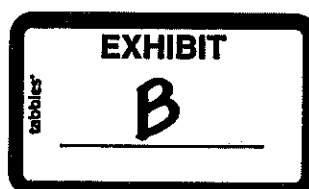


CERTIFICATION

This Certification is made by the City of Watertown, Wisconsin ("City") on the ____ day of _____, 2023.

- (i) Neither P.H. Limited Partnership ("P.H."), E.J. Plesko and Associates, Inc. ("E.J.P.") nor Watertown Square, LLC ("Seller") nor the City is in default of the Substitute Development Agreement ("Original SDA") made as of July 7, 2009, or that certain Substitute Amended Development Agreement dated as of November 9, 2022 ("Substitute Agreement"; the Original SDA and the Substitute Agreement hereinafter collectively the "SDA"), copies of which are attached hereto as Exhibit A;
- (ii) The SDA is in full force and effect;
- (iii) To the knowledge of City, there is no document that has caused, or would cause, City to pay the benefits of the SDA provided for in Section 5 of the Substitute Agreement, to anyone other than Seller or Seller's assignee.
- (iv) City consents to the sale of the Property described in Exhibit B, which is attached hereto, to EXCHANGERIGHT NET-LEASED PORTFOLIO 62 DST, a Delaware statutory trust ("Purchaser") and to management post-closing by Purchaser, provided Purchaser agrees to be bound by the terms of the SDA, and, upon assignment to, and confirmation of, the SDA by Purchaser Seller is released from all obligations under the SDA;
- (v) The current balance of the Fund, as defined in the SDA is not less than \$300,000.00.



CITY OF WATERTOWN, WISCONSIN

By: _____
Emily McFarland
Its: Mayor

By: _____
Megan Dunneisen
Its: City Clerk

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1262415

Document Number

**SUBSTITUTE
DEVELOPMENT
AGREEMENT**

Document Title

000370

2:45
RECEIVED FOR RECORD
at 2:45 o'clock P.M

JUL 09 2009

**REGISTER OF DEEDS
JEFFERSON COUNTY, WI**

Recording Area

Thomas J. Levi
City Attorney
P.O. Box 16
Watertown, WI 53094-0016

PIN: 291-0815-0432-012

THIS INSTRUMENT DRAFTED BY:

Attorney Thomas J. Levi
State Bar No. 1002305
Attorney Alan H. Marcuvitz

Viewers are advised to ignore the illegible
text on this map.

Authorized by:

BY DRAFTER

EXHIBIT

A

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SUBSTITUTE DEVELOPMENT AGREEMENT

THIS SUBSTITUTE DEVELOPMENT AGREEMENT ("Agreement"), made as of the day of _____, 2009, by and between the City of Watertown, Wisconsin ("City"), and P.H. Limited Partnership, referred to as "Developer" (individually, each of the foregoing is a "Party" and collectively, the "Parties").

RECITALS

WHEREAS, City desires to encourage development, eliminate blight and prevent blight within the City; and

WHEREAS, for these purposes, City has created Tax Incremental District No. 5 ("TID No. 5") pursuant to Wisconsin Statutes; and

WHEREAS, for these purposes, City has also established Redevelopment District # 2 (the "R.D.") pursuant to Wisconsin Statutes; and

WHEREAS, Developer owns an approximate 10.46 acre site at Church and Bernard Streets identified as Tax Key Number D291-06169-0011 and more particularly described on Exhibit A attached hereto (the "Property") within TID No. 5 and the R.D.; and

WHEREAS, Developer intends to develop the Property as a commercial development with an approximate 60,000 square foot supermarket, an approximate 25,655 square feet of additional commercial space and an approximate 10,000 square foot bank building on a separate parcel to be created within the Property; and

WHEREAS, City has determined that development of the Property will serve to encourage development and to eliminate and prevent blight within the City, and is in the best interests of the City and its residents, and that the economic vitality of TID No. 5 is essential to the economic health of the City; and

WHEREAS, Developer has filed, or will file, with City the following plans specifications, documents and exhibits ("Plans and Specifications") if and as required by the City, for the development of the Property, it being acknowledged some will be submitted for approval after execution of this Agreement and attached at the time of approval.

1. A schedule showing the name of the Developer and the mailing address and telephone number of Developer's representatives for the Project and the identity of the General Partner(s) of P.H. Limited Partnership (as defined herein) incorporated by reference herein as Exhibit B.
2. An accurate topographical map showing topographical data of the Property incorporated by reference herein as Exhibit C.
3. A scale plot plan showing the location, type and size of the proposed uses for the Property, including the location, type and size of the proposed structures, driveways, driveway access road(s), parking facilities, open space, screening and

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landscape plans, including a statistical table showing the size of the site in square feet, and acreage, incorporated by reference herein as Exhibit D.

4. Architectural drawings of the buildings and structures and sketches showing the design characteristics and treatment of exterior elevations incorporated by reference herein as Exhibit E.

WHEREAS, Developer has filed with City application for use and zoning approvals of the Property, as necessary to accommodate the development and City has given favorable conceptual approval to the proposed development;

AND WHEREAS, the parties have heretofore entered into a Development Agreement, for which this Agreement is a complete substitute.

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein, and the following promises and mutual obligations of the Parties hereto, each of them does hereby covenant and agree, as follows:

ARTICLE I DEFINITIONS

Section 1.1 Definitions. All capitalized terms used and not otherwise defined herein shall have the following meanings unless a different meaning clearly appears from the context:

"Agreement" means this Substitute Development Agreement, as the same may hereafter be from time to time modified, amended or supplemented in accordance with its terms;

"Base Value" has the meaning set forth in Article IV of this Agreement;

"Bond(s)" means the Bonds issued by City or notes for loan(s) taken to finance the City Payment, other Project Costs and the cost of the issuance of the Bonds or closing the loan(s) taken;

"Bond Debt Service" means principal and interest on the Bonds or the loan(s);

"City Payment(s)" means the City's financial support for the Project to be paid to Developer, as set forth in Section 3.2(2) below;

"City" means the City of Watertown, Wisconsin;

"Developer" means P.H. Limited Partnership and its successors and assigns;

"Fund" means TIF Revenues in any year in excess of the scheduled Bond Debt Service, held by City in an interest-bearing, segregated Stabilization Fund;

"Guaranteed Payment" means the amount to be paid by Developer as the difference, if any, between the amount of TIF Revenues and the amount of Bond Debt Service, for any year;

"Incremental Value" has the meaning set forth in Article IV of this Agreement;

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"LGIP" means Local Government Investment Pool, or equivalent;

"Plans and Specifications" means the plans and specifications for the Project to be prepared by Developer and approved by City, including Exhibits C through E attached hereto;

"Prime Rate" means the prime rate as established from time to time by Bank of America, N.A.;

"Project" means the development of the Property in accordance with the Plans and Specifications;

"Project Costs" means the costs specified in secs. 66.1105(2)(f) 1.a-L, inclusive, Wisconsin Statutes;

"Property" means the property identified as Tax Key number D291-06169-0011 in the City of Watertown, Wisconsin, as described on Exhibit A attached hereto;

"Schedule" means the schedule prepared by City pursuant to Section 3.2(4) of this Agreement;

"Subsequent Tax Year" means a tax year occurring after a year in which Developer made a Guaranteed Payment;

"Term" has the meaning set forth in Section 9.10 of this Agreement;

"TID Costs" means \$40,000 which is Developer's proportional share of costs associated with TID No. 5;

"TIF Revenues" means the real and personal property tax revenues generated by the Incremental Value of the Property from tax year 2010 to the end of the Term of this Agreement;

"Value" means full equalized fair market value of the real and personal property.

ARTICLE II REPRESENTATIONS AND WARRANTIES

Section 2.1 Representations and Warranties of City. The City makes the following representations and warranties:

(1) City is a municipal corporation of the State of Wisconsin and has the power to enter into this Agreement and carry out its obligations hereunder.

(2) City makes no representation or warranty, either express or implied, as to the Property, or its condition or the soil conditions thereon, or that the Property shall be suitable for Developer's purposes or needs.

(3) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with or results in the breach of,

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the terms, conditions or provision of any law, ordinance, charter, contractual restriction, evidence of indebtedness, agreement or instrument of whatever nature to which the City is now a party or by which it is bound, or constitutes a default under any of the foregoing.

(4) The execution, delivery and the consummation of the transactions contemplated hereby have been duly authorized and approved by the City and no other or further acts or proceedings of the City are necessary. This Agreement constitutes the legal, valid, and binding agreement and obligations of the City, enforceable against it in accordance with its respective terms, except as enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, or similar laws affecting the enforcement of creditors' rights generally and by general principles of equity.

(5) The private development of the project is consistent with the public purposes, plans and objectives respectively set forth in the TIF Plan for TIF No. 5.

(6) The expenditures by the City are necessary to act as an inducement for the private development of the Project thereby making more likely accomplishment of the public purpose objectives set for the said TIF Plan and the Wisconsin Tax Incremental Financing Law.

(7) The construction of the Project is consistent with the overall objectives of the City and would provide employment, expand the tax base of the City, eliminate blight conditions in this area of the City and generally enhance the quality of the building stock in this commercial area of the City.

Section 2.2 Representations and Warranties of Developer. Developer makes the following representations and warranties:

(1) Developer is an Illinois limited partnership and has the power to enter into this Agreement and to perform its obligations hereunder and is in good standing under the laws of the State of Wisconsin.

(2) Developer will cause the Project to be constructed in accordance with the terms of this Agreement, the Plans and Specifications and all local, state and federal laws, ordinances and regulations (including, but not limited to, environmental, zoning, energy conservation, building code and public health laws, ordinances and regulations), except for staff approved minor changes to the Plans and Specifications during construction which will not have a material adverse effect on the Project.

(3) The implementation of the Project would not be undertaken by Developer, and, in the opinion of Developer, would not be economically feasible within the reasonably foreseeable future, without the assistance to Developer provided for in this Agreement.

(4) Developer will use its commercially reasonable and diligent efforts to obtain, or cause to be obtained, in a timely manner, all required permits, licenses and approvals for the Project, and will comply, in a timely manner, with all ordinances and regulations which must be met before the Project may be lawfully implemented.

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(5) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with or results in the breach of, the terms, conditions or provision of any contractual restriction, evidence of indebtedness, agreement or instrument of whatever nature to which Developer is now a party or by which it is bound, or constitutes a default under any of the foregoing.

ARTICLE III UNDERTAKINGS BY DEVELOPER AND CITY

Section 3.1 Developer Obligations. Developer undertakes the following obligations, in consideration of the City obligations in Section 3.2, below.

(1) Developer shall build (or cause to be built) an approximate 60,000 square foot supermarket, an approximate 25,655 square feet of additional commercial space and an approximate 10,000 square foot bank building, on the Property. The Project will be developed under the Plans and Specifications approved by City, such approval not to be unreasonably withheld or delayed.

(2) Following receipt of all approvals for the Project, Developer has commenced construction of the Project.

(3) Developer shall pursue construction activities on the Property and shall complete the Project, so as to obtain occupancy permits by April 1, 2010.

(4) Developer projects that the equalized Incremental Value of the Property will be not less than \$13,064,837 on January 1, 2010 (and that said Value will increase 1.25% annually during the Term of this Agreement). Developer agrees that, in the event the property taxes due for any year covered by this Agreement shall be based on an equalized Incremental Value less than the equalized Incremental Value projected in this paragraph, any deficiency in TIF Revenues caused by the differential between the projected equalized Incremental Value and the actual Incremental Value shall be paid to City by Developer as a Guaranteed Payment, pursuant to Section 3.1(6) of this Agreement. If not fully paid when due, the amount remaining unpaid after April 1 of the following year shall accrue interest at 7.5% per annum until fully paid. Any such Guaranteed Payment made shall be deemed TIF Revenues, under Section 3.1(6) of this Agreement. These provisions shall survive any rescission, termination or expiration of this Agreement until the City Payment and Bond Debt Service, as outlined in Section 3.2 are fully retired. The Project Improvements, as set forth in the Plans and Specifications, shall be allowed in accordance with the City of Watertown Zoning Code.

(5) Without limiting other provisions in this Agreement, the dates in subsections 3.1(2), (3) and (4) are subject to Force Majeure.

(6) Beginning with calendar year 2010 and ending with the last calendar year of the Term covered by this Agreement for which Bond Debt Service is payable, Developer guarantees that the amount of TIF Revenues due to the City on the Property shall be not less than the Bond Debt Service for the corresponding calendar year. For example, should the TIF Revenues for calendar year 2011 be \$200,000 and the Bond Debt Service for 2011 be \$300,000, the amount

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required of Developer to be paid to the City as a Guaranteed Payment under this Agreement for calendar year 2011 is \$100,000. If, pursuant to the Schedule provided by the City pursuant to Section 3.2(4) of this Agreement, Developer owes any Guaranteed Payment, Developer will pay such amount to City on or before March 15 following the issuance of the Schedule by the City, pursuant to Section 3.2(4) of this Agreement.

(7) Developer agrees to develop the Property and to construct all buildings and structures thereon in accordance with the Plans and Specifications, as filed and approved in final form by City. However, during the progress of the Project, Developer may make changes to the Plans and Specifications as may be in furtherance of the general objectives of the Plans and Specifications and this Agreement and as site conditions or other issues of feasibility may dictate to further the Developer's development objectives; provided, however, any such change shall comply with all applicable laws of City and Developer may not make any change without the written consent of City (not to be unreasonably withheld, conditioned or delayed). City agrees to consider and approve or reject any proposed change within 30 days after submittal by the Developer to City or such approval is deemed given; provided, if City's approval is needed within a shorter period of time due to Developer's construction schedule or its obligations under subsection 3.1(1), (2) or (3) above, City shall provide such approval or rejection within 10 days of request, and City will reasonably cooperate with Developer to facilitate and expedite such review process. Such requests for approval shall be submitted to the City Clerk, as representative of City.

(8) The tax increments and revenue projections delineated on the attached Schedule (Exhibit "F") are projected to be generated from the Project, pursuant to the current TIF Number 5 Plan and this Development Agreement. These projections are included for illustrative purposes only. The actual Schedule produced by the City under Section 3.2(4) of this Agreement shall govern all payments made to City by Developer in any given subsequent tax year.

(9) Developer further agrees to the following:

(a) At Developer's expense, Developer shall cause to be prepared a staked ALTA survey for the Property including, without limitation, as reasonably necessary to determine boundaries and utility locations, as may be required by the City community development planner or designee.

(b) At Developer's expense, a certified survey map ("CSM") of the Property will be prepared for approval by the City, which conforms to the approved general site development plan and shows thereon the areas, if any, dedicated to the public and specified use thereof.

(c) Easements on the Property for municipally owned storm sewer and water mains shall be granted to the City or its designee where necessary, by mutually agreed upon separate document or pursuant to the CSM, in accordance with detailed utility plans approved by the City Engineer, or designee.

(d) No future structures, including but not limited to utility buildings and tool sheds, shall be constructed or installed on any portion of the Property without City's

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approval, which approval shall not be unreasonably withheld or delayed. The definition of structure shall be the definition contained within the City Zoning Ordinance.

(e) The Developer agrees to make improvements to the Project as shown in Exhibit C through E in accordance with the approved Plans and Specifications described in Exhibit C through E. The Developer agrees to maintain the Project in good repair for as long as it owns the property.

(f) The Developer will make connections to existing public water and sewer mains as needed according to City specifications. The Developer agrees to repair all sidewalk, curb and gutter, and street and restore all landscape areas within the public right-of-way upon making those connections.

(g) The Developer will remove curb cuts and aprons where existing driveways will not be utilized as part of the Project and replace the curb cut with a full curb section to match the existing curb detail. The Developer will landscape the terraces upon apron removal.

(h) The Developer will use due care when constructing near the existing storm sewers. If at any time the structure of the storm sewer is damaged by a driveway over the storm sewer, the Developer will restore the storm sewer so as to provide an adequate structure to allow vehicular traffic over the storm sewer without reducing the capacity of the storm sewer.

(i) The Developer shall timely pay its real estate taxes and personal property taxes against the Property prior to delinquency.

(j) The Developer shall not cause a reduction in the real estate taxes or personal property taxes payable on any of the Property through willful destruction of any improvements it makes on the Property.

Section 3.2 City Obligations City undertakes the following obligations, in consideration of the obligations of Developer in Section 3.1, above.

(1) City shall timely complete all necessary or required zoning, development and use approvals for the Project, pursuant to applicable City Ordinances.

(2) The City Payment under this paragraph is conditioned upon Developer's compliance with Section 3.1 (1) through (3) herein.

(a) Subject to all of the terms, covenants and conditions of this Agreement, applicable provisions of Wisconsin Law, and as an inducement by the City to Developer to encourage Developer to undertake the commitments as outlined in Section 3.1 above; the City shall provide financial support for the Project to Developer, to reimburse it for capital expenditures and project costs that it makes on the Property for construction of improvements and certain other expenditures, and as allowed under and pursuant to sec.

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66.1105, Stats. (the "City Payment") in the total amount of \$3,000,000. At Developer's request, the City Payment shall be paid to Developer's designee.

(b) The Common Council of the City has determined in its discretion that payment of said contribution to the Project costs is necessary to implement the goals of the TIF Project Plan and is allowed under and pursuant to Section 66.1105 of the Wisconsin Statutes. The City shall make all reasonable efforts to provide the City Payment on April 1, 2010. If City is nevertheless unable to provide the City Payment on April 1, 2010, City shall provide the City Payment as soon as practicable after April 1, 2010, depending on the City's access to funding resources in the bond market. If the City is not able to access or borrow funds, the City will make every reasonable effort in good faith to access open market funding in the general bond market to obtain the funds for the City Payment.

(c) The City shall in any event not be required to fund this obligation for the City Payment from the general obligations of the City. The City's obligations under this Subparagraph (2) are a special and limited obligation subject to the City's borrowing or bonding authority. While the City declares that it does have a present intention of providing such funds for the City Payment, the City is not obligated to use any other source other than a bonding issue or borrowing in order to meet its commitment.

(d) If the Developer does not meet the performance criteria as stated in Section 3.1(1) through (3) herein, the City is not obligated to make the City Payment to Developer until all such performance criteria in this Agreement are met. In the event there is a deferral in the payment of the City Payment due to noncompliance by Developer with all the performance criteria in this Agreement, any deferred portion of the City Payment shall not accrue interest. In the event there is a deferral in the payment of the City Payment due to lack of availability of funding to the City, the deferred City Payment shall accrue interest at the rate of 7.5 % per annum until fully paid to Developer. Until the City Payment is made, City shall immediately upon receipt of all TIF Revenues pay said amounts to Developer. Up until the time the City is able to obtain the funds and make the City Payment to Developer, City shall pay over to Developer as an advance payment on said City Payment any and all TIF Revenues received by the City under this Agreement, immediately upon receipt of said TIF Revenues. If the City Payment is made to Developer after January 1, 2011, the amount of the City Payment shall be \$3,000,000 together with accrued interest thereon, less any amounts previously paid by City to Developer under this subparagraph from the TIF Revenues, as cash advances.

(3) The City hereby represents it shall issue notes or bonds (the "Bonds") which the City determines to be necessary or appropriate to finance the City Payment and other Project Costs and the cost of issuance of such Bonds. Proceeds of the Bonds will be used by the City only for purposes described in this Agreement. It is intended the principal and interest on the Bonds (the "Bond Debt Service") will be paid from tax incremental revenues ("TIF Revenues") generated from the Project. If requested, the City will provide an attorney's opinion for Developer, opining that the City has the right to issue the Bonds and comply with this Agreement, in form reasonably acceptable to Developer.

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(4) For the year 2010 and ending with the last year of the Term covered by this Agreement for which Bond Debt Service is payable, City will prepare in December and provide to Developer on or before December 31 a schedule ("Schedule") showing: (1) the Value of the real and personal property on the Property including the separate parcel for the bank; (2) the taxes being billed on the Property, including the separate parcel for the bank building; (3) the taxes being billed on the Base Value of the Property; (4) the TIF Revenues generated by the Incremental Value of the Property; (5) the Bond Debt Service for that year, and; (6) the calculation of any Guaranteed Payment owed by Developer under Section 3.1(6) of this Agreement or any surplus attributable to TIF Revenues in excess of the Bond Debt Service. If, pursuant to the Schedule, TIF Revenues are in excess of Bond Debt Service, the City shall deposit such surplus into the Fund established by Section 3.2(5) of this Agreement.

(5) Upon receipt of the City Payment in the amount of \$3,000,000, Developer shall immediately deposit the sum of \$300,000 into a segregated, interest-bearing Stabilization Fund (the "Fund") maintained solely by the City. This Fund shall first be used as collateral to secure Developer's repayment of the Bond Debt Service over the term of payments to be received from Developer. Secondly, only after April 1, 2020 the Fund shall be used to pay any Guaranteed Payment required of Developer in any given calendar year to pay any shortfall between the TIF Revenues generated by the Property in said calendar year and the amount of the Bond Debt Service payment in said calendar year, pursuant to Section 3.2(6). The Fund will earn interest at the current interest rate in any given year for LGIP funds. The Developer shall have the option at any time to substitute a \$300,000 bank letter of credit for the Stabilization Fund and receive a disbursement of the Stabilization Fund, together with accrued interest at the LGIP rate, after payment from the Fund of the City's TID Cost recovery under Paragraph 3.2(5)(d) below. Developer acknowledges that City's obligations under this section will terminate at the same time as the termination of the Developer's obligations under this Agreement.

(a) City covenants that all real property taxes and personal property taxes generated by the Incremental Value of the Property shall be used solely to pay Bond Debt Service. If pursuant to the Schedule there are any TIF Revenues in any year in excess of the scheduled Bond Debt Service for the year, such excess TIF Revenues shall be held by City in the Fund.

(b) Notwithstanding anything to the contrary in this Agreement after April 1, 2020, (i) if any TIF Revenues remain in the Fund at any time a Guaranteed Payment would otherwise be due under this Agreement, the amount of the Guaranteed Payment due and owing shall be reduced by the withdrawal and application of the amount from such TIF Revenues remaining in the Fund, and (ii) if the Developer has made any Guaranteed Payment under this Agreement for any tax year after April 1, 2020, and if for any subsequent tax year (the "Subsequent Tax Year") there remain TIF Revenues in the Fund, after application to the Guaranteed Payment due and owing from Developer to the City in any given calendar year, such TIF Revenues shall be allowed to accumulate in the Fund until the subsequent calendar year for application to the Guaranteed Payment due and owing from Developer to the City in any subsequent calendar year, but in no event shall more than the amount of \$300,000 of TIF Revenues be allowed to accumulate in the Fund.

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(c) If in any year after April 1, 2020, after subtracting for any Guaranteed Payment due from the Fund, the Fund contains more than \$100,000, City shall use the amount in excess of \$100,000 to prepay the principal balance on the Bond Debt Service.

(d) The Fund will remain active until the amount in the Fund combined with that year's TIF Revenues is sufficient to pay off the Bond Debt Service. If any funds remain in the Fund upon retirement of the Bond Debt Service by Developer's payments, City will be allowed to retain from such funds an amount sufficient to fully recover the City's TID Costs (\$40,000) plus interest at the LGIP rate.

(6) Notwithstanding anything to the contrary in this Agreement, upon Developer making any Guaranteed Payment, interest will accrue at LGIP rates. When the Bond Debt Service is fully paid, and TID Costs, plus interest at LGIP rates accruing from April 1, 2010 have been recovered by City, City will repay Developer any Guaranteed Payments made by Developer and not reimbursed under Section 3.2(5) above, plus interest at the LGIP rate, as long as such repayment when combined with the reimbursements made under Section 3.2 (5) above, does not exceed \$300,000 plus accrued interest, from TIF Revenues generated thereafter during the Term of this Agreement.

ARTICLE IV PROPERTY BASE VALUE

City represents and agrees that the full equalized base value of the Property is \$3,450,163 ("Base Value"). Any Value of the Property above \$3,450,163 is incremental value ("Incremental Value"). All taxes paid on Incremental Value are part of TIF Revenues.

ARTICLE V COVENANTS RUNNING WITH THE LAND

This Agreement constitutes the entire Agreement between the Parties, and all provisions of this Agreement shall be deemed to be covenants running with the land described on Exhibit A and shall be binding upon successors and assigns for the Term of this Agreement.

ARTICLE VI REMEDIES

Section 6.1 Time of the Essence. Time is of the essence as to all dates under this Agreement.

Section 6.2 Event of Default. In the event any Party defaults under this Agreement, which default is not cured within thirty (30) days after written notice thereof to the defaulting Party or within such extended period required to cure the default, provided cure efforts are undertaken in good faith within the thirty (30) period and the defaulting Party is diligently pursuing such cure, the nondefaulting Party shall have all rights and remedies available under law or equity with respect to the default, except as otherwise set forth in this Agreement. In the event of any default by any Party in making a payment required to another Party, the cure period for such monetary default shall be ten days after delivery of notice thereof. In addition, and

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without limitation, any of the Parties shall have the following specific rights and remedies following such notice and failure to cure:

- (1) Injunctive relief,
- (2) Action for specific performance; and
- (3) Action for money damages.

Notwithstanding the foregoing, in no event may City exercise or seek any rights of injunction or specific performance for Developer's failure to commence the Project.

Section 6.3 Reimbursement. Any amounts expended by the nondefaulting Party in enforcing this Agreement including reasonable attorneys' fees, together with interest provided for below, shall be reimbursed or paid to the nondefaulting Party which prevails in any such enforcement.

Section 6.4 Interest. Interest shall accrue on all amounts required to be reimbursed by the defaulting Party to the nondefaulting Party at the Prime Rate as established from time to time by Bank of America, N.A. plus two percent (2%) per annum, from the date of payment by the nondefaulting Party until the date reimbursed in full with accrued interest.

Section 6.5 Remedies are Cumulative. Except as specified in this Agreement, all remedies provided herein shall be cumulative and the exercise of one remedy shall not preclude the use of any other or all of said remedies.

Section 6.6 Failure to Enforce Not Waiver. Failure to enforce any provision contained herein shall not be deemed a waiver of that Party's rights to enforce such provision or any other provision in the event of a subsequent default.

Section 6.7 Mediation. Prior to litigation, and as a condition precedent to bringing litigation, any Party deeming itself aggrieved under this Agreement shall be obligated to request nonbinding mediation of the dispute. Mediation shall proceed before a single mediator. The Parties shall agree upon a mediator and if they fail to do so within 30 days either Party may apply to Resolute Systems, Inc., for the designation of a mediator. In the event the Parties do not accept the mediator's recommendation, the aggrieved Party may then commence an action. However, the Parties shall agree to alternative dispute resolution, if recommended by the Court.

Section 6.8 Reservation of Assessment Rights. In addition to the remedies for default provided to the City in the event the Fund has insufficient monies therein to meet the payment requirements to the City, upon default; the City reserves the right, with 14 day prior written notice, to impose special assessments or charges for any amounts to which it is entitled by virtue of this Developer Agreement and otherwise consistent with the special assessment statute, Wis. Stat. §§ 66.0701, et seq. but for the provision of this section upon the Property described herein except for the bank parcel, without a hearing. Such special assessments or charges shall be collected on the next succeeding tax roll as are other special assessments or charges. This provision constitutes Developer's Waiver of Notice and Consent to all special assessment or special charges proceedings, which may be required by law to the extent of an amount equal to

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the then-remaining balance of Bond Debt Service Payments and TID Costs Payments, including accrued interest. This provision shall survive any rescission, termination or expiration of this Developer Agreement until the Bond Debt Service is fully paid.

ARTICLE VII INSURANCE

(1) Developer, its contractors, lessees, successors and assigns, shall, during their occupancy or ownership of the Property, purchase or cause to be purchased and continuously maintained in effect, insurance against such risks, both generally and specifically, with respect to the private development, as are customarily insured against in developments of like size and character including, but not limited to: Casualty Insurance, Comprehensive General Liability Insurance, Physical Damage Insurance, Builders' Risk Insurance and all other forms of insurance reasonably required generally by the State of Wisconsin for entities such as the Owner and any Lessees from time to time during the construction and operation of the Property. Such insurance shall be maintained in amounts and with terms of coverage generally customary to such Property. Such insurance shall name City as an additional insured as its interest may appear, except on any policy of Liability Insurance.

(2) In the event the Property is damaged or partially or fully destroyed, Developer shall cause the insurance proceeds from such loss to be used to promptly repair and restore the Property to its original condition. If, in the sole discretion of Developer, its contractors, lessees, successors and assigns, it is determined that it is not economically or otherwise feasible to rebuild the Property, Developer agrees to cause to be deposited to a reserve account an amount sufficient to prepay the entire City Bond Debt Service then outstanding as of the date of payment following such deposit.

ARTICLE VIII AMENDMENT

This Agreement may be rescinded, modified or amended, in whole or in part, by mutual agreement of the Parties hereto, their successors and/or assigns, in writing signed by all Parties.

ARTICLE IX MISCELLANEOUS PROVISIONS

Section 9.1 Execution in Multiple Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

Section 9.2 Construction. The Parties acknowledge and represent that this Agreement has been the subject of negotiation by all Parties and that all Parties together shall be construed to be the drafter hereof and this Agreement shall not be construed against any Party individually as drafter.

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Section 9.3 Legal Relationship. Nothing in this Agreement shall be construed to create an employer/employee relationship, joint employer, joint venture or partnership relationship, or a principal/agent relationship.

Section 9.4 Survival. All agreements, representations, covenants and warranties made herein shall survive the execution of this Agreement and the making of the grants hereunder. This Agreement shall be binding upon the Parties, their respective successors and assigns.

Section 9.5 No Waiver. The failure of any Party to require strict performance of any provision of this Agreement will not constitute a waiver of the provision or of any other of that Party's rights under this Agreement. Rights and obligations under this Agreement may only be waived or modified in writing. A writing waiving a right must be signed by the Party waiving the right. If an obligation of a Party is being waived or released, the writing must be signed by the affected Parties. Waiver of one right, or release of one obligation, will not constitute a waiver or release of any other right or obligation of any Party. Waivers and releases shall affect only the specific right or obligation waived or released and will not affect the rights or obligations of any other Party that did not sign the waiver or release.

Section 9.6 Severability of Provisions. If any provision of this Agreement shall be held or declared to be invalid, illegal or unenforceable by reason of its being contrary to any applicable law, such provision shall be deemed to be deleted from this Agreement without impairing or prejudicing the validity, legality or enforceability of the remaining provisions.

Section 9.7 Law Governing. This Agreement will be governed and construed in accordance with the laws of the State of Wisconsin.

Section 9.8 Notices and Demands. Except as otherwise expressly provided in this Agreement, a notice, demand or other communication under this Agreement by any Party to any other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, and

- (a) in the case of Developer is addressed to or delivered personally to:

P.H. Limited Partnership
c/o E. J. Plesko & Associates
6515 Grand Teton Plaza, Suite 300
Madison, WI 53719

Attn: Project Manager

000384

(b) in the case of City is addressed to or delivered personally to:

City of Watertown
106 Jones Street
P.O. Box 477
Watertown, WI 53094

Attn: Mayor

or at such other address with respect to any such Party as that Party may, from time to time, designate in writing and forward to the other, as provided in this Section.

Section 9.9 Force Majeure. As used herein, the term "Force Majeure" shall mean any accident, breakage, war, insurrection, civil commotion, riot, act of terror, act of God or the elements, governmental action (except for governmental action by City with respect to obligations of City under this Agreement) alteration, strike or lockout, picketing (whether legal or illegal), inability of a Party or its agents or contractors, as applicable, to obtain fuel or supplies, unusual weather conditions, or any other cause or causes beyond the reasonable control of such Party or its agents or contractors, as applicable. No Party to this Agreement shall be in default hereunder for so long as such Party or its agents and contractors, if applicable, are prevented from performing any of its obligations hereunder due to a Force Majeure occurrence.

Section 9.10 Term. This Agreement shall continue from the Effective Date until either the date all Bonds issued have been paid in full or 2032, whichever is later (the "Term").

Section 9.11 Restrictions of Sale, Transfer, Conveyance and Ownership. During the Term of this Agreement, neither Developer nor any future owner shall use, sell, transfer or convey ownership of any of the Property to any person or entity, in any manner which would render all or any part of the Property exempt from real property taxation, or would render the personal property located on any of the Property exempt from personal property taxation, without the prior written consent of City. This obligation shall survive until the termination and closure of TID # 5 under this Agreement. In the event Developer receives an exemption from general real estate taxes, such may be deemed an event of default hereunder and City may exercise its rights under the Remedies clauses in Article VI of this Agreement. Developer shall execute and record deed restrictions effectuating this provision.

Section 9.12. Warranty of Developer; Non-Transferability. The City has entered into this Agreement with Developer, on the basis of the identity of the General Partner(s), and on the strength of their experience. Therefore, Developer hereby warrants and represents to City that the General Partner(s) of Developer are as shown on Exhibit "B". Developer may not change General Partner(s) without the prior written consent of the City, which shall not be unreasonably denied, delayed or conditioned. Developer shall not change property management of the Property from the General Partner(s) without the prior written consent of the City, which consent shall not be unreasonably withheld. Any prohibited transfers under this Section, which have been made without securing the prior written consent of the City shall be considered an event of

Default hereunder. In any event, any permitted or subsequent transferee hereunder must agree to be bound by the terms of this Development Agreement.

Section 9.13 Guarantee by General Partner. The General Partner of Developer, by its signature on behalf of Developer, agrees to guarantee performance by Developer of the provisions of Section 3.1(6) of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date indicated.

P.H. LIMITED PARTNERSHIP

By: E.J. PLESKO AND ASSOCIATES,
an Illinois corporation, General Partner

Dated: July 7, 2009

By: [Signature]
Name: E. J. Plesko
Title: President

CITY OF WATERTOWN, WISCONSIN

Dated: 7/7/2009

By: [Signature]
Name: RONALD J. BRUEGER
Title: Mayor

000386

STATE OF WISCONSIN)

Dane)
JEFFERSON COUNTY)

ss.

Personally came before me this 7th day of July, 2009, the above-named E.J. Plesko, President of E.J. Plesko and Associates, an Illinois corporation, the General Partner, of P.H. Limited Partnership, a Wisconsin limited partnership, to me known to be the person who executed the foregoing instrument and acknowledged the same, as the act and deed of said limited partnership, by its authority.

Becky L. Gleiter
Notary Public, State of Wisconsin

My Commission expires: 5-26-13



STATE OF WISCONSIN)

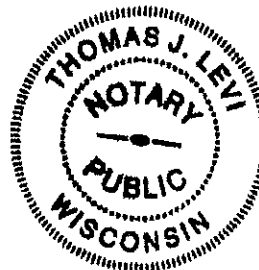
JEFFERSON COUNTY)

ss.

Personally came before me this 7th day of July, 2009, the above-named Ronald J. Krueger, the Mayor of the City of Watertown, a Wisconsin municipal corporation, to me known to be the person who executed the foregoing instrument and acknowledged the same, as the act and deed of said corporation, by its authority.

Thomas J. Levi
Notary Public, State of Wisconsin

My Commission expires: is permanent.



T:\CLIENT\A023464\0001\A3370130.1

000387

Exhibit A**LEGAL DESCRIPTION**

CHICAGO TITLE INSURANCE COMPANY COMMITMENT NO. 20801217:

A parcel of land being Lots 1 through 18, part of Lots 37 through 46, vacated Montgomery Street vacated Robert Street, vacated Crangle Avenue and Vacated Alley, all in Crangle's Addition, Outlot 2, 12th ward, formerly 3rd ward, and part of Certified Survey recorded in Volume 4, Page 38, all in the Northwest quarter of the Southwest quarter of Section 4, Township 8 North, Range 15 East, City of Watertown, Jefferson County, Wisconsin to wit:

Beginning at the Southeast corner of said Certified Survey; thence North 12° 23' 00" East, 169.90 feet; thence North 80° 35' 40" West, 215.09 feet; thence North 24° 50' 27" East, 28.88 feet thence North 88° 57' 08" West, 185.77 feet; thence South 52° 45' 48" West, 122.27 feet to the North line of Bernard Street; thence along said North line North 37° 33' 23" West 83.05 feet; thence North 05° 08' 58" West 32.50 feet; thence North 12° 36' 02" East 24.82 feet; thence North 50° 11' 10" East 35.48 feet; thence North 40° 40' 30" East, 33.73 feet; thence South 53° 42' 18" East, 71.59 (recorded as South 53° 42' 19" East, 72.23 feet); thence North 38° 19' 53" West 7.94 feet (recorded as North 38° 19' 53" East 9.33 feet); thence South 22° 14' 53" East 14.51 feet (recorded as South 20° 58' 35" East, 14.09 feet); thence South 62° 49' 32" East, 41.27 feet (recorded as South 61° 31' 14" East 41.34 feet); thence North 74° 15' 30" East 19.44 feet (recorded as North 74° 15' 30" East 18.91 feet); thence North 46° 53' 24" East, 45.19 feet; thence North 14° 37' 18" East, 16.34 feet; thence North 50° 54' 47" West, 51.43 feet; thence North 57° 18' 47" West, 26.73 feet; thence North 33° 43' 45" West, 18.35 feet; thence North 48° 28' 57" West, 38.75 feet to the Southeasterly line of Milford Street; thence North 40° 40' 30" East, 548.72 feet to the South line of the Soo Line Railroad, formerly the C. M. St. P. and Pacific Railroad, thence along the said South line South 60° 34' 51" East, 460.94 feet to the west right of way line of State Trunk Highway 28, also known as Church Street; thence South 08° 26' 27" West, 611.27 feet; thence South 81° 33' 33" East, 19.10 feet; thence South 08° 26' 27" West, 90.53 feet; thence South 50° 55' 08" West; thence along said North line North 84° 17' 20" West, 303.40 feet to the point of beginning.

EXCEPTING THEREFROM land conveyed to the City of Watertown recorded Volume 1170 of Records on Page 800 as Document Number 1045796.

Tax Key No.: 291-0815-0432-012
Address: 600 S Church St

000388

Exhibit B

Developer contact information:

P.H. Limited Partnership
E.J. Plesko & Associates, Inc., General Partner
6515 Grand Teton Plaza, Suite 300
Madison, WI 53719
T: (608) 833-7600
F: (608) 833 7602

000389

Exhibit C



000390

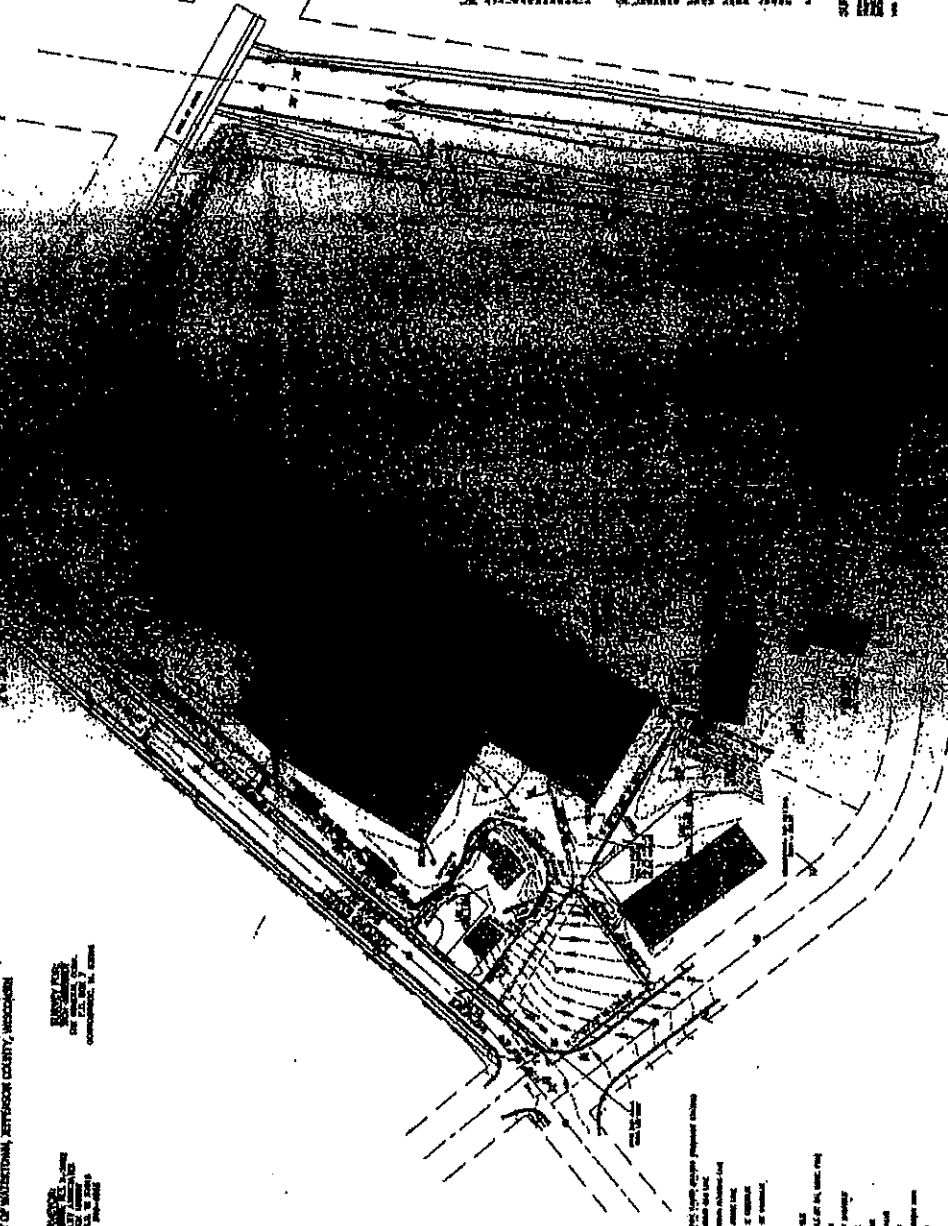
LEGAL DESCRIPTION:
The following is a true and correct description of the land shown on the attached plat of survey, to-wit:
A certain lot or lots of land, situated in the City of Madison, Jefferson County, Wisconsin, containing an area of approximately 1.25 acres, more or less, as shown on the attached plat of survey, and being more particularly described as follows:
[Detailed description of the land parcel follows]



PLAT OF SURVEY

BEING A PART OF THE MAP OF THE CITY OF MADISON, IN THE CITY OF MADISON, JEFFERSON COUNTY, WISCONSIN


WAGG & COLEY ASSOCIATES, INC.
1000 N. 1st St., Suite 200
Waukegan, IL 60094
Tel: 847.491.1234
Fax: 847.491.1235
Email: info@waggycoley.com
Website: www.waggycoley.com



- LEGEND**
- 1. 1/4 SECTION 14, T.14N. R.10E. S.14E.
 - 2. 1/4 SECTION 15, T.14N. R.10E. S.14E.
 - 3. 1/4 SECTION 16, T.14N. R.10E. S.14E.
 - 4. 1/4 SECTION 17, T.14N. R.10E. S.14E.
 - 5. 1/4 SECTION 18, T.14N. R.10E. S.14E.
 - 6. 1/4 SECTION 19, T.14N. R.10E. S.14E.
 - 7. 1/4 SECTION 20, T.14N. R.10E. S.14E.
 - 8. 1/4 SECTION 21, T.14N. R.10E. S.14E.
 - 9. 1/4 SECTION 22, T.14N. R.10E. S.14E.
 - 10. 1/4 SECTION 23, T.14N. R.10E. S.14E.
 - 11. 1/4 SECTION 24, T.14N. R.10E. S.14E.
 - 12. 1/4 SECTION 25, T.14N. R.10E. S.14E.
 - 13. 1/4 SECTION 26, T.14N. R.10E. S.14E.
 - 14. 1/4 SECTION 27, T.14N. R.10E. S.14E.
 - 15. 1/4 SECTION 28, T.14N. R.10E. S.14E.
 - 16. 1/4 SECTION 29, T.14N. R.10E. S.14E.
 - 17. 1/4 SECTION 30, T.14N. R.10E. S.14E.
 - 18. 1/4 SECTION 31, T.14N. R.10E. S.14E.
 - 19. 1/4 SECTION 32, T.14N. R.10E. S.14E.
 - 20. 1/4 SECTION 33, T.14N. R.10E. S.14E.
 - 21. 1/4 SECTION 34, T.14N. R.10E. S.14E.
 - 22. 1/4 SECTION 35, T.14N. R.10E. S.14E.
 - 23. 1/4 SECTION 36, T.14N. R.10E. S.14E.
 - 24. 1/4 SECTION 37, T.14N. R.10E. S.14E.
 - 25. 1/4 SECTION 38, T.14N. R.10E. S.14E.
 - 26. 1/4 SECTION 39, T.14N. R.10E. S.14E.
 - 27. 1/4 SECTION 40, T.14N. R.10E. S.14E.
 - 28. 1/4 SECTION 41, T.14N. R.10E. S.14E.
 - 29. 1/4 SECTION 42, T.14N. R.10E. S.14E.
 - 30. 1/4 SECTION 43, T.14N. R.10E. S.14E.
 - 31. 1/4 SECTION 44, T.14N. R.10E. S.14E.
 - 32. 1/4 SECTION 45, T.14N. R.10E. S.14E.
 - 33. 1/4 SECTION 46, T.14N. R.10E. S.14E.
 - 34. 1/4 SECTION 47, T.14N. R.10E. S.14E.
 - 35. 1/4 SECTION 48, T.14N. R.10E. S.14E.
 - 36. 1/4 SECTION 49, T.14N. R.10E. S.14E.
 - 37. 1/4 SECTION 50, T.14N. R.10E. S.14E.
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 - 56. 1/4 SECTION 69, T.14N. R.10E. S.14E.
 - 57. 1/4 SECTION 70, T.14N. R.10E. S.14E.
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 - 59. 1/4 SECTION 72, T.14N. R.10E. S.14E.
 - 60. 1/4 SECTION 73, T.14N. R.10E. S.14E.
 - 61. 1/4 SECTION 74, T.14N. R.10E. S.14E.
 - 62. 1/4 SECTION 75, T.14N. R.10E. S.14E.
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 - 64. 1/4 SECTION 77, T.14N. R.10E. S.14E.
 - 65. 1/4 SECTION 78, T.14N. R.10E. S.14E.
 - 66. 1/4 SECTION 79, T.14N. R.10E. S.14E.
 - 67. 1/4 SECTION 80, T.14N. R.10E. S.14E.
 - 68. 1/4 SECTION 81, T.14N. R.10E. S.14E.
 - 69. 1/4 SECTION 82, T.14N. R.10E. S.14E.
 - 70. 1/4 SECTION 83, T.14N. R.10E. S.14E.
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 - 73. 1/4 SECTION 86, T.14N. R.10E. S.14E.
 - 74. 1/4 SECTION 87, T.14N. R.10E. S.14E.
 - 75. 1/4 SECTION 88, T.14N. R.10E. S.14E.
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 - 77. 1/4 SECTION 90, T.14N. R.10E. S.14E.
 - 78. 1/4 SECTION 91, T.14N. R.10E. S.14E.
 - 79. 1/4 SECTION 92, T.14N. R.10E. S.14E.
 - 80. 1/4 SECTION 93, T.14N. R.10E. S.14E.
 - 81. 1/4 SECTION 94, T.14N. R.10E. S.14E.
 - 82. 1/4 SECTION 95, T.14N. R.10E. S.14E.
 - 83. 1/4 SECTION 96, T.14N. R.10E. S.14E.
 - 84. 1/4 SECTION 97, T.14N. R.10E. S.14E.
 - 85. 1/4 SECTION 98, T.14N. R.10E. S.14E.
 - 86. 1/4 SECTION 99, T.14N. R.10E. S.14E.
 - 87. 1/4 SECTION 100, T.14N. R.10E. S.14E.

PROJECT: 12345

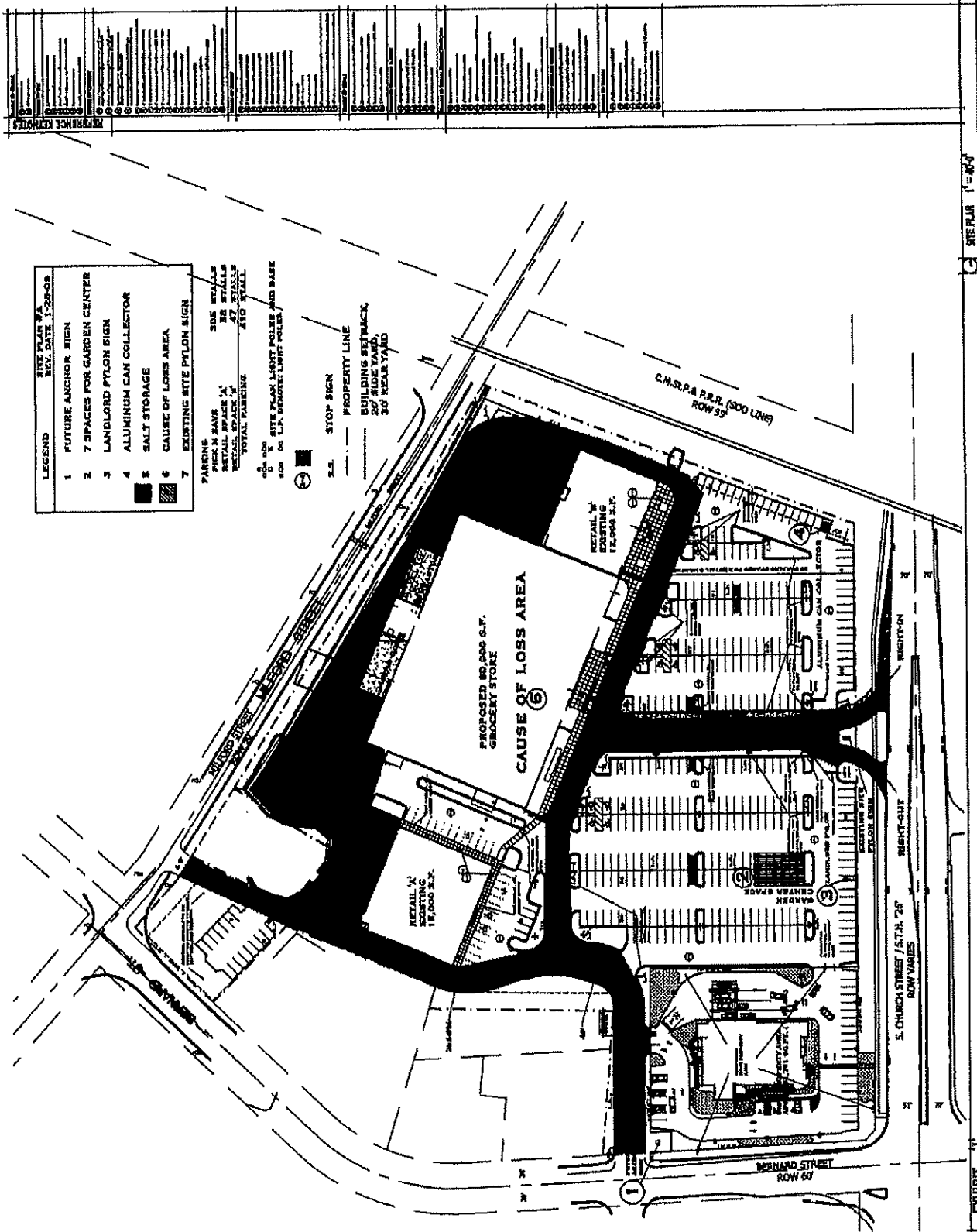
Exhibit D



000393

PROJECT ADDRESS:
 1000 S. CHURCH STREET / S. 7th St.
 ROW 35'

SITE PLAN
 C-101
 4244-A

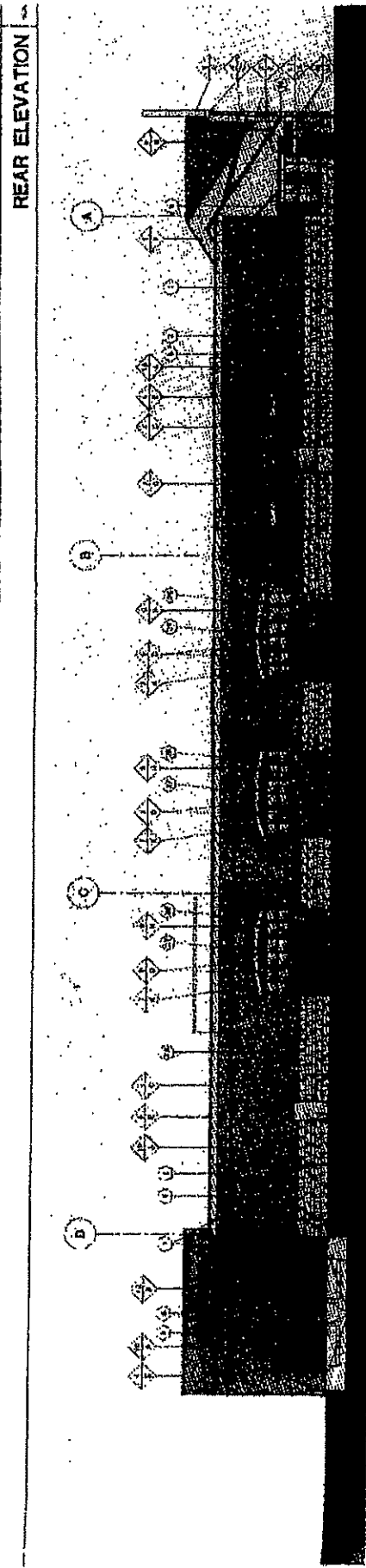
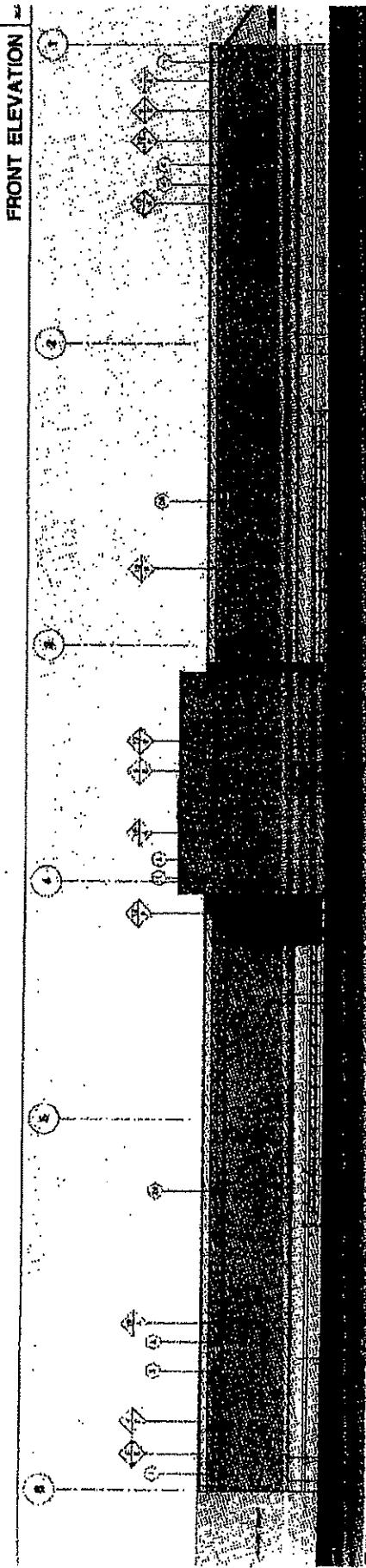
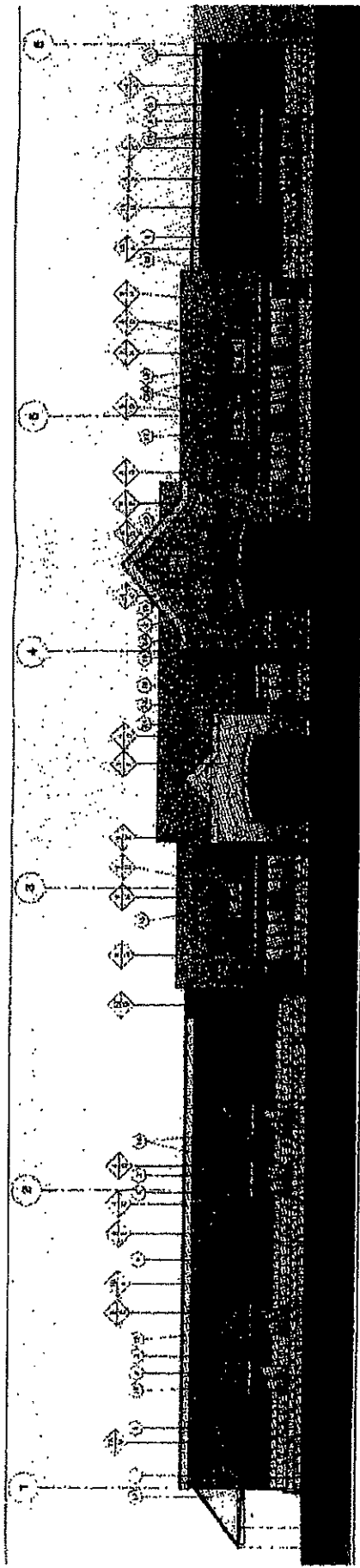


SITE PLAN 1"=40'

UNOFFICIAL COPY

000394

Exhibit E



TENANT SIGN	TENANT SIGN	TENANT SIGN	TENANT SIGN
[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Signature]	[Signature]	[Signature]	[Signature]

NOTATION

WARTON SQUARE - BUILDING A

[illegible]

11/11/11 12/12/12 1/1/13 2/2/14 3/3/15 4/4/16 5/5/17 6/6/18 7/7/19 8/8/20 9/9/21 10/10/22 11/11/23 12/12/24 1/1/25 2/2/26 3/3/27 4/4/28 5/5/29 6/6/30 7/7/31 8/8/32 9/9/33 10/10/34 11/11/35 12/12/36 1/1/37 2/2/38 3/3/39 4/4/40 5/5/41 6/6/42 7/7/43 8/8/44 9/9/45 10/10/46 11/11/47 12/12/48 1/1/49 2/2/50 3/3/51 4/4/52 5/5/53 6/6/54 7/7/55 8/8/56 9/9/57 10/10/58 11/11/59 12/12/60 1/1/61 2/2/62 3/3/63 4/4/64 5/5/65 6/6/66 7/7/67 8/8/68 9/9/69 10/10/70 11/11/71 12/12/72 1/1/73 2/2/74 3/3/75 4/4/76 5/5/77 6/6/78 7/7/79 8/8/80 9/9/81 10/10/82 11/11/83 12/12/84 1/1/85 2/2/86 3/3/87 4/4/88 5/5/89 6/6/90 7/7/91 8/8/92 9/9/93 10/10/94 11/11/95 12/12/96 1/1/97 2/2/98 3/3/99 4/4/100 5/5/101 6/6/102 7/7/103 8/8/104 9/9/105 10/10/106 11/11/107 12/12/108 1/1/109 2/2/110 3/3/111 4/4/112 5/5/113 6/6/114 7/7/115 8/8/116 9/9/117 10/10/118 11/11/119 12/12/120 1/1/121 2/2/122 3/3/123 4/4/124 5/5/125 6/6/126 7/7/127 8/8/128 9/9/129 10/10/130 11/11/131 12/12/132 1/1/133 2/2/134 3/3/135 4/4/136 5/5/137 6/6/138 7/7/139 8/8/140 9/9/141 10/10/142 11/11/143 12/12/144 1/1/145 2/2/146 3/3/147 4/4/148 5/5/149 6/6/150 7/7/151 8/8/152 9/9/153 10/10/154 11/11/155 12/12/156 1/1/157 2/2/158 3/3/159 4/4/160 5/5/161 6/6/162 7/7/163 8/8/164 9/9/165 10/10/166 11/11/167 12/12/168 1/1/169 2/2/170 3/3/171 4/4/172 5/5/173 6/6/174 7/7/175 8/8/176 9/9/177 10/10/178 11/11/179 12/12/180 1/1/181 2/2/182 3/3/183 4/4/184 5/5/185 6/6/186 7/7/187 8/8/188 9/9/189 10/10/190 11/11/191 12/12/192 1/1/193 2/2/194 3/3/195 4/4/196 5/5/197 6/6/198 7/7/199 8/8/200 9/9/201 10/10/202 11/11/203 12/12/204 1/1/205 2/2/206 3/3/207 4/4/208 5/5/209 6/6/210 7/7/211 8/8/212 9/9/213 10/10/214 11/11/215 12/12/216 1/1/217 2/2/218 3/3/219 4/4/220 5/5/221 6/6/222 7/7/223 8/8/224 9/9/225 10/10/226 11/11/227 12/12/228 1/1/229 2/2/230 3/3/231 4/4/232 5/5/233 6/6/234 7/7/235 8/8/236 9/9/237 10/10/238 11/11/239 12/12/240 1/1/241 2/2/242 3/3/243 4/4/244 5/5/245 6/6/246 7/7/247 8/8/248 9/9/249 10/10/250 11/11/251 12/12/252 1/1/253 2/2/254 3/3/255 4/4/256 5/5/257 6/6/258 7/7/259 8/8/260 9/9/261 10/10/262 11/11/263 12/12/264 1/1/265 2/2/266 3/3/267 4/4/268 5/5/269 6/6/270 7/7/271 8/8/272 9/9/273 10/10/274 11/11/275 12/12/276 1/1/277 2/2/278 3/3/279 4/4/280 5/5/281 6/6/282 7/7/283 8/8/284 9/9/285 10/10/286 11/11/287 12/12/288 1/1/289 2/2/290 3/3/291 4/4/292 5/5/293 6/6/294 7/7/295 8/8/296 9/9/297 10/10/298 11/11/299 12/12/300 1/1/301 2/2/302 3/3/303 4/4/304 5/5/305 6/6/306 7/7/307 8/8/308 9/9/309 10/10/310 11/11/311 12/12/312 1/1/313 2/2/314 3/3/315 4/4/316 5/5/317 6/6/318 7/7/319 8/8/320 9/9/321 10/10/322 11/11/323 12/12/324 1/1/325 2/2/326 3/3/327 4/4/328 5/5/329 6/6/330 7/7/331 8/8/332 9/9/333 10/10/334 11/11/335 12/12/336 1/1/337 2/2/338 3/3/339 4/4/340 5/5/341 6/6/342 7/7/343 8/8/344 9/9/345 10/10/346 11/11/347 12/12/348 1/1/349 2/2/350 3/3/351 4/4/352 5/5/353 6/6/354 7/7/355 8/8/356 9/9/357 10/10/358 11/11/359 12/12/360 1/1/361 2/2/362 3/3/363 4/4/364 5/5/365 6/6/366 7/7/367 8/8/368 9/9/369 10/10/370 11/11/371 12/12/372 1/1/373 2/2/374 3/3/375 4/4/376 5/5/377 6/6/378 7/7/379 8/8/380 9/9/381 10/10/382 11/11/383 12/12/384 1/1/385 2/2/386 3/3/387 4/4/388 5/5/389 6/6/390 7/7/391 8/8/392 9/9/393 10/10/394 11/11/395 12/12/396 1/1/397 2/2/398 3/3/399 4/4/400 5/5/401 6/6/402 7/7/403 8/8/404 9/9/405 10/10/406 11/11/407 12/12/408 1/1/409 2/2/410 3/3/411 4/4/412 5/5/413 6/6/414 7/7/415 8/8/416 9/9/417 10/10/418 11/11/419 12/12/420 1/1/421 2/2/422 3/3/423 4/4/424 5/5/425 6/6/426 7/7/427 8/8/428 9/9/429 10/10/430 11/11/431 12/12/432 1/1/433 2/2/434 3/3/435 4/4/436 5/5/437 6/6/438 7/7/439 8/8/440 9/9/441 10/10/442 11/11/443 12/12/444 1/1/445 2/2/446 3/3/447 4/4/448 5/5/449 6/6/450 7/7/451 8/8/452 9/9/453 10/10/454 11/11/455 12/12/456 1/1/457 2/2/458 3/3/459 4/4/460 5/5/461 6/6/462 7/7/463 8/8/464 9/9/465 10/10/466 11/11/467 12/12/468 1/1/469 2/2/470 3/3/471 4/4/472 5/5/473 6/6/474 7/7/475 8/8/476 9/9/477 10/10/478 11/11/479 12/12/480 1/1/481 2/2/482 3/3/483 4/4/484 5/5/485 6/6/486 7/7/487 8/8/488 9/9/489 10/10/490 11/11/491 12/12/492 1/1/493 2/2/494 3/3/495 4/4/496 5/5/497 6/6/498 7/7/499 8/8/500 9/9/501 10/10/502 1

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Exhibit F

BAIRD

000399

6/22/09 Update

City of Watertown Tax Increment District No. 5 Cash Flow Proforma Analysis

Annual Increment During Life of TIF		1.25% (N)
2008 gross tax rate (per \$1000 equal value)		\$19.55
Annual change in tax rate		0.00%

Estimated New Issue	
Amount for Project	\$3,000,000
Cost of Insurance (est.)	\$10,000
Residual	\$0

Background Data										
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)
Val. TIF District	Valuation	Increment	Increment	TIF Increment	Tax Rate	TIF Increment	Principal	Interest	Developer	City
Date	(January 1)		(f)	Over Base		Revenue	(2015)	(2015)	Guarantee	Reimburse.
									Debt	of TIF Exp.
									Service	
2008	\$1,000,000									
2009	\$2,200,000									
2010	\$2,200,000	\$15,040,000		\$13,798,837	\$19.55	\$0	\$109,241	\$157,239	\$287,000	\$0
2011	\$17,240,000	\$215,500		\$14,005,337	\$19.55	\$0	\$107,102	\$150,979	\$287,000	\$287,000
2012	\$17,480,000	\$215,194		\$14,223,531	\$19.55	\$286,729	\$113,450	\$153,851	\$287,000	\$287,000
2013	\$17,873,994	\$220,621		\$14,444,482	\$19.55	\$278,212	\$119,668	\$147,412	\$287,000	\$287,000
2014	\$17,894,615	\$223,653		\$14,666,135	\$19.55	\$282,553	\$125,250	\$140,831	\$287,000	\$287,000
2015	\$18,119,296	\$226,478		\$14,888,613	\$19.55	\$286,806	\$132,827	\$134,254	\$287,000	\$287,000
2016	\$18,344,778	\$229,310		\$15,123,823	\$19.55	\$291,359	\$140,469	\$126,562	\$287,000	\$287,000
2017	\$18,574,088	\$232,178		\$15,368,098	\$19.55	\$295,824	\$148,227	\$119,854	\$287,000	\$287,000
2018	\$18,808,262	\$235,078		\$15,611,177	\$19.55	\$300,305	\$156,378	\$110,702	\$287,000	\$287,000
2019	\$19,041,340	\$238,017		\$15,854,194	\$19.55	\$304,883	\$164,700	\$102,580	\$287,000	\$287,000
2020	\$19,279,357	\$240,982		\$16,070,168	\$19.55	\$309,518	\$174,059	\$93,042	\$287,000	\$287,000
2021	\$19,520,349	\$244,004		\$16,284,190	\$19.55	\$314,353	\$183,911	\$83,470	\$287,000	\$287,000
2022	\$19,764,358	\$247,084		\$16,501,245	\$19.55	\$319,108	\$193,709	\$73,371	\$287,000	\$287,000
2023	\$20,011,408	\$250,143		\$16,711,367	\$19.55	\$323,858	\$203,491	\$62,859	\$287,000	\$287,000
2024	\$20,261,550	\$253,266		\$16,924,487	\$19.55	\$328,631	\$213,241	\$51,487	\$287,000	\$287,000
2025	\$20,514,820	\$256,436		\$17,141,062	\$19.55	\$333,765	\$222,981	\$39,829	\$287,000	\$287,000
2026	\$20,771,255	\$259,641		\$17,359,733	\$19.55	\$339,011	\$232,651	\$27,120	\$287,000	\$287,000
2027	\$21,030,865	\$262,888		\$17,580,619	\$19.55	\$344,278	\$242,251	\$13,960	\$287,000	\$0
2028	\$21,293,782	\$266,172		\$17,803,791	\$19.55	\$349,561	\$251,781	\$0	\$287,000	\$0
2029	\$21,560,954	\$269,499		\$18,029,281	\$19.55	\$354,868	\$261,221	\$0	\$287,000	\$0
2030	\$21,832,454	\$272,868		\$18,257,059	\$19.55	\$359,499	\$270,561	\$0	\$287,000	\$0
2031	\$22,108,322	\$276,279		\$18,487,138	\$19.55	\$364,356	\$279,791	\$0	\$287,000	\$0
2032	\$22,387,601	\$279,733		\$18,719,470	\$19.55	\$369,436	\$288,911	\$0	\$287,000	\$0
2033	\$22,669,333	\$283,229		\$18,954,140	\$19.55	\$374,740	\$297,911	\$0	\$287,000	\$0
						\$5,701,593	\$5,010,000	\$1,707,453	\$2,597,265	\$53,761
										\$4,327,073

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City of Watertown
Tax Increment District No. 5
Cash Flow Proforma Analysis

6/22/09 Update

TID Status									
(a)	(a)	(c)	(b)	(g)	(f)	(e)	(d)	(c)	(b)
Annual Surplus (Shortfall)	Developer Quarterly Reimbursement	Payment to Developer	Estimated Earnings LSP Rate = 1.80%	Annual Deposit / (Withdrawal)	Cumulative Balance	Cumulative Surplus Applied to Loan Prepay (December 31)	Cost Recovery		
2008	\$0			\$0	\$0				2008
2009	\$0			\$2,649	\$2,649				2009
2010	\$2,349		\$30	\$0	\$2,349				2010
2011	\$6,894		\$30	\$0,864	\$0,863				2011
2012	\$11,131		\$152	\$11,131	\$20,675				2012
2013	\$16,453		\$397	\$16,453	\$36,725				2013
2014	\$19,328		\$696	\$19,328	\$37,251				2014
2015	\$24,258		\$1,096	\$24,258	\$42,596				2015
2016	\$28,743		\$1,539	\$24,258	\$100,000	\$12,909			2016
2017	\$33,284		\$1,800	\$15,834	\$100,000	\$46,063			2017
2018	\$37,983		\$1,800	\$1,800	\$100,000	\$67,878			2018
2019	\$42,839		\$1,800	\$1,800	\$100,000	\$132,315			2019
2020	\$47,252		\$1,800	\$1,800	\$100,000	\$190,000			2020
2021	\$52,024		\$1,800	\$1,800	\$100,000	\$181,489			2021
2022	\$56,867		\$1,900	\$1,900	\$100,000	\$235,391			2022
2023	\$61,759		\$1,900	\$1,900	\$100,000	\$294,148			2023
2024	\$66,704		\$1,900	\$1,900	\$100,000	\$357,769			2024
2025	\$71,639		\$1,900	\$1,900	\$100,000	\$426,402			2025
2026	\$76,576	(\$53,180)	\$1,900	\$1,900	\$100,000	\$495,032	Loan paid in full		2026
2027	\$81,517	(\$343,876)				\$0			2027
2028	\$86,461	(\$11,261)				\$337,780			2028
2029	\$91,406					\$891,987			2029
2030	\$96,350					\$1,051,486			2030
2031	\$101,294					\$1,416,323			2031
2032	\$106,238					\$1,786,563			2032

AMENDED SUBSTITUTE DEVELOPMENT AGREEMENT

THIS AMENDED SUBSTITUTE DEVELOPMENT AGREEMENT (the "Amendment") is made as of the 9 day of November 2022, by and between the CITY OF WATERTOWN ("City") and WATERTOWN SQUARE, LLC ("Square"), individually each of the foregoing is a "Party" and collectively they are the "Parties".

RECITALS

WHEREAS, City and Square's predecessor, P.H. Limited Partnership ("P.H."), entered into a Substitute Development Agreement, as of the 7th day of July, 2009 ("Agreement"); and

WHEREAS, during the term of the Agreement, P.H. has conveyed a portion of the Property, as defined in the Agreement, to Bank of Lake Mills, and has developed the remainder of the Property with a supermarket and additional commercial space, and Bank of Lake Mills has developed its portion of the said Property with a bank building; and

WHEREAS, during the term of the Agreement, P.H. has received \$3,000,000 of financial support ("Support") from City funds borrowed by City, ("Support Loan"), from which P.H. has deposited \$300,000, as collateral ("Collateral"), into the Fund (as defined in and created pursuant to the Agreement ("Fund")); and

WHEREAS, P.H. has thereafter conveyed its portion of the Property to Square, together with all rights of P.H. in the Fund; and

WHEREAS, City has provided annual reports and has made distributions to Square from the Fund; and

WHEREAS, City has also paid from the Fund, all principal and interest payments on the Bonds issued to finance the Support Loan ("Bonds"), and has refinanced the unpaid balance of the Bonds, per the Schedule attached hereto as Exhibit A; and

WHEREAS, City has reassessed all real property in the City, as of January 1, 2022 and has assessed the Property, and personal property located therein, at a total assessment for 2022, of more than \$16,450,163; and

WHEREAS, the Parties have agreed to amend the Agreement, as set forth in this Amendment.

NOW THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein, and the following promises and obligations of the Parties, each Party hereby covenants and agrees as follows:

1. The following provisions of the Agreement are deleted.
 - a. 3.1 (4)
 - b. 3.1 (8)
 - c. 3.2 (4)
 - d. 3.2 (5)
 - e. 3.2 (5) (a)
 - f. 3.2 (5) (b)
 - g. 3.2 (5) (c)
 - h. 3.2 (5) (d)
 - i. 3.2 (6)
 - j. 9.8 (a)
 - k. 9.13
2. Except as specifically provided in paragraph 5 of this Amendment, no additional distribution or payment shall be made from the Fund by City to Square, or to any assignee or successor of Square. City hereby irrevocably waives and releases any and all claims it may have had, has now or may in the future have, to a refund or repayment of any amount paid to Square prior to the date hereof, as a distribution of Incremental Revenue.
3. Square will defend, indemnify and hold the City harmless from and against any claim made by others, if made prior to the date of payment provided in paragraph 5, of entitlement to any share of any payment made by the City to Square prior to the date hereof, as a distribution of Incremental Revenue, provided however that such indemnity obligation shall be limited to the Collateral, to a maximum of \$260,000 in the aggregate, and Square and its successors and assigns shall have no obligation

to fund or otherwise make any indemnity payments in excess of such aggregate maximum or to restore or replenish the Collateral in the Fund. In the event the City receives notice of any claim covered by this indemnity provision, it shall promptly provide written notice to Square and Square shall have the option to select counsel of its choosing to direct and conduct the defense of any such indemnified claim.

4. All TIF Revenues (as defined in the Agreement) deposited into the Fund after the date hereof, and which cause the Fund Balance to exceed \$300,000, and any accrued interest thereon, shall be used by the City solely to pay scheduled debt service on the Bonds, when due, or as permitted pre-payments at the earliest dates such prepayments are permitted. If, in any year, the Incremental Revenue is less than the Bond debt service, the difference shall be paid from that portion of the Fund, excluding the Collateral. Any amounts in excess of scheduled debt service on the Bonds shall remain in the Fund solely to make future scheduled payments or permitted prepayments on the Bonds. City acknowledges that as of the date hereof, the Collateral in the Fund is \$300,000.00. When the amount in the Fund, exclusive of the Collateral, equals or exceeds the balance remaining due on the Bonds, this Development Agreement shall terminate.

5. Within 30 days of payment in full of the Bonds, City shall then distribute and pay to Square \$260,000 of the \$300,000 Collateral deposited in the Fund, plus any accrued interest thereon, minus any amount withdrawn from the Fund pursuant to paragraph 3 of this Amendment, and distribute and pay \$40,000 to City of the Collateral deposited in the Fund, plus any accrued interest thereon, upon which event Square's and City's obligations to each other under this Amendment shall terminate.

6. Following the date hereof, the Bonds shall not be further refinanced without the prior written approval of Square.

7. Any guaranties provided by P.H. Limited Partnership or E.J. Plesko & Associates, Inc. of Square's obligations under the Agreement are hereby released and discharged.

8. This Agreement is binding on the Parties' successors and assigns.
9. This Agreement and the rights and obligations of the Parties hereunder shall be construed in accordance with and governed by the laws of the State of Wisconsin. The Parties hereto hereby consent to the jurisdiction of the courts of the State of Wisconsin for any actions brought hereon.
10. In the event the terms and conditions of this Amendment conflict with the terms of the Agreement, the terms of this Amendment will control.
11. Any notices required or permitted hereunder shall be deemed properly given on the date mailed (or served personally or delivered by nationally recognized overnight courier service), if mailed, certified or registered mail, return receipt requested, or electronically, followed by mail, addressed as follows:

City: City of Watertown
Attn: Mayor
106 Jones Street, P.O. Box 477
Watertown, WI 53094
Email: emcfarland@cityofwatertown.org

With a Copy to: City of Watertown
Attn: City Attorney
106 Jones Street, P.O. Box 477
Watertown, WI 53094
Email: schesebro@cityofwatertown.org

Owner: Watertown Square, LLC
6515 Grand Teton Plaza, Suite 300
Madison, Wisconsin 53719
Email: aplesko@ejplesko.com

With a Copy to: James F. Christoffel, Esq.
Christoffel & Elliott, P.A.
1111 UBS Plaza
444 Cedar Street
St. Paul, Minnesota 55101-2129
Email: jchristoffel@christoffellaw.com

With a Copy to: Alan Marcuvitz, Esq.
von Briesen & Roper, s.c.

411 E. Wisconsin Ave., Suite 1000
Milwaukee, WI 53202
Email: alan.marcuvitz@vonbriesen.com

The foregoing addresses may be changed by written notice in the manner set forth above.

12. This Agreement may be executed in one or more counterparts, including facsimile or other electronic format (including, without limitation, "pdf", "tif" or "jpg") and other electronic signatures (including, without limitation, DocuSign and AdobeSign), each of which shall be deemed to be an original and together which shall constitute one and the same document.

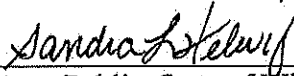
Dated this 9 day of November, 2022

CITY OF WATERTOWN

By: 

STATE OF WISCONSIN }
 } ss.
JEFFERSON COUNTY }

Personally appeared before me this 9 day of November, 2022, the above-named Emily McFarland, the Mayor of the City of Watertown, to me known to be the person who executed the foregoing agreement on behalf of the City of Watertown and by its authority.



Notary Public, State of Wisconsin
My Commission expires: 07/10/2024



Dated this 7th day of November, 2022

WATERTOWN SQUARE, LLC

By: P.H. Limited Partnership - Mark

By: P.H. Corporation - General Partner

EX By: CSA
Andrew E. Plisko
President

Minnesota
STATE OF WISCONSIN }
 } ss.
MILWAUKEE COUNTY }
Hennepin

Personally appeared before me this 7th day of November, 2022, the above-named Andrew E. Plisko, the _____ for Watertown Square, LLC, to me known to be the person who executed the foregoing agreement on behalf of Watertown Square, LLC and by its authority.

President of P.H. Corporation, the General Partner of
P.H. Limited Partnership, the member of Watertown Square LLC

Melissa Johnson
Notary Public, State of Wisconsin Minnesota
My Commission expires: 1.31.2025



Exhibit A

Legal Description

That certain real property lying in the County of Jefferson, State of Wisconsin, legally described as follows:

Parcel 1:

Lot 1 of Certified Survey Map No. 5225 recorded on August 7, 2009, in Volume 28 of Certified Surveys on Pages 126-131 as Document No. 1263956, being all of Lots 1 through 18, part of Lots 37 through 46, vacated Montgomery Street, vacated Robert Street and vacated Crangle Avenue and vacated alley, all of Crangle's Addition, Outlot 2, Twelfth Ward – formerly Third Ward, and part of Certified Survey Map No. 1167 recorded in Volume 4 on Page 38, all in the NW ¼ of the SW ¼ of Section 4, Township 8 North, Range 15 East, City of Watertown, Jefferson County, Wisconsin.

EXCEPTING THEREFROM land conveyed to Fatmir Suloja in Quit Claim Deed recorded on 07/07/10 as Document No. 1278701, described as follows: Commencing at the Southwest corner of Lot 2 of Certified Survey Map No. 5225; thence North 84°17'20" West, along said Northerly right-of-way of Bernard Street and the Southerly line of said Lot 1, Certified Survey Map No. 5225, 66.97 feet to the point of beginning of the hereinafter described lands: thence continuing North 84°17'20" West, along said right-of-way, 12.03 feet; thence North 12°23'00" East, along the Westerly line of said Lot 1, 169.90 feet; thence South 08°19'42" West, 168.93 feet to the point of beginning.

Parcel 2:

TOGETHER WITH AND SUBJECT TO Rights and Easements as set forth on Declaration of Restrictions and Easements recorded on 7/21/09 as Document No. 1262986.

Tax Key No. 291-0815-0432-012

Address: 600 S. Church St., Watertown, WI 53094

