

**MEMORANDUM OF UNDERSTANDING BETWEEN THE COMMUNITY DEVELOPMENT  
AUTHORITY OF THE CITY OF WHITEWATER, WISCONSIN AND THE WHITEWATER MUNICIPAL  
WATER UTILITY OF THE CITY OF WHITEWATER CONCERNING USE AND REPAYMENT OF  
COMMUNITY DEVELOPMENT BLOCK GRANT CLOSEOUT PROGRAM DOLLARS**

This Memorandum of Understanding (the "Agreement") executed by and between the Community Development Authority of the City of Whitewater, Wisconsin (the "CDA") and the Whitewater Municipal Water Utility of the City of Whitewater, Wisconsin (the "Water Utility") for purposes of confirming the mutual understanding of the CDA and the Water Utility with respect to the matter addressed below.

The CDA has an opportunity to complete an eligible Community Development Block Grant ("CDBG") Project as provided under by the CDBG Closeout Program defined by the State of Wisconsin Department of Administration (the "DOA"). The CDA Board of Directors has unanimously agreed to utilize the Water Tower Project as the CDBG project. As the Water Utility would otherwise have to borrow an equal amount of funding from public debt markets absent the CDA direction of this grant funding, the Water Utility agrees to reimburse the CDA for the value of the CDBG grant funding dedicated to the Water Utility. The reimbursement will be recorded as a loan advance to the Water Utility by the CDA. The amount of the reimbursement will match the value of the CDBG grant, \$859,366, less \$7,500.00 for grant administration costs. Thus the loan will be \$859,366, but the Water Utility will only be required to pay back \$851,866 as part of this MOU.

**Article 1 – Term.**

**1.01 Initial Term.** The initial term of this Agreement shall be for eight (8) years beginning June 15, 2022, unless sooner repaid in full pursuant to the terms of this Agreement.

**1.02 Extension of Repayment.** This Agreement shall automatically renew on a yearly basis until the balance owed the CDA is paid in full.

**Article 2 – Commitments.**

**2.01 CDA Board Commitments.** The CDA Board hereby unanimously grants to the Water Utility the exclusive use of CDBG Closeout Program funds equal to \$859,366.00, to be used for the construction of a new water tower. The Water Utility shall adhere to all DOA CDBG Closeout regulations, rules, policies and meet all deadlines as required by the DOA.

**2.02 Water Utility Commitments.** The Water Utility hereby agrees to repay the CDBG Closeout program dollars to the CDA as follows: Semi-annual payments of principal beginning on December 15, 2022 per attached schedule (Exhibit A). The loan by the CDA to the Water utility is to be interest-free.

**Article 3 – Termination.** This Agreement may only be terminated upon repayment in full by the Water Utility to the CDA. The repayment of project dollars will be made by January 1, 2030.

**Article 4 – Governing Law.** The laws of the State of Wisconsin shall govern the interpretation and enforcement of this Agreement.

**Article 5 - Successors and Assigns.** Except as expressly granted herein, no party shall assign its rights or obligations under the Agreement to any other party without a mutually-written addendum executed by all parties to this Agreement.

**Article 6 – Amendment.** This Agreement shall not be amended, changed, modified or altered without the written consent of all parties hereto, and no modification, alteration or amendment to this Agreement shall be binding until such modification, alteration, or amendment is reduced to writing and executed by all parties to this Agreement. Any proposed amendment to this Agreement shall be provided in writing, along with a memorandum in support of the amendment, to all parties to this agreement fifteen (15) days prior to final action on the amendment by any party.

**Article 7 – Counterparts.** This Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were on the same instrument.

**Article 8 – Severability.** If any specific term or provision herein is adjudicated to be unenforceable against either party, such decision shall not automatically render this entire Agreement null or void. Rather, the unenforceability of one or more terms, clauses or paragraphs in this Agreement shall not affect the enforceability of the remaining terms herein.

**Article 9 -Third Party Beneficiaries. Third Party Beneficiaries.** This Agreement is entered into for the sole and exclusive benefit of the parties hereto. No third party shall have, obtain, or derive from this Agreement any rights or other benefits or interests under any laws or otherwise, except as specifically stated herein.

**Article 10 - Exculpatory Provision.** The parties to this Agreement expressly acknowledge and agree that, anything herein to the contrary notwithstanding, no officer, director, employee, agent, or officials (elected or appointed) of any party hereto shall have any personal liability or obligation arising out of this Agreement, and no party hereto shall make any claims to the contrary.

**Article 11 - Rules of Construct/Conduct.** The parties to this Agreement acknowledge and agree that the terms herein were negotiated in good faith and represent the intent of the parties. In the course of negotiations, each party has been represented by a practicing attorney, and that accordingly rules of interpretation that signify that an agreement shall be construed against the drafter shall not apply. In addition, the parties acknowledge and agree that they shall endeavor to resolve any and all issues that may arise under this Agreement in the spirit of cooperation consistent with the intent of this Agreement with the aim of benefiting the entire Whitewater area community and the University of Wisconsin-Whitewater.

By signing below, the parties hereto represent that they have full authority to execute this Agreement and thereby bind their respective entities to the terms of this Agreement. Upon execution, this Agreement shall be in full force and effect as stated herein.

Dated this 17<sup>th</sup> day of Nov, 2021

**COMMUNITY DEVELOPMENT AUTHORITY OF  
THE CITY OF WHITEWATER, WISCONSIN**

By: 

Patrick Singer, Chairman

Attest: 

Cathy Anderson, Executive Director

Dated this 17<sup>th</sup> day of Nov, 2021

**THE CITY OF WHITEWATER**

By: 

Cameron Clapper, City Manager

AND

By: Michele R. Smith

Michele R. Smith, City Clerk

Document Prepared by: Whitewater CDA – Cathy  
Anderson. Attachment Prepared by: Whitewater  
Finance Director Steve Hatton  
Common Council Approval Date: 10/5/21

Exhibit A

CDA Water Tower Advance

CDA Repayment			
6/15/2022	Prin	Int	Total
	(\$859,366.00)		
12/15/2022		(\$57,807.12)	(\$57,807.12)
6/15/2023		(\$58,457.45)	(\$58,457.45)
12/15/2023		(\$59,115.09)	(\$59,115.09)
6/15/2024		(\$59,780.14)	(\$59,780.14)
12/15/2024		(\$60,452.67)	(\$60,452.67)
6/15/2025		(\$61,132.76)	(\$61,132.76)
12/15/2025		(\$61,820.50)	(\$61,820.50)
6/15/2026		(\$62,515.98)	(\$62,515.98)
12/15/2026		(\$63,219.29)	(\$63,219.29)
6/15/2027		(\$63,930.50)	(\$63,930.50)
12/15/2027		(\$64,649.72)	(\$64,649.72)
6/15/2028		(\$65,377.03)	(\$65,377.03)
12/15/2028		(\$66,112.52)	(\$66,112.52)
6/15/2029		(\$66,856.29)	(\$66,856.29)