

## **AMENDMENT TO SIMULTANEOUS PROPERTY SWAP AGREEMENT**

This AMENDMENT OF SIMULTANEOUS PROPERTY SWAP AGREEMENT ("Amendment"), is made and entered into by and between the City of Whitewater, a Wisconsin municipal corporation ("City"), City of Whitewater Community Development Authority ("CDA"), Tanis Properties, LLC a Wisconsin limited liability company or its assigns ("Tanis") and Faith Tanis Properties, LLC, a Wisconsin limited liability company ("Faith").

### **RECITALS**

A. The City and Tanis entered into a Simultaneous Property Swap Agreement related to property that each party owns.

B. Tanis now desires to transfer its rights to acquire Property One to Faith Tanis Properties, LLC.

C. The CDA will acquire Property Two.

D. The City and Tanis wish to amend the Simultaneous Property Swap Agreement to include Faith and the CDA as parties.

E. The parties have already completed their due diligence under the original Simultaneous Property Swap Agreement and desire to amend the closing date.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual agreements and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

### **Agreement**

1. The Simultaneous Property Swap Agreement is amended to include the CDA and Faith as parties to the Agreement, as specified in this Amendment.

2. Section 1.1 of the Simultaneous Property Swap Agreement is amended to read as follows:

1.1 Simultaneous Exchange. Subject to the terms and conditions of this Agreement, City and Tanis agree to simultaneously exchange the parcels of real property and improvements thereon described as follows:

(a) "Property One" is the parcel of real property and improvements located in Walworth County, Wisconsin, which up to the Effective Date has been owned by

City, the legal description of which is more fully set forth on the attached Exhibit A, and having a fair market value of \$220,000.

(b) “Property Two” is the parcel of real property and improvements located in Walworth County, Wisconsin, which up to the Effective Date has been owned by Tanis, the legal description of which is more fully set forth on the attached Exhibit B, having a fair market value of \$192,000 (which Property Two, together with Property One, are referred to herein as the “Properties”).

City shall be the grantor and Faith shall be the grantee as to Property One, and Tanis shall be the grantor and CDA shall be the grantee as to Property Two.

3. Section 1.2 of the Simultaneous Property Swap Agreement is amended to read as follows:

1.2 Conveyance and Title. At the Closing (as defined in Section 3.1 hereof): (a) City shall convey by warranty deed, subject to the Permitted Exceptions identified and defined in Section 2.1 hereof, and Faith shall accept good and marketable title to, Property One, free and clear of all liens, claims, encumbrances and defects whatsoever (except liens for current taxes and installments of special assessments not yet delinquent) in accordance with the terms of this Agreement; and (b) Tanis shall convey by warranty deed, subject to the Permitted Exceptions identified and defined in Section 2.1 hereof, and CDA shall accept good and marketable title to Property Two, free and clear of all liens, claims, encumbrances and defects whatsoever (except liens for current taxes and installments of special assessments not yet delinquent) in accordance with the terms of this Agreement.

4. Section 3.1 of the Simultaneous Property Swap Agreement is amended to read as follows:

3.1 Closing Date. Except as otherwise set forth herein, the closing (the “Closing”) of the simultaneous exchange of the Properties shall take place on or before September 30, 2025 (the “Closing Date”), at the Title Company’s office by means of a remote closing, or at a mutually agreed location or locations and by means mutually agreed to by the parties.

5. Section 3.2 of the Simultaneous Property Swap Agreement shall be amended to read as follows:

3.2 Closing Documents. On or prior to the Closing Date, the Parties shall execute the following documents:

(a) City will execute and deliver to Faith a Warranty Deed conveying Property One to Faith subject only to the Permitted Exceptions (the “Property One Deed”), and Tanis will execute and deliver to City a Warranty Deed conveying Property Two to CDA subject only to the Permitted Exceptions (the “Property Two Deed”, and together with Property One Deed, the “Deeds”);

(b) All Parties will execute any real estate transfer forms that may be required by state law in order to record the Deeds;

(c) All Parties will execute and deliver a closing statement setting forth the fair market value of the properties being transferred and any adjustments there to as provided for in this Agreement;

(d) City will execute and deliver to Faith a Non-Foreign Person Affidavit confirming that City is not a foreign person subject to certain federal withholding requirements in the form attached as Exhibit D;

(e) Tanis will execute and deliver to CDA a Non-Foreign Person Affidavit confirming that Tanis is not a foreign person subject to certain federal withholding requirements in the form attached as Exhibit D;

(f) The Parties shall execute and record an option agreement against Property One in a form substantially similar to Exhibit C obligating Tanis and Faith to construct commercial condominiums on Property One within five years of Closing and allowing the City or CDA to repurchase the Property if Tanis or Faith fails to do so.

(g) All Parties will execute and deliver any other documents that are necessary to consummate the transaction contemplated by this Agreement, including such documents as are necessary to cause title to be conveyed in the form approved by the Parties pursuant to the terms of this Agreement.

6. Section 3.3 of the Simultaneous Property Swap Agreement shall be amended to read as follows:

3.3 Real Estate Taxes. City shall pay all real estate taxes for 2024 and prior years related to Property One. Real estate taxes levied for 2025 shall be prorated on a daily basis to the Closing Date based on the real estate taxes levied for the 2024 tax year. The proration shall be calculated on the basis of the number days of the 2025 calendar year that have elapsed up to and including the Closing Date. Tanis shall pay all real estate taxes for 2025 and prior years for Property Two. Real estate taxes levied for 2025 shall be prorated on a daily basis to the Closing Date based on the real estate taxes levied for the 2024 tax year. The proration shall be calculated on the basis of the number days of the 2025 calendar year that have elapsed up to and including the Closing Date.

7. Section 6.2 of the Simultaneous Property Swap Agreement shall be amended to read as follows:

6.2 City's and CDA's Remedies. If Tanis fails to perform in accordance with the terms of this Agreement, and such failure continues for ten (10) days following City's or CDA's written notice thereof to Tanis, City or CDA may, in addition to all remedies contained elsewhere in this Agreement, enforce specific performance of this Agreement to obtain a warranty deed to Property Two.

8. Any of Tanis's obligations, requirements, covenants, or warranties under the Simultaneous Property Swap Agreement shall apply equally to Faith.

9. Any of the City's obligations, requirements, covenants, or warranties under the Simultaneous Property Swap Agreement shall apply equally to the CDA.

10. The executed Exhibit C of the Simultaneous Property Swap Agreement shall be repealed and replaced with the attached Exhibit C to this Amendment. This Amendment will not become effective until the Exhibit C to this Amendment is executed by the parties.

11. The Simultaneous Property Swap Agreement remains in full force and effect.

12. Any capitalized, but undefined terms in this Assignment shall have the same meaning as defined in the Simultaneous Property Swap Agreement.

13. The Effective Date shall be the calendar day when the last of the Parties sign this Assignment.

(Signature Pages Follow)

IN WITNESS WHEREOF, the parties hereto have executed this Assignment as of the Effective Date.

**CITY OF WHITEWATER**

By \_\_\_\_\_  
John Weidl, City Manager

**CITY OF WHITEWATER COMMUNITY  
DEVELOPMENT AUTHORITY**

By \_\_\_\_\_  
Mason Becker, Executive Director

**TANIS PROPERTIES, LLC:**

By \_\_\_\_\_  
Jonathan Tanis

**FAITH TANIS PROPERTIES, LLC:**

By \_\_\_\_\_  
Lori Tanis

By \_\_\_\_\_  
Jonathan Tanis