

**DEVELOPMENT AGREEMENT  
BETWEEN  
CARDINAL CAPITAL DEVELOPMENT, LLC, CCM-PRESS OWNER, LLC,  
AND THE CITY OF SHEBOYGAN**

**THIS DEVELOPMENT AGREEMENT** (the "Agreement"), is made and entered into as of the \_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the City of Sheboygan, Wisconsin, a municipal corporation of the State of Wisconsin, with its principal offices located at 828 Center Avenue, Sheboygan, WI 53081 (hereinafter "City"), and Cardinal Capital Development, LLC, a Wisconsin limited liability corporation with its principal offices located at 901 South 70<sup>th</sup> Street, West Allis, WI 53214 (hereinafter "Developer"), and CCM-Press Owner, LLC, a Wisconsin limited liability corporation with its principal offices located at 901 South 70<sup>th</sup> Street, West Allis, WI 53214 (hereinafter "Property Owner").

**RECITALS**

Developer has proposed converting the former Sheboygan Press Building at 632 Center Avenue (the "Property") in the City of Sheboygan for use as a historic rehabilitation housing complex with 28 workforce apartment units, along with associated parking (the "Development.")

City published in 2021 an Affordable Housing Market Study that identified a need for between 112 and 287 new housing units that would rent for between \$1,028 and \$1,468 per month. Developer indicates that some of the units in this proposed complex would fall in that range, with rents ranging from \$1,200 to \$1,850 per month in the building for one- and two- bedroom units between 600 and 1500 square feet.

The Property is located adjacent to the City's Tax Incremental District No. 16 (the "District"), a mixed-use district pursuant to § 66.1105, Wis. Stats. ("State Tax Increment Law"), which the City established in September, 2015. The District was established for the purpose of making public improvements in the area so as to promote business redevelopment activity, attract and retain developments, and encourage further private investment in local businesses and residences, thereby providing long-term tax benefits to the City and the other overlying tax jurisdictions.

As part of this Agreement, Developer has agreed to pay the cost of amending the District, including a feasibility analysis, preparation of a Project Plan, and changing the boundaries of

the District, all in accordance with State Tax Increment Law, in order to further create incentives and opportunities for appropriate private development, including the development that is the subject of this agreement, which will contribute to the overall development of the City.

The City is authorized, by Section 66.1105(9)(a) of Wisconsin Statutes, as amended, to pay the Project Costs from the special fund of TID 16 or from the proceeds of municipal obligations issued under Wisconsin Statutes, as amended.

The City is authorized by Section 66.1105(3)(e) of Wisconsin Statutes, as amended, to enter into any contract or agreement necessary or convenient to implement the provisions and effectuate the purposes of the Project Plan for TID 16, as it may be amended.

The Project to be undertaken by the Developer, as described herein, is of particular importance to the City and provides special benefits to the City because of its prominent location in the City and because it results in the preservation of a historic building.

The Project Plan includes "Development Incentive Payments" as eligible project costs for purposes of carrying out the Project Plan.

The City proposes to enter into this Development Agreement with the Developer and Property Owner to achieve the objectives of TID 16 and to facilitate the implementation of TID 16's Project Plan, as it may be amended, and the City is prepared to provide financial assistance to the Developer and Property Owner through development incentives in order to bring about the continued development in accordance with this Agreement.

Property Owner has acquired real property within the proposed boundaries of TID 16 and has engaged the Developer to develop the property through the construction of the Development at an estimated cost of \$9,680,000.00 (the "Project").

It is in the mutual interest of all parties to proceed with development of the Project, and in return for the benefits to be derived therefrom, the City is prepared to provide financial assistance to the Developer and Property Owner through development incentives in order to bring about the development

and thereby promote the sound growth of the City's downtown area.

## **AGREEMENT**

**NOW, THEREFORE,** in consideration of the Recitals, the covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### **ARTICLE I. DEFINITIONS**

All capitalized terms used herein and not otherwise defined herein shall have the following meanings unless a different meaning clearly appears from the context:

"Agreement" or "Development Agreement" means this Agreement, as the same may be from time to time modified, amended or supplemented.

"Developer" means Cardinal Capital Development, LLC and its permitted successors and assigns.

"Development Incentive Payment" means payments in the maximum amount of One Million Two Hundred Thousand dollars (\$-1,200,000) paid by the City pursuant to the terms in Article VII below.

"Events of Default" means any of the events described in Article XI hereof.

"Plans and Specifications" means the plans and specifications for the Project prepared by the Developer which have previously been approved by the City Plan Commission in accordance with all procedures and requirements of the City for such approvals.

"Project" means the Development proposed by Developer herein for construction of a housing complex with 28 workforce apartment units, and associated parking upon parcels of land in the City of Sheboygan owned by CCM-Press Owner, LLC identified as Tax Parcels 59281110580, 59281110570, and 59281110670 (the "Property").

"Property Owner" means CCM-Press Owner, LLC and its permitted successors and assigns.

"Tax Incremental Value" means the assessed value of the Property as of January 1 of the year following completion of construction of the Project and the issuance of an occupancy permit by the City, less the assessed value of the Property as of January 1, 2022.

"TID Project Plan" means the Project Plan for proposed Tax Incremental Financing District No. 16 of the City of Sheboygan, Wisconsin.

## **ARTICLE II. OVERVIEW OF THE PROJECT**

The Project consists of the construction of a housing complex with 28 workforce apartment units, and associated parking upon the Property. Construction shall commence within ninety days after approval of the TID amendment by the Joint Review Board and Common Council and shall be completed within fifteen months thereafter, at an estimated cost of \$9,680,000.

## **ARTICLE III. REPRESENTATIONS AND WARRANTIES OF THE DEVELOPER**

The Developer makes the following representations and warranties which the City may rely upon in entering into this and all other agreements with the Developer and granting all approvals, permits and licenses for the Project.

(A) Developer is a duly organized and existing corporation in current status under the laws of the State of Wisconsin.

(B) The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized and approved by Developer, and no other or further acts or proceedings of Developer 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 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 similar laws affecting the enforcement of creditors' rights generally, and by general equitable principles.

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

(D) Developer has sufficient funds through equity investment in Developer and through lending sources for the completion of the Project, and Developer shall, from time to time upon the request of the City, provide evidence thereof satisfactory to the City. The Developer shall promptly notify the City of any material adverse change in the Developer's financial condition.

(E) The Project to be constructed will be fully subject to taxation under Wisconsin Property Tax Laws. Developer, for itself, its successors and assigns, shall take no action(s), and shall neither take any action(s) or file any claim(s) seeking, promoting or encouraging exemption of the Project in whole or part from taxability under Property Tax Laws, nor shall it advocate any position or change in state law which would jeopardize or call into question the taxability of the Project.

**ARTICLE IV. REPRESENTATIONS AND  
WARRANTIES OF THE PROPERTY OWNER**

The Property Owner makes the following representations and warranties which the City may rely upon in entering into this and all other agreements with the Developer and granting all approvals, permits and licenses for the Project.

(A) Property Owner is the owner of the Property, including all three parcels of land.

(B) The Project to be constructed will be fully subject to taxation under Wisconsin Property Tax Laws. Property Owner, for itself, its successors and assigns,

shall take no action(s), and shall neither take any action(s) or file any claim(s) seeking, promoting or encouraging exemption of the Project in whole or part from taxability under Property Tax Laws, nor shall it advocate any position or change in state law which would jeopardize or call into question the taxability of the Project.

## **ARTICLE V. UNDERTAKINGS OF THE DEVELOPER**

5.1 Construction of the Project. The Developer shall commence construction of the Project within ninety days after approval of the TID amendment by the Joint Review Board and Common Council. Developer shall complete construction within fifteen months thereafter.

5.2 Compliance with Codes, Plans and Specifications, Etc. The building and other improvements to be constructed upon the Property, the construction thereof, and their uses shall comply with all applicable codes and ordinances of the City, and with all pertinent provisions of this Agreement, the Development Plan, The TID 16 Project Plan, and the Plans and Specifications. 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 permits, or approve any building the City determines not to comply with the City codes and ordinances. All work done by or for Developer shall be in accordance with all applicable City codes and ordinances, the Plans and Specifications, and other applicable laws and regulations. All plans for each aspect of the work must be approved by the City (which may delegate such approvals to its staff in accordance with City codes, ordinances and policies). If permits or approvals are required for any such work, issuance of such permits or approvals is a condition to commencement of such work, and Developer will at its sole cost and expense take such action as required to seek such approvals and permits.

5.3 Cost of Amending TID 16 Amendment. Developer, as an inducement to the City to amend TID 16, agrees to reimburse the City for any and all costs expended by the City to amend TID 16, including all costs charged to the City by Ehlers Public Finance Advisors for services related to the amendment, as described in the Scope of Services attached as "Exhibit A" to this Agreement.

5.4 Taxability of the Project. Developer hereby represents that the contemplated Project will be fully subject to real estate and personal property taxes under state law. Developer shall take no action at Open Book, Board of Review, or in Circuit Court to reduce the assessed valuation of the Project to a value lower than that necessary to create a Tax Incremental Value less than the sum of the Minimum Investment amount as defined in Article VI. Developer further represents and agrees for itself, its successors and assigns, that it shall take no action(s) or advocate any position or change in state law which would jeopardize or call into question the taxability of the Project or eliminate real estate or personal property taxation in the State of Wisconsin. This section shall remain in place until December 31, 2029.

5.5 Payments in Lieu of Taxes. Notwithstanding the above, in the event that the Project is determined at any time to be exempt from real and/or personal property taxation under state law, or in the event that a particular tax is eliminated or repealed, Property Owner, for itself and its successors and assigns, agrees to make payments in lieu of taxes to the City, County, school district, and any other property taxing jurisdictions in the amounts and within the time periods that would otherwise be required as if the property were fully taxable, in recognition of the valuable governmental services and benefits available and/or provided to the Project and the Property.

5.6 Good Faith Hiring and Contracting Efforts. Developer agrees to exercise good faith in striving whenever possible to hire, retain, and contract with qualified individuals and businesses residing and/or based in the City of Sheboygan, as well as veteran- and minority-owned businesses. Developer agrees to undertake reasonable efforts to make opportunities known and available to local residents and businesses, such as advertising in publications and internet resources frequented by such residents and businesses.

#### **ARTICLE VI. DEVELOPER GUARANTEE TO CITY**

Developer for itself, its successors and assigns, hereby guarantees to construct or provide for private construction of the Project with a minimum investment of Six Million Six Hundred Eighty thousand (\$6,680,000) Dollars ("Minimum Investment"), within 15 months after commencement of construction.

Investment includes all buildings on the Project Site, but shall not include the purchase price of the land, inventory, moveable equipment, or personal property items.

Investment includes all costs and expenditures made or incurred from the date of this Agreement and on or before the completion date of construction of the Improvements on the Project Site as required by this Agreement, or such later date as the parties may hereafter agree. Developer shall provide the City a statement of its investment in the Project Site, computed in accordance with this section, no later than sixty (60) days after the completion date of construction of the Improvements on the Project Site as required by the Agreement, or such later date as the parties may hereafter agree. Such statement shall be certified by a certified public accountant.

If the Tax Incremental Value of the buildings and other Improvements on the Project Site, as determined by the City Assessor's office for real estate tax purposes, is equal to or greater than the sum of the Minimum Investment amount on January 1, 2024, or such later date as the parties may hereafter agree, then the Developer shall be deemed to have satisfied its obligation with respect to Minimum Investment.

## **ARTICLE VII. DEVELOPMENT INCENTIVE**

7.1 Incentive Payment. The City agrees to make up to ten annual payments which shall constitute a Development Incentive Payment. Said Development Incentive Payment shall be made as an inducement for the development of the Project. Said payment shall be made to the Developer or the Property Owner, as designated by Developer and Property Owner. Should no designation be made, the City shall make the payment to the Developer. Said payment is conditioned on satisfaction of Developer's obligations with respect to the Minimum Investment provisions contained in Article VI herein. Upon said satisfaction, the City shall pay by no later than September 30 of each year a sum equivalent to 95% of the tax increment (excess taxes generated as a result of a positive Tax Incremental Value) generated by the project in that year. In no case shall the sum total of all annual payments exceed One Million Two Hundred Thousand dollars (\$1,200,000) Dollars.

7.2 Purpose. The Development Incentive Payment made under this Agreement is provided by the City as part of a negotiated, lawful contract with Developer and Property Owner in exchange for consideration, including requirements to develop the Property in a manner that inures to the benefit of the general public. Said payments are in no way tied to future property tax payments and do not provide any future tax break, nor do they refund already paid taxes.

#### **ARTICLE VIII. CONDITIONS TO THE UNDERTAKINGS OF THE CITY**

As a condition to each and all of the covenants, agreements and other obligations of the City under this Agreement, all of the following shall occur, in addition to all other requirements and conditions set forth in this Agreement:

(A) The Project shall be completed within fifteen months of commencement of construction.

(B) All representations, guarantees, and warranties of Developer set forth in Articles III and VI, representations and warranties of Property Owner set forth in Article IV, and other representations and warranties in this Agreement and in all agreements expressly referred to herein shall be true, complete and correct.

(C) All covenants and obligations of Developer under this Agreement are duly performed, observed and satisfied.

(D) No Event of Default has occurred, or with the giving of notice or lapse of time would occur.

#### **ARTICLE IX. INDEMNIFICATION OF THE CITY**

The Developer hereby indemnifies and holds harmless the City, its governing body members, officers, agents, including the independent contractors, consultants and legal counsel, servants and employees thereof (hereinafter, for purposes of this section collectively referred to as the "Indemnified Parties"), against any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the development of the Project, provided that the foregoing indemnification shall not be effective for any negligent acts of the Indemnified Parties in fulfilling the obligations of the City or its agents as set forth in this

Agreement. Except for any willful misrepresentation or any willful misconduct of the Indemnified Parties, the Developer will protect and defend the Indemnified Parties from any claim, demand, suit, action or other proceeding whatsoever by any person or entity whatsoever arising or purportedly arising from the action or inaction of the Developer (or other persons acting on its behalf or under its direction or control) under this Agreement, or the transactions contemplated hereby or the acquisition, construction, installation, ownership and operation of the Project. All covenants, stipulations, promises, agreements and obligations of the City contained herein shall be deemed to be covenants, stipulations, promises, agreements and obligations of the City and not of any governing body member, officer, agent, servant or employee of the City.

#### **ARTICLE X. DEFAULT/REMEDIES**

11.1 Events of Default. An Event of Default is any of the following:

(A) A failure by the Developer to cause substantial completion of the Project to occur pursuant to the terms, conditions and limitations of this Agreement, or the failure of 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, in either case within forty-five (45) days after written notice to the Developer of such failure, provided that if such matter is not financial and cannot be cured within such forty-five (45) day period but if the Developer commences to cure such matter within the forty-five (45) day period and thereafter reasonably and continuously takes action to complete such cure and such cure is completed within ninety (90) days of the date of written notice to Developer, then the event will not be an Event of Default.

(B) The failure by the City to observe or perform any other covenant, condition, obligation or agreement on its part to be observed or performed when and as required under this Agreement, in either case within forty-five (45) days after written notice to the City of such failure, provided that if such matter is not financial and cannot be cured within such forty-five (45) day period but if the City commences to cure such matter within the forty-five (45)

day period and thereafter reasonably and continuously takes action to complete such cure and such cure is completed within ninety (90) days of the date of notice to the City, then the event will not be an Event of Default.

(C) Developer becomes insolvent or is the subject of bankruptcy or insolvency proceedings.

11.2 Remedies on Default. Whenever an event of default occurs and is continuing, the other non-defaulting party may take any one or more of the following actions:

(A) The non-defaulting party may immediately suspend their performance under this Agreement from the time any notice of an Event of Default is given until they receive assurances from the defaulting party deemed adequate by the non-defaulting party, that the defaulting party will cure its default and continue its performance under this Agreement.

(B) The non-defaulting party may take any action, including legal or administrative action, in law or in equity, which may appear necessary or desirable to enforce performance and observance of any obligation, agreement or covenant of the defaulting party under this Agreement.

11.3 No Remedy Exclusive. No remedy or right conferred upon or reserved to the City 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 now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing 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.

11.4 No Implied Waiver. In the event any agreement contained in this Agreement should be breached by any party and thereafter waived by the other party, 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.

11.5 Agreement to Pay Attorneys' Fees and Expenses. Whenever any event of default occurs and either the non-defaulting party employs attorneys or incurs other expenses for the collection of payments due or to become due or for the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party shall, on demand thereof, pay the non-defaulting party the reasonable fees of such attorneys and such other expenses so incurred by the non-defaulting party.

#### **ARTICLE XI. FORCE MAJEURE**

No party will be responsible to any other party for any resulting losses if the fulfillment of any of the terms of this Agreement (other than any financial obligation) is delayed or prevented by war, strikes, fires, floods, acts of God, and other reasons wholly without the control of the party with whose performance there was interference, and which, by the exercise of reasonable diligence, such party is unable to prevent, and the time for performance will be extended by the period of delay occasioned by any such cause.

#### **ARTICLE XII. ADDITIONAL PROVISIONS**

13.1 Conflicts of Interest. No member of the governing body or other official of the City shall have any financial interest, direct or indirect, in this Agreement, the Property or the Project, 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 official participate in any decision relating to this Agreement which affects his or her personal interest or the interests of any corporation, partnership or association in which he or she is directly or indirectly interested. No member, official or employee of the City shall be personally liable to the City in the event of any default or breach by the Developer's successors or assigns on any obligations under the terms of this Agreement.

13.2 Incorporation by Reference. All exhibits and other documents attached hereto or referred to herein are hereby incorporated in and shall become a part of this Agreement.

13.3 No Implied 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 City in accordance with its usual practices and procedures, nor limit or affect in any way the right and authority of the City to approve or disapprove the Development Plan, Plans and Specifications, or any part thereof, or to impose any limitations, restrictions and requirements on the development, construction and/or use of the Project as a condition of any such approval, license or permit; including, without limitation, requiring any and all other development and similar agreements.

13.4 No Assignment. Neither Developer nor Property Owner may assign its rights in this Agreement without the express prior written consent of the City which shall not be unreasonably withheld. Property Owner shall not sell, transfer or convey the Property unless and until an occupancy permit has been issued. No owner of the Property may subdivide the Property nor sell, transfer or convey less than the entire Property.

13.5 No Joint Venture. Neither anything in this Agreement nor any acts of the parties to this Agreement shall be construed by the parties or any third person to create the relationship of a partnership or joint venture between or among such parties.

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

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

13.8 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, to the parties' respective addresses as follows:

To the City:	City of Sheboygan, Wisconsin 828 Center Ave. Sheboygan, WI 53081 Attn: City Clerk
--------------	--

with a copy to:  
City Attorney  
City of Sheboygan, Wisconsin  
828 Center Ave., Suite 304.  
Sheboygan, WI 53081

To the Developer: Cardinal Capital Development, LLC  
c/o Cardinal Capital Management, Inc.  
901 S. 70<sup>th</sup> St.  
West Allis, WI 53214

To the Property Owner: CCM-Press Owner, LLC  
c/o Cardinal Capital Management, Inc.  
901 S. 70<sup>th</sup> St.  
West Allis, WI 53214

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

13.10 Governing Law. This Agreement shall be construed in accordance with the laws of the State of Wisconsin.

13.11 Cooperation. The City, the Developer, and the Property Owner agree to cooperate in the prosecution of applications made by any party for any governmental certificates or approvals appropriate or necessary for the consummation of the transactions contemplated by this Agreement or the use and occupancy of the Property. The City, the Developer, and the Property Owner each will at any time, or from time to time at the written request of another, sign and deliver such other documents as may be reasonably requested or as may be reasonably necessary or appropriate to give full effect to the terms and conditions of this Agreement.

13.12 Counterparts. This agreement may be executed in any number of counterparts, each of which shall be deemed an original.

13.13 Recording. This agreement or a memorandum of this Agreement shall be recorded in the Office of Sheboygan County Register of Deeds against the Property at the cost of the Developer.

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

13.15 Fees. Upon execution of this Agreement, and thereafter upon request of the City, the Developer shall reimburse the City for all legal, consulting and other fees and expenses incurred in connection with the preparation of this Agreement and other documents and agreements referred to herein.

List of Exhibits:

"A" Ehlers Scope of Services

This document consists of sixteen (16) pages, including the following signature page and excluding Exhibits.

**SIGNATURE PAGE FOR  
DEVELOPMENT AGREEMENT**

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the date first above written.

**CITY OF SHEBOYGAN, WISCONSIN**

**BY:** \_\_\_\_\_  
Ryan Sorenson, Mayor

**ATTEST:** \_\_\_\_\_  
Meredith De Bruin, City Clerk

**CARDINAL CAPITAL DEVELOPMENT, LLC**

**BY:** \_\_\_\_\_  
Its: \_\_\_\_\_

**ATTEST:** \_\_\_\_\_  
Its: \_\_\_\_\_

**CCM-PRESS OWNER, LLC**

**BY:** \_\_\_\_\_  
Its: \_\_\_\_\_

**ATTEST:** \_\_\_\_\_  
Its: \_\_\_\_\_

This document authorized by and in accordance with Res. No. \_\_\_\_-22-23.

This instrument drafted by:

City Attorney Charles Adams  
828 Center Ave., Suite 210  
Sheboygan, WI 53081  
WI State Bar No. 1021454

EXHIBIT "A"

TAX INCREMENTAL FINANCING SERVICE TO BE PROVIDED BY EHLERS