 ("Management and Maintenance Covenants") (collectively, the "Private Covenants.")

I. Project. The development of the Property (that is, Lot 1 of CSM 14319) in accordance with the Site Plan and the terms and conditions of this Agreement. The Project is the first of four phases of multifamily buildings to be constructed on the buildable lots of CSM 14319, all in accordance with the **Private Covenants And Restrictions Concerning The Initial Development Of The Multi-Family Residential Project In Windsor Crossing** executed by and between the Village, Windsor Crossing, LLC, and the Community Development Authority of the Village of Windsor and recorded in the Dane County Register of Deeds office on September 14, 2016 as Document # 5267535 ("Initial Development Covenants") and Site Plan. (Note: Phases 2, 3 and 4 shall be subject to Site Plan review for consistency with the standards established by Phase 1.)

J. Project Increment. The taxable value of the increment that the Project adds to the District. For these purposes, the base value of the Property is the value of Lot 1 of CSM 14319 as of the January 1, 2017 tax year. Any taxable increment above the 2017 base value of the Property, without regard to inflation, is "Project Increment" under this TID Agreement.

K. Project Value Guarantee. The minimum taxable value that the Developer guarantees for the Property annually beginning with tax year 2019 and continuing thereafter until termination of this Agreement. (*See* Section 2.B. below.)

L. Project Increment Revenue. The actual tax revenue received by the Village from the Project Increment.

M. Property or Development Property. Lot 1 of CSM 14319 in the Village of Windsor.

N. Site Plan. The plan for the contemplated development of the Property, as recommended for approval in Plan Commission Resolution 2016-20 and approved by the Village Board in Village Board Resolution 2016-60.

O. TID Project Plan. The Project Plan in effect in the District, as may be amended from time to time.

P. Village Annual Debt Service. The principal, interest and related payments annually due on the Village Borrowing.

Q. Village Borrowing. The amount borrowed by the Village through the issuance of municipal revenue obligations or other forms of debt, to fund the Project Costs.

R. Water Utility and Sewer Utility. The Village of Windsor Water Utility and Village of Windsor Sewer Utility, both of which serve the Property.

2. **THE PROJECT.** (*See also*, definition of "Project" above.)

A. Project Completion. The Developer shall substantially complete the Project and all On-Site Infrastructure, at the Developer's sole cost and expense, on or before December 31, 2017, in accordance with the Site Plan, the terms and conditions set forth in resolutions approved by the Village Board, the Private Covenants And Restrictions Concerning The Initial Development Of The Multi-Family Residential Project In Windsor Crossing executed by and between the Village, Windsor Crossing, LLC, and the Community Development Authority of the Village of Windsor and recorded in the Dane County Register of Deeds office on September 14, 2016 as Document # 5267535 and the exhibits referenced in all of said documents.

B. Project Value Guarantee. The Developer guarantees that the taxable value of the Property shall be no less than Seven Million Dollars ($7,000,000.00) as of January 1, 2019 ("Project Value Guarantee"). If the taxable value is less than the Project Value Guarantee as of January 1, 2019, then the Developer shall not be entitled to the pay-as-you-go development incentive and the Village's obligations hereunder shall terminate.

C. Construction of Infrastructure.

1. The Village has constructed the Off-Site Infrastructure related to the Project, at its sole cost, and as a TID expense.
2. The Developer shall construct the On-Site Infrastructure, at its sole cost. In order to connect with Off-Site Infrastructure (water, sewer and stormwater facilities), the Developer shall size, construct, install and maintain On-Site Infrastructure related to water, sewer and stormwater in accordance with permit and connection requirements set by the State (such as WPSC & WDNR), Madison Metropolitan Sewerage District (for sewer connections), the County (Dane County Stormwater and Erosion Control Permits) and Village ordinances.

D. Miscellaneous Provisions regarding Construction Efforts.

1. The Developer shall not sell, transfer, or assign all or any part of its interest in and to the Property unless and until the Project and On-Site Infrastructure have been fully constructed as required by this Agreement.

2. The Village shall have the right to connect and integrate other facilities in, to, and with the On-Site Infrastructure that is connected to public infrastructure, as the Village decides, with no payment or award to, and with no consent required of, the Developer.

3. MUNICIPAL REVENUE OBLIGATION.

Simultaneous with execution of this Agreement, the parties shall execute the Municipal Revenue Obligation attached hereto as **Exhibit A** and incorporated by reference.

4. APPROVALS.

A. Code Compliance Required. The improvements to be constructed upon the Development Property (including the On-Site Infrastructure) and their uses, shall be in compliance with all applicable local zoning and building ordinances of the Village, the County and the State. The Agreement shall not obligate the Village to grant variances, exceptions, or conditional use permits. Notwithstanding the foregoing, the Village shall not unreasonably withhold approval of any and all variances, exceptions and conditional use permits properly presented and necessary in order to construct the Project.

B. Approval of Public Bodies. The Developer will seek to obtain from the Village 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 or appropriate to develop and utilize the Property as set forth above.

C. Payment of All Fees. The Developer acknowledges and agrees to pay all water, sewer, and other connection or impact fees that may be due and payable in connection with the Developer's development of the Property.

D. Acceptance of Agreement No Waiver. The acceptance of this Agreement and granting of any and all approvals, licenses, and permits by the Village shall not obligate the Village to grant any variances, exceptions, or conditional use grants, or approve any building or use the Village determines not to be in compliance with the municipal codes and ordinances of the Village, or in the best interest of the Village.

5. DEVELOPMENT STANDARDS AND DEVELOPER WORK.

A. Construction Requirements. The Developer agrees that the Property and all improvements thereto shall be consistent with the Project presented by Developer and illustrated in the Site Plan approved by the Village and the Resolutions of the Village Board approving same. The Developer submitted plans, including details in regard to materials to be used, to the Village for review and acknowledgement of no objection. In addition to the

foregoing, the Developer shall construct all improvements to the Property in complete compliance with the following terms and conditions:

1. The Developer shall insure that the structures shall be in substantial compliance with the appearance shown in the Site Plan the terms and conditions set forth in resolutions approved by the Village Board, the Private Covenants And Restrictions Concerning The Initial Development Of The Multi-Family Residential Project In Windsor Crossing executed by and between the Village, Windsor Crossing, LLC, and the Community Development Authority of the Village of Windsor and recorded in the Dane County Register of Deeds office on September 14, 2016 as Document # 5267535 and the exhibits referenced in all of said documents.

2. The Developer shall be responsible for all erosion control related to the Project, in accordance with the erosion control permit associated with the Project.

3. The Developer agrees to coordinate the timing of its work so as not to interfere with the progress of the other's work that is necessary for the Project.

4. At all times during the term of this Agreement, Developer will keep the Development Property in a safe, clean, and attractive condition, and free of all trash, litter, refuse, and waste, subject to demolition and construction activities contemplated by this Agreement.

B. Access Permitted. Developer shall permit representatives of the Village to have reasonable access to the Development Property at all reasonable times for the purposes of reviewing compliance with this Agreement, including, but not limited to inspecting all work being performed in connection with this Agreement.

6. WORK QUALITY AND REPRESENTATIONS.

A. Workmanlike Manner Required. All work to be performed by the Developer in and on the Property shall be performed in a good and workmanlike manner and consistent with the prevailing industry standards for high quality construction in the area of the Village. The Developer shall perform all work in compliance with all applicable laws, regulations, ordinances, and permits, and the Developer shall at its sole cost and expense obtain and maintain all necessary permits and licenses for such work.

B. Representations of Developer.

1. The limited liability company is duly organized and in good standing under the laws of the State of Wisconsin.

2. The execution, delivery, and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized and approved by the Developer, and no other or further acts or proceedings of Developer or its members are necessary to authorize and approve the execution, delivery, and performance of this Agreement, and the matters contemplated hereby. This

Agreement, and the exhibits, documents, and instruments associated herewith and/or made a part hereof, have been duly executed and delivered by Developer and constitute the legal, valid, and binding agreement and obligation of Developer, enforceable against it in accordance with their respective terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, or other similar laws affecting the enforcement of creditors' rights generally, and by general equitable principles.

3. There are no lawsuits filed or pending, or to the knowledge of the Developer, threatened against the Developer that may in any way jeopardize the ability of the Developer to perform its obligations hereunder.

4. Developer has access to sufficient funds through equity and debt financing sources for completion of the improvements on and in the Property contemplated by this Agreement.

5. Developer agrees as a covenant running with the land to be developed, not to discriminate on the basis of race, color, religion, sex, sexual orientation or national origin in the sale, rental, development or use of the Property in violation of any applicable regulation or statute.

C. Representations of Village

1. The Village has authority, subject to the approval to the Village Board of the Village, to undertake the obligations provided for in this Agreement, specifically to:

   a. Administer the District and distribute the tax increment therefrom in accordance with this Agreement;

   b. Construct the Off-Site Infrastructure as provided herein;

   c. Issue the Pay-As-You-Go Incentive / Municipal Revenue Obligation as provided herein.

7. CONDITIONS AND LIMITATIONS ON THE OBLIGATIONS OF THE VILLAGE.

Notwithstanding anything to the contrary in this Agreement, the following are conditions to and limitations on each and all of the obligations of the Village hereunder; and the Village shall not be obligated to expend any amounts in connection with the Property and may suspend and terminate the performance of any and all of its obligations under this Agreement if:

1. The Developer fails to satisfy the Project Value Guaranty or any of the Conditions Precedent required by this Agreement; or

2. The Developer does not have fee title ownership in and to all of the Propertyat the time that a payment under the Municipal Revenue Obligation is due; or

3. Developer fails to provide necessary easements or otherwise impedes the ability of the Village to connect to the On-Site Infrastructure as required to serve the Property.

8. DEVELOPER DEFAULT.

A. Cure Period. An event of default is any failure by the Developer to perform or observe any and all covenants, conditions, obligations, or agreements on its part to be observed or performed when and as required under this Agreement, within 20 days after written notice to the Developer of such failure; provided, however, that if an event is not financial and cannot be cured within such 20 day period but if the Developer commences to cure such matter within the 20 day period and thereafter reasonably and continuously takes action to complete such cure and such cure is completed within 20 days of the date of written notice to Developer, then the event will not be an event of default.

B. Village Options upon Default. Whenever an event of Developer default occurs, the Village may take one or more of the following actions:

1. The Village may suspend the performance of any or all of its undertakings and obligations under this Agreement until it receives assurances from the Developer deemed adequate by the Village, that the Developer will cure its default and continue its performance under this Agreement.

2. The Village may take action, including legal or administrative action, in law or in equity, which may appear necessary or desirable to the Village to enforce performance and observance of any obligation, agreement, or covenant of the Developer under this Agreement, or to seek remedy for its breach.

3. The Village may, but is not required, to perform such obligation for and at the cost of the Developer in which event all costs incurred by the Village shall be payable by the Developer upon demand of the Village, and may, in addition to all other rights and remedies, be set off against any payments due from the Village to the Developer under this Agreement or recovered by special assessment levied on the Project, as determined in the discretion of the Village.

C. List of Remedies Not Exclusive. No remedy or right conferred upon or reserved to the Village in this Agreement is intended to be exclusive of any other remedy or remedies, but each and every such right and remedy shall be cumulative and shall be in addition to every other right and remedy given under this Agreement, or now or hereafter existing at law or in equity or by statute.

D. Delay in Exercise of Rights Not Waiver. No delay or omission to exercise any right or power accruing to the Village upon any default shall impair any such right or power or

shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

E. Written Waiver Required. In the event this Agreement is breached by the Developer and such breach is expressly waived in writing by the Village, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous, or subsequent breach hereunder. The Village's acquiescence in enforcing any portion of this Agreement shall not provide a basis for the application of estoppel or other like defense or otherwise constitute waiver. Any waiver of any provision of this Agreement by the Village must be expressed and in writing.

F. Compensation for Costs of Breach. Whenever any event of default occurs due to the actions or inaction of the Developer, and the Village employs attorneys and/or incurs other expenses for the collection of payments due or to become due for the enforcement or performance or observance of any obligation or agreement on the part of the Developer herein contained, the Developer shall, on demand thereof, pay to the Village the reasonable fees of such attorneys and such other reasonable expenses incurred by the Village.

9. INDEMNIFICATION/INSURANCE.

A. Indemnification for Actions Taken Pursuant to This Agreement. In addition to, and not to the exclusion or prejudice of, any provisions of this Agreement, or any documents incorporated herein by reference, the Developer shall indemnify and save harmless the Village, its officers, agents, representatives, and employees and shall defend the same, from and against any and all liabilities, claims, losses, damages, interest, actions, suits, judgments, costs, expenses, attorneys' fees, and the like to whomsoever owed and by whomsoever and whenever brought or obtained, which may in any manner result from, relate to, or arise in the course of, any event of default by Developer under this Agreement.

B. In addition to, and not to the exclusion or prejudice of any provisions of this Agreement, or any documents incorporated herein by reference, the Village shall indemnify and save harmless the Developer, its officers, agents, representatives, and employees and shall defend the same, from and against any and all liabilities, claims, losses, damages, interest, actions, suits, judgments, costs, expenses, attorneys' fees, and the like to whomsoever owed and by whomsoever and whenever brought or obtained, which may in any manner result from, relate to, or arise in the course of, any act or failure to act by the Village in connection with this Agreement.

10. MISCELLANEOUS PROVISIONS.

A. Financial Interest Prohibited. No member of the governing body or other official of the Village shall have any financial interest, direct or indirect, in this Agreement, the Property, or any contract, agreement, or other transaction contemplated to occur or be undertaken thereunder or with respect thereto, nor shall any such member of the governing body or other such official participate in any decision relating to this

Agreement which affects his/her personal interest or the interests of any corporation, partnership, or association in which he/she is directly or indirectly interested. No member, official, or employee of the Village shall be personally liable to the Village in the event of any default or breach by the Developer or any successor to the Developer on any obligation of the Developer under this Agreement.

B. Incorporation of Exhibits. All exhibits and other documents referred to herein are hereby incorporated in and shall become a part of this Agreement.

C. Non-waiver of Approvals. Nothing herein shall be construed or interpreted in any way to waive any obligation or requirement of Developer to obtain all necessary approvals, licenses, and permits from the Village in accordance with its usual practices and procedures, nor limit or affect in any way the right and authority of the Village to approve or disapprove any plans and specifications, or any part thereof, or to impose limitations, restrictions, and requirements on the development, construction, and/or use of the Property as a condition of any such approval, license, or permit, including without limitation, requiring any and all other and further development and similar agreements. The Village will act diligently and in good faith to review all necessary approvals, licenses, and permits duly requested by the Developer.

D. Assignment of Agreement. Developer may not assign its rights or obligations under this Agreement without the express prior written consent of the Village, until the obligations of the Developer are fully performed and satisfied. Neither the Property nor any part thereof or interest therein shall be sold, transferred, assigned, or conveyed in any way to any organization or entity that is exempt from federal or State of Wisconsin income taxes, without the express prior written consent of the Village, which consent may be withheld in its sole and absolute discretion.

E. Non-Profit Organizations. During the period of financing contemplated by this Agreement, the Developer shall not convey any property to a non-profit organization without the express written approval of the Village.

F. Time of the Essence. Time is deemed to be of the essence with regard to all dates and time periods set forth herein and incorporated herein.

G. Headings. Descriptive headings are for convenience only and shall not control or affect the meaning or construction of any provision of this Agreement.

H. Delivery of Notices. Any notice required hereunder shall be given in writing, signed by the party giving notice, personally delivered, or mailed by certified or registered mail, return receipt requested, or delivered by a commercial delivery service such as Federal Express, to the parties' respective addresses as follows:

To the Village:
Village Clerk
Village of Windsor
4084 Mueller Ave.
DeForest, WI 53582

To the Developer:
Forward Development Group
Windsor Crossing Multi-Family, LLC
161 Horizon Drive, Suite 101A
Verona, WI 53593

Notice shall be deemed delivered (a) in the case of personal delivery, on the date when personally delivered; or (b) in the case of certified or registered mail, on the date when deposited in the United States mail with sufficient postage to affect such delivery; or (c) in the case of commercial delivery, on the date specified on the vendor's receipt.

I. Entire Agreement. This Agreement and all other documents and agreements expressly referred to herein contain the entire agreement between the Developer and the Village with respect to the matters set forth herein. This Agreement may be modified only by a writing signed by all parties.

J. Law Applicable. This Agreement shall be construed in accordance with the internal laws of the State of Wisconsin.

K. Originals and Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original.

L. Change to Agreement. This Agreement may not be changed orally but only by agreement by the parties in writing signed by the appropriate representatives of each party and with the actual authority of each party.

M. Limitation on Liability of Village Officers, Agents, Employees and Representatives. The Developer acknowledges and agrees that in carrying out any of the provisions of this Agreement or in exercising any power or authority granted to them thereby, there shall be no personal liability of the Village's officers, agents, employees, or representatives, it being under understood and agreed that in such matters they act as agents and representatives of the Village.

N. No Partnership. This Agreement specifically does not create any partnership or joint venture between the parties, or render any party liable for any debts or obligations of the other party.

O. Fee Reimbursement. The Developer shall reimburse the Village for all legal and other fees and expenses incurred in the preparation of this Agreement and in connection with

any review or approval conducted by or for the Village in connection with the development of the Development Property.

P. Recording of Agreement. The parties hereto agree that the Village may record this Agreement or a memorandum of this Agreement on the record title to the Property. The Developer shall upon request of the Village execute and deliver any such memorandum or other document in connection with such recording.

Q. Covenants Running with the Land. This Agreement and all covenants, obligations, waivers, and other requirements of the Developer set forth in this Agreement shall be deemed to be a covenant running with the land and shall be binding upon the Property and any and all owners of all or any portion of the Property and their representatives, successors, and assigns.

R. Agreement Binding. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective representatives, successors, and assigns.

S. Severance. In the event that one portion of this Agreement, or the application of this Agreement to any extent is deemed invalid or unenforceable by a court of competent jurisdiction, then (unless in the judgment of the party adversely effected thereby such provision was a material part of the consideration for their entering into this Agreement, that without it they would not have entered into the agreement) the remainder of this agreement or the application of such provision shall be valid and enforceable to the fullest extent permitted by law.

T. Third Parties. This Agreement is made for the exclusive benefit of the parties hereto and is 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 party.

U. Neutral Construction. This Agreement is the result of a negotiated agreement by parties and that prior to the execution of this Agreement each party had sufficient opportunity to have review of the document by legal counsel. Nothing in this Agreement shall be construed more strictly for or against either party because that party's attorney drafted this Agreement or any portion thereof or attachment hereto.

V. Survival and Nonmerger. Any provision of this Agreement which has not been fully performed prior to transfer of possession shall not be deemed to have been terminate, but shall survive unless expressly waived in writing, and shall be in full force and effect until performed.

W. Termination. This Agreement shall terminate upon the date of the final payment by the Village to the Developer under the Municipal Revenue Obligation. If this Agreement has been recorded, the parties shall cooperate with one another in promptly executing and recording a notice of termination.

Signatures on Following Two Pages.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed as of the date(s) set forth below.

Signed by Developer on December 7th, 2017, in Dane County, Wisconsin.

FOR THE DEVELOPER:

WINDSOR CROSSING MULTI-FAMILY, LLC

David H Jenkins

Printed Name: DAVID H. JENKINS

Title: MANAGER

Attested By:

Whitney Schmidt

Printed Name: Whitney Schmidt

Title: _____

ACKNOWLEDGMENT

STATE OF WISCONSIN

COUNTY OF DANE

Personally came before me this 7 day of December, 2017, the above named David H Jenkins, as authorized representative of the Developer, and _____ to me known to be the persons who executed the foregoing instrument.

Whitney Schmidt
Notary Public, State of Wisconsin
Name: Whitney Schmidt
My Commission: 09/12/2021

WHITNEY SCHMIDT NOTARY PUBLIC STATE OF WISCONSIN

Signed by the Village on December 7, 2017, in Dane County, Wisconsin.

FOR THE VILLAGE:

VILLAGE OF WINDSOR

Robert E. Wipperfurth

By: Robert E. Wipperfurth
Village President

Attested By:

Christine Capstran

Christine Capstran
Village Clerk

ACKNOWLEDGMENT

NOTARY PUBLIC
KADIE JO BUTTERIS
STATE OF WISCONSIN

STATE OF WISCONSIN

COUNTY OF DANE

Personally came before me this 7th day of December, 2017, the above named Village President and Village Clerk, to me known to be the persons who executed the foregoing instrument.

Kadie Jo Butteris

Notary Public, State of Wisconsin
My Commission: 4/6/2021

EXHIBIT INCORPORATED BY REFERENCE:
EXHIBIT A – Municipal Revenue Obligation

Exhibit A

VILLAGE OF WINDSOR

PAY-AS-YOU-GO DEVELOPMENT INCENTIVE OBLIGATION

FOR PROJECT IN LOT 1 OF CSM 14319

TID 1-SERIES 2017-11-30

$500,000.00

THIS Pay-As-You-Go Development Incentive Obligation (the "**Obligation**") is issued pursuant to the TID Agreement and as a municipal revenue obligation pursuant to Wis. Stat. § 66.0621, and shall be effective as of the date of execution by the Village of Windsor (the "**Village**") and thereafter payable to Windsor Crossing Multi-Family, LLC, or assigns approved in writing by the Village Board[1] ("**Developer**") in accordance with its terms.

RECITALS

A. The Village and Developer have entered into an Agreement to Undertake Development in Tax Increment District No. 1 as first approved by Village Board Resolution 2017-91 on October 19, 2017, and amended by Village Board Resolution 2017-113 on December 7, 2017 (the "**TID Agreement**").

B. This municipal revenue obligation titled Pay-As-You-Go Development Incentive Obligation ("**Obligation**") is issued by the Village in accordance with the terms of the TID Agreement and this Obligation.

C. Terms that are capitalized in this Obligation that are not otherwise defined in this Obligation and that are defined in the TID Agreement shall have the meanings assigned to such terms by the TID Agreement.

TERMS OF OBLIGATION

1. ***Amount of Pay-As-You-Go Development Incentive; Conditions Precedent.*** The Village hereby provides Developer with a Pay-As-You-Go Development Incentive in the principal amount of Five Hundred Thousand Dollars ($500,000.00), to be paid to Developer without interest and in accordance with this Obligation, provided that each and every one of the following requirements is met (collectively, "**Conditions Precedent**") as of the date the payment is due ("**Payment Date**"):

a. The Developer has completed the Project in accordance with Village approvals and the TID Agreement; and,

b. The Developer has satisfied the Project Value Guarantee; and

[1] Any assignment of this Agreement is prohibited without first obtaining written approval from the Village of Windsor. Any assignment without Village approval shall be null and void and of no force or effect. The Village hereby approves collateral assignment of the Obligation to the Developer's lender.

Developer's Initials DMJ

c. The Village has received the annual Project Increment Revenue from the Property, when and as due (that is, Developer has fully paid the real estate taxes on the Property, when and as due); and,

d. The Developer is not otherwise in default under the TID Agreement.

Any payments on the Obligation, which are due on any Payment Date, shall be payable only to the extent that, as of such Payment Date, the Developer has met all of the Conditions Precedent. To the extent that the Village does not make a payment at least equal to the Scheduled Payment because of Developer's failure to meet the Conditions Precedent, the Village's failure to make the Scheduled Payment shall not constitute a default under this Obligation. If, on any Payment Date there is insufficient Project Increment Revenue to make the scheduled payment due on such date, the amount of such deficiency in the scheduled payment shall be deferred and shall be paid without interest, on the next Payment Date on which the Village has Project Increment Revenue, and if such deficiency has not been paid in full by the final Payment Date set forth in the Payment Schedule , then the term of this Obligation shall be extended to include additional successive payment dates on which any Project Increment Revenue will be applied to the payment of such accrued and unpaid deficiencies in the scheduled payments to be made hereunder. In no case, however, shall the term of this Obligation and the Village's obligation to make payments hereunder, extend beyond the termination date of the District (as defined in the Tax Increment Law).

2. ***Payment Schedule.*** Provided that the Conditions Precedent listed above are fully satisfied, the Village shall pay the Developer, or its heirs, successors or assigns,[2] sixty percent (60%) of the Project Increment Revenue received for the 2018 tax year, with such payment made on or about September 1, 2019, and continuing on the same basis annually thereafter (the "Payment Date"), until the Obligation is fully satisfied or the Obligation is terminated as set forth herein. Notwithstanding the foregoing, the parties have agreed as follows:

a. If the Developer pays 100% of its taxes on the Property in the first payment period (that is prior to January 31) and the Village receives its tax settlement from Dane County including the Village portion of said payment during the February settlement period, then the Village agrees to make the aforementioned 60% payment to the Developer within twenty (20) days of the Village's settlement with Dane County.

b. Solely for the 2018 tax year, the Developer shall be entitled to the payment even if it has not met the Condition Precedent referred to as Project Value Guarantee. All other Conditions Precedent must be satisfied.

3. ***Limited Obligation of Village.*** This Obligation shall be payable solely from Project Increment Revenue, and shall not constitute a charge against the Village's general credit or taxing power. The Village shall not be subject to any liability hereunder, or be deemed to have obligated itself to pay Developer any amounts from any funds, except the Project Increment Revenue, and then only to the extent and in the manner herein specified. This Obligation shall terminate and the Village's obligation to make any payments under this Obligation shall be discharged, and the Village shall have no obligation and incur no liability to make any payments hereunder after the termination date of the District. Notwithstanding the foregoing, and only where the Developer has met the Conditions Precedent, if the Village elects early termination of the District, the Village shall provide for payment of the Obligation as set forth in Section 5. below.

4. ***Subject to Annual Appropriations.*** Each payment under this Obligation shall be subject to annual appropriation by the Village of its Project Increment Revenue in a manner that recognizes the Obligation set forth herein.

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[2] As indicated in the Agreement, Assigns must be pre-approved by the Village. The Developer's lender is hereby an approved assignee for collateral purposes.

5. ***Prepayment Option and Early District Termination.*** To satisfy in full the Village's obligations under this Obligation, the Village shall have the right to prepay the outstanding principal balance of this Obligation at any time from District Tax Increment. The prepayment option is available to provide the Village the option of early termination of the District or termination of the Obligation by payment in full.

6. ***Termination of Obligation for Failure to Meet Project Value Guarantee.*** Notwithstanding any other provision to the contrary herein or in the TID Agreement, if the Developer fails to meet the Project Value Guarantee as of January 1, 2019, the Village's obligation hereunder shall terminate, and the Village shall have no obligation and incur no liability to make any payments hereunder.

7. ***Miscellaneous.*** This Obligation is subject to the Tax Increment Law and to the TID Agreement.

Dated to be effective as of the 7th day of December, 2017.

VILLAGE OF WINDSOR

By Robert E. Wipperfurth

Robert E. Wipperfurth, Village President

Attested By:

Christine Capstran

Christine Capstran, Village Clerk

Developer's Initials DMJ

EXHIBIT B

WCMF PHASE 1 PROPERTY LLC

STATE OF WISCONSIN
REAL ESTATE PROPERTY TAX BILL FOR 2019
VILLAGE OF WINDSOR
DANE COUNTY

BILL NUMBER: 1962736

IMPORTANT: · Correspondence should refer to parcel number.
· See reverse side for important information.
· Be sure this description covers your property. This description is for property tax bill only and may not be a full legal description.

5524284 5292315 5267256 4366783 ACRES: 3.600
SEC 29, T 09 N, R 10 E, SE¼ of SE¼
PLAT: 14319-CSM 14319
BLOCK/CONDO: LOT 1
LOT 1 CSM 14319 CS97/285&289-8/15/2016 F/K/A
LOT 3 CSM 14307 CS97/240&245-8/2/2016 F/K/A
LOTS 80 - 84 & OUTLOT 1 WINDSOR CROSSING ...

WCMF PHASE 1 PROPERTY LLC
161 HORIZON DR STE 101A
VERONA WI 53593

Parcel #: 0910-294-6973-1
Alt. Parcel #:

Property Address: 6660 NORTH TOWNE RD

Assessed Value Land	Ass'd. Value Improvements	Total Assessed Value	Ave. Assmt. Ratio	Net Assessed Value Rate (Does NOT reflect credits)	
738,000	8,594,700	9,332,700	0.9150		0.019990745
Est. Fair Mkt. Land	**Est. Fair Mkt. Improvements**	**Total Est. Fair Mkt.**	☐ A Star in this box means Unpaid Prior Year Taxes	School taxes reduced by school levy tax credit	
806,600	9,393,100	10,199,700			$16,161.96

Taxing Jurisdiction	2018 Est. State Aids Allocated Tax Dist.	2019 Est. State Aids Allocated Tax Dist.	2018 Net Tax	2019 Net Tax	% Tax Change
STATE OF WISCONSIN				0.00	
DANE COUNTY	140,531	156,425	32,661.86	33,541.60	2.7%
VILLAGE OF WINDSOR	323,899	387,486	42,138.73	41,418.58	-1.7%
DEFOREST SCHOOL DIST	2,852,087	7,096,710	81,406.10	102,598.36	26.0%
MADISON TECH COLLEGE	775,921	809,514	8,826.22	9,009.09	2.1%
Total	4,092,438	8,450,135	165,032.91	186,567.63	13.0%
First Dollar Credit			70.30	82.67	17.6%
Lottery & Gaming Credit					
Net Property Tax			164,962.61	186,484.96	13.0%

Make Check Payable to:
VILLAGE OF WINDSOR
TREASURER
4084 MUELLER RD
DEFOREST WI 53532

Full Payment Due On or Before January 31, 2020
$186,484.96

Or First Installment Due On or Before January 31, 2020
$93,242.48

And Second Installment Payment Payable To
DANE COUNTY TREASURER
T ADAM GALLAGHER
PO BOX 1299
MADISON WI 53701-1299

And Second Installment Due On or Before July 31, 2020
$93,242.48

FOR TREASURERS USE ONLY
PAYMENT _____
BALANCE _____
DATE _____

Net Property Tax 186,484.96

TOTAL DUE FOR FULL PAYMENT
Pay By January 31 2020
▶ $ 186,484.96

Warning If not paid by due dates installment option is lost and total tax is delinquent subject to interest and if applicable penalty **Failure to pay on time. See reverse.**

PA-686/2 (R. 8-15)

FOR INFORMATIONAL PURPOSES ONLY
- Voter Approved Temporary Tax Increases

Taxing Jurisdiction	Total Additional Taxes	Total Additional Taxes Applied to Property	Year Increase Ends
DEFOREST SCHOOL DIST	460,086 67	4,776 66	2036
DEFOREST SCHOOL DIST	1,760,253 31	18,275 13	2038

▼ **PLEASE RETURN LOWER PORTION WITH REMITTANCE** ▼

VILLAGE OF WINDSOR
TREASURER
4084 MUELLER RD
DEFOREST WI 53532

REAL ESTATE PROPERTY TAX BILL FOR 2019

Bill #: 1962736
Parcel #: 0910-294-6973-1
Alt. Parcel #:

Total Due For Full Payment $186,484.96
Pay to Local Treasurer By Jan 31, 2020

OR PAY INSTALLMENTS OF:

1ST INSTALLMENT	2ND INSTALLMENT
Pay to Local Treasurer	Pay to County Treasurer
$93,242.48	$93,242.48
BY January 31 2020	BY July 31 2020

☐ Check For Billing Address Change

WCMF PHASE 1 PROPERTY LLC
161 HORIZON DR STE 101A
VERONA WI 53593

FOR TREASURERS USE ONLY
PAYMENT _____
BALANCE _____
DATE _____

09 09102946973 1 0186484960 0093242485 0 dd

EXHIBIT C

	DANE COUNTY TREASURER'S OFFICE **210 MARTIN LUTHER KING JR BLVD RM 114** **MADISON WI 53703**	E-Receipt for Tax Year 2019
WCMF PHASE 1 PROPERTY LLC 161 HORIZON DR STE 101A VERONA WI 53593	THIS IS AN ELECTRONIC RECEIPT OF PAYMENTS MADE FOR TAX YEAR 2019. IT DOES NOT INCLUDE PAYMENTS MADE FOR PRIOR TAX YEARS.	

PARCEL NUMBER	DATE E-RECEIPT CREATED
0910-294-6973-1	8/24/2020

DATE PAID	RECEIPT #	GENERAL	SPECIALS	INTEREST	PENALTY	AMOUNT
01/28/2020	15730	$93,242.48	$0.00	$0.00	$0.00	$93,242.48
07/24/2020	262018	$93,242.48	$0.00	$0.00	$0.00	$93,242.48
					TOTAL PAYMENTS	**$186,484.96**

Printed from https://accessdane.countyofdane.com/091029469731

1. **Receipt is not valid until all payments have cleared all banks.**
2. "Specials" includes any special assessments, or charges, and delinquent utilities.
3. Refer to AccessDane for payments made in previous tax years. They can be found under "Tax Payment History" for each parcel and may be printed.
4. If printed payment history is insufficient send 50¢ (for each parcel number), a written request including parcel numbers(s), and a Self-Addressed Stamped Envelope to:
   Dane County Treasurer PO BOX 1299 Madison WI 53701-1299

EXHIBIT D

September 3, 2020

PAY AS YOU GO

Provided that the Conditions Precedent listed in the Terms of Obligation are fully satisfied, the Village shall pay the Developer, or its heirs, successors or assigns, sixty percent (60%) of the Project Increment Revenue received for the 2019 tax year, with such payment made on or about September 1, 2020, until the Obligation is fully satisfied or the Obligation is terminated as set forth in the Terms of Obligation. Notwithstanding the foregoing, the parties have agreed as follows:

1. If the Developer pays 100% of its taxes on the Property in the first payment period (that is prior to January 31) and the Village receives its tax settlement from Dane County including the Village portion of said payment during the February settlement period, then the Village agrees to make the aforementioned 60% payment to the Developer with twenty (20) days of the Village's settlement with Dane County.

2019 PAYMENT CALCULATION

PROJECT VALUE GUARANTEE	$7,000,000 (AS OF 1/1/2019)
2019 ASSESSED VALUE	$9,332,700
2019 MILL RATE	0.019990745
BASE VALUE PER TID AGREEMENT	$738,000 (AS OF 1/1/2017)
2019 INCREMENT VALUE	$8,594,700
DATE 2019 TAXES PAID IN FULL	JULY 24, 2020

VILLAGE = BASE VALUE * 2019 Mill Rate

Village Value = $14,753.17 ($738,000 * 0.019990745)

DEVELOPER = 2019 ASSESSED VALUE – BASE VALUE * 2019 Mill Rate

Calculated as: $9,332,700 - $738,000 = $8,594,700

Developer Value = $171,814.46 ($8,594,700 * 0.01999745)

60% of Developer Value = $103,088.68 ($171,814.46 * 60%)

VILLAGE TAX $14,753.17 + DEVELOPER TAX: $171,814.46 = TOTAL TAX: $186,567.63

TOTAL TAX OF $186,537.63 LESS FIRST DOLLAR CREDIT OF $82.67 = $186,484.96

TOTAL TAX ON TAX BILL: $186,484.96

TOTAL DUE DEVELOPER FOR 2019: $103,088.68

REMAINING PAY AS YOU GO INCENTIVE: $305,721.74