

CITY OF WISCONSIN DELLS MEETING AGENDA

MEETING DESCRIPTION: FINANCE COMMITTEE

DATE: Monday, November 18, 2019 **TIME:** 6:30 P.M. **LOCATION:** MUNICIPAL BUILDING COUNCIL CHAMBERS - 300 LA CROSSE STREET, WISCONSIN DELLS, WI 53965

| | | COMMITTEE MEMBERS | |
|--|--|----------------------------|---------------------|
| | | Ald. Brian Holzem Chair | Ald. Mike Freel |
| | | Mayor Ed Wojnicz | Ald. Terry Marshall |
| AGENDA ITEMS | | | |
| 1 | Call to Order, Attendance Noted | | |
| 2 | Approval of the October 28, 2019 Meeting Minutes | | |
| 3 | Discussion and Decision on the Schedule of Bills Payable dated November 18, 2019; and any other related Financial Information | | |
| 4 | Discussion and Decision on the Intergovernmental Agreement with the Village of Lake Delton for Partial Funding of the New High School Project; and Authorizing City Staff and Officials to Execute the Necessary Documents Including a Promissory Note in the Amount of \$4.7M | | |
| 5 | Discussion and Decision to Approve Extending the Closing Date Requirement in the Development Agreement with Concept Attractions from December 31, 2019 to January 15, 2020 | | |
| 6 | Discussion and Decision to Amend the Development Agreement with Mirus Partners to Extend the Closing Date to June 30, 2020 and Provide an Additional Contribution After a Certificate of Occupancy Has Been Issued | | |
| 7 | Discussion and Decision to Approve the Water & Electric Rate Case and Engagement Letter with Johnson-Block | | |
| 8 | Discussion and Possible Decision to Approve the Development Agreement with Duane Kleinsasser for the Construction of two 69 Unit Apartment Buildings | | |
| 9 | Items for Referral | | |
| 10 | Adjourn | | |
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| ALD. BRIAN HOLZEM, CHAIRMAN | | | |
| POSTED AND DISTRIBUTED: 11/15/2019 | | | |
| <p>Open Meetings Notice: If this meeting is attended by one or more members of the Common Council who are not members of this committee, their attendance may create a quorum of another city commission, board or committee under the Wisconsin Open Meetings Law; However, no formal action will be taken by any governmental body at the above stated meeting other than the body, committee, commission, or board identified in this meeting notice. Please be advised that upon reasonable notice, the City of Wisconsin Dells will furnish appropriate auxiliary aids and services to afford individuals with disabilities an equal opportunity to participate in meeting activities.</p> | | | |
| | | | |

SCHEDULE OF BILLS PAYABLE
NOVEMBER 18, 2019
MONDAY
COMMON COUNCIL

| | | |
|----|-----------------------|---------------|
| 10 | GENERAL FUND | \$ 83,214.63 |
| 13 | DEBT SERVICE FUND | \$ - |
| 14 | CAPITAL PROJECTS FUND | \$ 4,493.56 |
| 22 | ROOM TAX FUND | \$ 91,652.47 |
| 24 | PRT FUND | \$ 85,805.77 |
| 26 | FIRE SERVICE FUND | \$ 7,906.64 |
| 27 | RIVER & BAY FUND | \$ 366.87 |
| 28 | RIVER ARTS DISTRICT | \$ 1,575.00 |
| 50 | PARKING UTILITY FUND | \$ 11,734.94 |
| 53 | SEWER FUND | \$ 56,844.63 |
| 52 | WATER FUND | \$ 7,654.63 |
| 59 | ELECTRIC FUND | \$ 610,865.28 |

Total Payables: \$ 962,114.42

**INTERGOVERNMENTAL AGREEMENT
FOR THE PARTIAL FUNDING OF THE
NEW WISCONSIN DELLS HIGH SCHOOL PROJECT**

This Intergovernmental Agreement (“**Agreement**”) is made and entered into on this _____ day of _____, 2019, by and between the Village of Lake Delton (“**Village**”) and the City of Wisconsin Dells (“**City**”) (collectively “**Lenders**”) pursuant to authority granted to them by §§66.1113 and 66.0301, Wis. Stats. Under this Agreement the parties agree to cooperate in the partial funding for construction of the new Wisconsin Dells High School and supporting facilities.

RECITALS

WHEREAS, the School District of Wisconsin Dells (“**SCWD**”) has undertaken the project for construction of a new high school and athletic field, and

WHEREAS, the New High School is to be constructed within the Wisconsin Dells City limits [address], and

WHEREAS, the City and the Village are both Premier Resort Areas; and

WHEREAS, the City and the Village have pledged to contribute Four Million Seven Hundred Thousand Dollars and Eighteen Million Eight Hundred Thousand Dollars respectively, towards the new high School project for a total amount of Twenty-three Million Five Hundred Thousand Dollars (\$23,500,000.) (the “total pledged amount”)

WHEREAS, The City and the Village agree that the portion of the costs of the High School Project pledged by the City and Village arise from and are related to the constructing, or improving parking lots; access ways; transportation facilities, including roads and bridges; sewer and water facilities; musical or dramatic events, or other events involving educational, cultural, sporting activities, and other recreational facilities, and other equipment or materials dedicated to public safety or public works as defined in §66.1113 (1) (a) Wis. Stats.

WHEREAS, the City and the Village agree that only revenues from Premier Resort Tax will be used to fund their portion of the pledged amount, and

Whereas, s.66.1113(2)(c) authorizes contiguous municipalities imposing the Premier Resort Area Tax may cooperate in paying for infrastructure expenses by entering into an intergovernmental agreement under s 66.0301,

NOW, THEREFORE, for and in consideration of the benefits, covenants and agreements set forth in this Agreement, the Lenders agree as follows:

1. The above Recitals are incorporated herein as agreed terms as if fully stated herein. and
2. The School District of Wisconsin Dells has entered into a \$60,885,000 construction contract for construction of the new Wisconsin Dells High School.

3. The school district has issued a bond in the amount of Thirty-three Million Six Hundred and Eighty five Thousand Dollars (\$33,685,000) and has secured additional donations from private parties provide the financing necessary for completion of the project.
4. The City and the Village have agreed to contribute to the construction fund the combined total of Twenty-three Million Five Hundred Thousand Dollars (\$23,500,000) in order to meet the total projected construction costs, as follows
 - a. The City's contribution shall total Four Million Seven Hundred Thousand Dollars (\$4,700,000) and
 - b. The Village's contribution shall total Eighteen Million Eight Hundred Thousand Dollars (\$18,800,000).
5. On or before March 1, 2020 the Village agrees to issue a general obligation bond in the amount of Twenty-three Million Five Hundred Thousand Dollars \$23,500,000 to meet the total pledged obligations of the City and Village. In return, the City shall repay the Village for covering its contribution of Four Million Seven Hundred Thousand Dollars (\$4,700,000) through the Village general obligation bond.
6. On or before March 1, 2020, the City shall pass a resolution requiring the City to execute a promissory note in the amount of \$4,700,000 payable to the Village. This note represents the City's share of the total pledged amount. The Promissory note will be payable over 10 years with an annual interest at the same interest rate paid by the Village on its general obligation bond.
7. The resolution requiring the City to secure its obligation under this agreement with a promissory note to the Village shall substantially conform to the resolution attached hereto as Exhibit A. The Promissory Note shall substantially conform to the Note attached hereto as Exhibit B.
8. The parties shall enter into an Agreement with the School District of Wisconsin Dells regarding the specific terms and conditions under which the Lender will transfer its \$23,500,000 pledge to the School District of Wisconsin Dells.
9. Should any term, condition or provision of this Agreement be determined by any court of competent jurisdiction to be illegal, in conflict with any law or regulation of the State of Wisconsin or of the United States, or otherwise rendered unenforceable or ineffectual, that condition or provision shall be modified to the extent that it would make it legal and conforming without frustrating the purpose of that condition or provision. In all cases, the validity of the remaining provisions of this Agreement shall remain in full force and effect.
10. This Agreement shall be executed by each Lender upon approval thereof by its governing body.
11. The foregoing constitutes the full and complete agreement of the Lenders. There are no oral understandings or agreements not set forth in writing herein.

12. Except as otherwise specifically provided for in this Agreement, each Lender shall pay their respective expenses and costs incurred or to be incurred in negotiating and carrying out the terms of this Agreement including, without limitation, their respective attorneys' fees.

13. All notices or other communications provided for in order to be given under this Agreement shall be in writing and shall be delivered in person, by overnight courier, or by mail, and shall be deemed to have been duly given and have become effective (1) days after having been delivered in person or having been delivered to an overnight courier, or three (3) days after having been deposited in the mail as certified or registered mail, fees prepaid, and addressed as follows:

If to Village of Lake Delton:
Village of Lake Delton
ATTN: Village Clerk
50 Wisconsin Dells Pkwy S
PO Box 87
Lake Delton, WI 53965

If to City of Wisconsin Dells:
City of Wisconsin Dells
ATTN: City Clerk
300 La Crosse Street
Wisconsin Dells, WI 53965

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first indicated above.

CITY OF WISCONSIN DELLS

VILLAGE OF LAKE DELTON

Ed Wojnicz, Mayor

John Webb, Village President

Nancy Holzem
City Clerk/Administrator

Kay C. Mackesey
Village Clerk-Treasurer-Coordinator

EXHIBIT A

Resolution

EXHIBIT B

PROMISSORY NOTE

FOR VALUE RECEIVED the undersigned, City of Wisconsin Dells, a Wisconsin Municipality, ("Borrower") promises to pay to the order of the Village of Lake Delton, a Wisconsin Municipality, (Lender) or its assigns, the principal sum of Four Million Seven Hundred Thousand and No/100 Dollars (\$4,700,000), together with interest from the date hereof at the rate of TBD percent per annum on the unpaid balance until paid.

Payments. The principal and interest shall be paid in 40 quarterly installments of principal and accrued interest in accordance with the attached Debt Service Schedule, with the first payment due on March 1, 2021 and subsequent payments due on the 1st day of June, September and December thereafter until paid in full. The City of Wisconsin Dells covenants and agrees that the payments of Principal and Interest shall be drawn exclusively from the revenues received from Premier Resort Area Tax.

Default Rate of Interest. Following any default in payment, interest shall accrue at the rate of 12% per annum on the entire amount in default, which shall include, without limitation, delinquent interest, and upon acceleration of maturity, the entire principal balance.

Late Charge. If any installment is not paid within 30 days after its due date, the maker shall pay to the Lender a Late Charge in the amount of **5%** of the amount of the late payment, with the Late Charge to be paid simultaneously with the late installment. Payment of the Late Charge shall not limit the Lender's right to exercise Lender's remedies upon default.

Security. As and for security for repayment to the Lender, the Borrower pledges and assigns to the Lender sufficient portions of future tax revenues received by the Borrower as needed to meet its obligation to Lender, in accordance with the provisions of s. 67.12(1)(c).

Authorization. This Note is authorized by the resolution duly adopted by the governing body of the Borrower on _____, _____, entitled: "[_____]" (the "**Resolution**"). The issuance of this Note is in fulfillment of the Borrower's obligations under Sections of that certain Intergovernmental Agreement dated as of _____ by and between the Borrower and the Lender (the "**Agreement**").

Lender's rights. Each right, power, and remedy of Lender as provided for in this Note, or now or hereafter existing under any applicable law or otherwise, shall be cumulative and concurrent and shall be in addition to every other right, power, or remedy provided for in this Note or now or hereafter existing under any applicable law, and the exercise or beginning the exercise by Lender of any one or more of such rights, powers, or remedies shall not preclude the simultaneous or later exercise by Lender of any or all such other rights, powers, or remedies. No failure or delay by Lender to insist upon the strict performance of any term, condition, covenant, or agreement of this Note, or to exercise any right, power, or remedy consequent upon a breach thereof, shall constitute a waiver of any such term, condition, covenant, or agreement or of any such breach, or preclude Lender from exercising any such right, power, or remedy at a later time or times. By accepting payment after the due date of any amount payable under the terms of this

Note, Lender shall not be deemed to waive the right either to require prompt payment when due of all other amounts payable under the terms of this Note or to declare a Default for the failure to effect such prompt payment of any such other amount. No course of dealing or conduct shall be effective to amend, modify, waive, release, or change any provisions of this Note.

Acceleration Upon Default. Upon default in the payment of any installment under this Note and upon such default continuing for thirty (30) days after written notice is mailed by ordinary mail to maker, the Lender may, at Lender's option, without any further notice whatsoever, further notice hereby being waived, declare all the remainder of the unpaid principal balance, and accrued interest immediately due and payable. Any failure to exercise this option shall not constitute a waiver of the right to exercise it at any subsequent time.

No waiver of default. The receipt by the Lender of this Note of any payment on this Note after Lender exercises Lender's option to accelerate this Note upon Borrower's default, shall not constitute a waiver of the default, or Lender's rights and remedies upon such default, including acceleration of the Note.

Collection Costs. Borrower, agrees to pay all costs of collection, including a reasonable attorney's fees, if this note, including any installment payment, is not paid promptly when due, and the same is given to an attorney for collection, whether suit be brought or not.

Waiver of presentment, protest, demand, dishonor. All borrowers, sureties and guarantors waive presentment, protest, demand and notice of dishonor.

Assignability. Lender may assign, pledge or otherwise transfer this Note or any of its rights and powers under this Note, upon providing ten (10) days advance written notice to Borrower, with all or any of the obligations owing to Lender by Borrower, and in such event the assignee shall have the same rights as if originally named herein in place of Lender. Borrower may not assign this Note or any benefit accruing to it hereunder without the express written consent of the Lender.

Modifications. The Lender of this Note may grant renewals or extensions, accept partial payments, release security or anyone liable on this Note or any guaranty without affecting the liability of any Borrower or any guarantor.

Right to Prepay. This note may be prepaid in whole or in part at any time without penalty, and without the consent of the Lender.

Dated and effective March 1, 2020

City of Wisconsin Dells

By: _____ (SEAL)
Ed Wojnicz, Mayor

By: _____ (SEAL)
Nancy Holzem, Administrator-City Clerk

E

EXHIBIT A

\$4,700,000.00 City of Wisconsin Dells General Obligation Promissory Note, Series 2020

Debt Service Schedule

To Be Determined

CITY OF WISCONSIN DELLS
COMMON COUNCIL
RESOLUTION NO. _____

BE IT RESOLVED that the attached letter from Mayor Wojnicz and Clerk/ Administrative Coordinator Holzem to Concept Attractions/ Kevin Ricks is approved.

This Resolution approved by the City of Wisconsin Dells Common Council November _____, 2019 by a vote of ____ Yes ____ No.

CITY OF WISCONSIN DELLS

Date: _____

By: _____
Edward Wojnicz, Mayor

Date: _____

By: _____
Nancy Holzem, Clerk/ Administrative Coordinator

Vote: ____ ayes, ____ nays ____ abs.

Date Introduced:

Date Passed:

Date Published:

City of Wisconsin Dells

300 LaCrosse Street
Wisconsin Dells, Wisconsin 53965

Telephone (608) 254-2012
Facsimile (608) 254-7329

November 14, 2019

Kevin E. Ricks
Concept Attractions of Wisconsin, Inc.
S3444 Fox Hill Road
Baraboo, Wisconsin 53913

Re: Development Agreement

Dear Kevin:

The City of Wisconsin Dells - Concept Attractions Development Agreement provides at Section 1.1 that Developer shall acquire the Chalet and Bavarian premises not later than December 31, 2019. You asked that the closing date requirement be extended to January 15, 2020 to allow Buyer and Seller to assure the satisfaction of certain end of the year conditions. We shared your request with the Wisconsin Dells Common Council when it met on November 18, 2019 and the Council approved the closing date modification.

Very truly yours,

Edward Wojnicz
Mayor

Nancy Holzem
City Clerk/Coordinator

Enclosure

cc: Peter J. Curran, Esq.
Joseph J. Hasler, Esq.

**CITY OF WISCONSIN DELLS
COMMON COUNCIL
RESOLUTION NO. _____
Re: The Mirus Development Agreement
920 Race Street**

The 2018 Mirus Development Agreement for Affordable Housing provides that on or before December 31, 2019 the City shall acquire property for the purchase price of \$450,000.00 and then immediately donate and convey the property to Mirus for a purchase price of \$1.00.

Mirus has requested the City extend the closing date to June 30, 2020 and provide a project grant in the amount of \$50,000.00. Mirus explains the closing date extension is needed because the project is in a new WHEDA funding cycle and the additional City contribution is required because of increased construction costs.

BE IT RESOLVED as follows:

City officials and staff are authorized to execute and deliver an amendment as follows:

The 920 Race Street Affordable Housing Development Agreement dated May 21/22, 2018 by and between the City of Wisconsin Dells and Mirus Wisconsin Dells II, LLC is amended as follows:

1. Section 3.F. is created as follows:

The City shall pay Developer a project grant in the amount of \$50,000.00 when a Certificate of Occupancy has been issued for the project. The payment shall be made within 21 days of the date of the occupancy permit and shall be payable to Mirus and its primary lender.
2. Section 3.C. is amended to provide closing date no later than June 30, 2020.

This Resolution approved by the City of Wisconsin Dells Common Council November _____, 2019 by a vote of ____ Yes ____ No.

CITY OF WISCONSIN DELLS

Date: _____ By: _____
Edward Wojnicz, Mayor

Date: _____ By: _____
Nancy Holzem, Clerk/Administrative
Coordinator

Vote: ____ ayes, ____ nays ____ abs.
Date Introduced:
Date Passed:
Date Published:



Kilbourn Apartments – 920 Race Street, Wisconsin Dells, WI

Kilbourn Apartments is a new construction development located just north of a major thoroughfare in Wisconsin Dells. The project will include one four-story building with garage parking on the first floor as well as two townhome style buildings with individual garages. There will be a total of 60 units in a mix of one-, two-, and three-bedroom units targeted to families. Twelve units will be set aside for residents making 30% or less of County Median Income (Columbia County) and will be further targeted to families where one family member has a permanent disability or is a veteran. The almost 5-acre parcel allows for plenty of green space. Amenities will include a playground, fitness center, onsite leasing office, and a community room.

Unit Mix:

| Unit Type (CMI) | # Units | Mo. Rent |
|-------------------------------|---------|----------|
| 1 Bedroom (30%) – HOME unit | 8 | 370.00 |
| 2 bedroom (30%) – HOME unit | 3 | 443.00 |
| 2 bedroom (50%) | 6 | 750.00 |
| 2 bedroom (50%) - Townhome | 4 | 770.00 |
| 2 bedroom (60%) | 4 | 850.00 |
| 2 bedroom (60%) – Townhome | 4 | 900.00 |
| 2 bedroom (Market) | 2 | 975.00 |
| 2 bedroom (Market) – Townhome | 4 | 1,080.00 |
| 3 bedroom (30%) | 1 | 509.00 |
| 3 Bedroom (50%) | 5 | 890.00 |
| 3 bedroom (50%) – Townhome | 9 | 890.00 |
| 3 bedroom (60%) | 7 | 980.00 |
| 3 bedroom (Market) - Townhome | 3 | 1,200.00 |

* Rent includes: water, sewer, trash, hot water, and heat

Sources & Uses:

| Source | | Use | |
|-------------------|---------------------|--------------------|---------------------|
| First Mortgage | \$3,098,801 | Acquisition | \$450,000 |
| Tax Credit Equity | \$6,389,109 | Hard Costs | \$8,744,000 |
| State HOME Funds | \$500,000 | Softs Costs & Fees | \$1,951,570 |
| FHLB AHP | \$500,000 | Reserves | \$331,426 |
| City TIF | \$500,000 | | |
| Developer Equity | \$489,086 | | |
| TOTAL | \$11,476,996 | TOTAL | \$11,476,996 |



Location:

Kilbourn Apartments is located just north of Broadway Street in Downtown Wisconsin Dells. Within a mile you will find a public library, medical clinic, pharmacy, grocery store, parks, and multiple schools.



Timeline:

| | |
|---|---------|
| Tax Credit Award | 9/1/19 |
| Site Control | 10/1/19 |
| Evidence of All Funding (including City commitment) | 12/2/19 |
| Submit for Building Permit | 4/1/20 |
| Closing/Construction Start (City purchases property & donates to project) | 6/30/20 |
| Construction Completion | 6/30/21 |
| Lease Up Starts | 4/30/21 |

Summary:

We are asking the City of Wisconsin Dells to purchase the property from Ed and Anna Karas for the amount of \$450,000. We would then ask that the land be donated to Kilbourn Apartments so that the project is more competitive for the anticipated Federal Home Loan Bank of Chicago funding application next summer. We are also requesting an additional \$50,000 in TIF to help mitigate increased construction costs over the last year.

Item # 7



November 5, 2019

David Holzem
City of Wisconsin Dells Electric and Water Utilities
300 La Crosse Street
Wisconsin Dells, Wisconsin 53965

We are pleased to confirm our understanding of the terms of our engagement and the nature and limitations of the services we will provide for the City of Wisconsin Dells Electric and Water Utilities (Utilities).

You have requested that we prepare the forecasts of the Utilities, which comprises the forecasted financial schedules as of December 31, 2019, and for the year then ending, including the related summaries of significant forecast assumptions, and perform a compilation engagement with respect to the forecasts. The forecasts will not include a summary of significant accounting policies or other required disclosures not related to the significant assumptions.

Forecasts present, to the best of management's knowledge and belief, the Utilities' expected financial position and results of operations for the forecast period. It is based on management's assumptions, reflecting conditions it expects to exist and the course of action it expects to take during the forecast period.

Our Responsibilities

The objective of our engagement is to –

1. prepare the forecasts in accordance with the guidelines for presentation of a forecast established by the American Institute of Certified Public Accountants (AICPA) based on information provided by you, and
2. apply accounting and financial reporting expertise to assist you in the presentation of the forecasts without undertaking to obtain or provide any assurance that there are no material modifications that should be made to the forecasts in order for them to be in accordance with guidelines for presentation of a forecast established by the AICPA.

We will conduct our compilation engagement in accordance with Statements on Standards for Accounting and Review Services (SSARS) promulgated by the Accounting and Review Services Committee of the AICPA and comply with the AICPA's *Code of Professional Conduct*, including the ethical principles of integrity, objectivity, professional competence, and due care.



We are not required to, and will not, verify the accuracy or completeness of the information you will provide to us for the engagement or otherwise gather evidence for the purpose of expressing an opinion or a conclusion. Accordingly, we will not express an opinion or a conclusion nor provide any assurance on the forecasts.

Our engagement cannot be relied upon to identify or disclose any misstatements in the forecasts, including those caused by fraud or error, or to identify or disclose any wrongdoing within the entity or noncompliance with laws and regulations.

We, in our sole professional judgement, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

Your Responsibilities

The engagement to be performed is conducted on the basis that you acknowledge and understand that our role is to prepare the forecasts in accordance with guidelines for presentation of a forecast established by the AICPA and assist you in developing the presentation of the forecasts in accordance guidelines for presentation of a forecast established by the AICPA. You have the following overall responsibilities that are fundamental to our undertaking the engagement in accordance with SSARS:

1. The selection of the accounting principles to be applied in the preparation of the forecasts.
2. The preparation and presentation of the forecasts in accordance with guidelines for presentation of a forecast established by the AICPA and the inclusion of all informative disclosures that are appropriate for the forecasts under those guidelines.
3. The design, implementation, and maintenance of internal control relevant to the preparation and presentation of the forecasts and that the forecasts are free from material misstatement whether due to fraud or error.
4. The prevention and detection of fraud.
5. To ensure that the Utilities comply with the laws and regulations applicable to its activities.
6. The accuracy and completeness of the records, documents, explanations, and other information, including significant judgements, you provide to us for the engagement.
7. To provide us with—
 - access to all information of which you are aware is relevant to the preparation and presentation of the forecasts, such as records, documentation, and other matters.
 - additional information that we may request from you for the purpose of the compilation engagement.
 - unrestricted access to persons within the Utilities of whom we determine it necessary to make inquiries.



JOHNSON BLOCK
CPAs

City of Wisconsin Dells Electric and Water Utilities
Page 3

You are also responsible for all management decisions and responsibilities and for designating an individual with suitable skills, knowledge, and experience to oversee our preparation of your forecasts. You are responsible for evaluating the adequacy and results of the services performed and accepting responsibility for such services.

Our Report

As part of our engagement, we will issue reports that will state that we did not examine or review the forecasts and that, accordingly, we do not express an opinion, a conclusion, nor provide any assurance on them. It will also state that (1) there will usually be differences between the forecasted and actual results because events and circumstances frequently do not occur as expected, and those differences may be material; and (2) we have no responsibility to update the reports for events and circumstances occurring after the date of the reports.

There may be circumstances in which the reports differ from the expected form and content.

You agree to include our compilation reports in any document containing the forecasts that indicates that we have performed a compilation engagement on the forecasts and, prior to inclusion of the reports, to ask our permission to do so.

Other Relevant Information

Carrie Leonard is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them.

The fees for the compilation of the forecasts will be billed at our regular hourly rates based on the staff involved. We estimate the fees for the Electric Utility forecast will be \$11,000 to \$13,000. We estimate the fees for the Water Utility forecast will be \$5,000 to \$7,000. Any time devoted to attending the hearings or representing the Utilities before the Wisconsin Public Service Commission will also be billed at our regular hourly rates, and is in addition to the fees referred to above. This estimate is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the engagement. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 90 days or more overdue and will not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination even if we have not issued our reports. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket expenditures through the date of termination.

You agree to hold us harmless and to release, indemnify, and defend us from any liability or costs, including attorney's fees, resulting from management's knowing misrepresentations to us.



JOHNSON BLOCK
CPAs

City of Wisconsin Dells Electric and Water Utilities
Page 4

We appreciate the opportunity to be of service to you and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you acknowledge and agree with the terms of our engagement as described in this letter, please sign the letter and return it to us.

Sincerely,

Johnson Block & Company, Inc.

Johnson Block & Company, Inc.

RESPONSE:

This letter correctly sets forth the understanding of the City of Wisconsin Dells Electric and Water Utilities.

Signature: _____

Title: _____

Signature: _____

Title: _____

11/11/2019

**Tax Increment District #2
Development Agreement**

**City of Wisconsin Dells
&
Duane Kleinsasser, LLC**



This Development Agreement is dated _____, 2019 by and between Duane Kleinsasser, LLC, a Wisconsin Limited Liability Company (Developer) and the City of Wisconsin Dells, a Wisconsin Municipal Corporation (City).

RECITALS

- A. Developer will acquire the following described real estate located in the City of Wisconsin Dells: Tax Parcel #291-0130 as depicted in Exhibit A attached (the "Property").
- B. The Property consists of 14.30 acres, more or less, of vacant land and is located in the City's Tax Increment District #2 (TID #2).
- C. Developer intends to develop the Property and complete a project as follows:
 - 1. Construct and maintain two (2) multi-story structures, each with 69 market rent residential apartment units, with enclosed interior parking; and access drives, exterior parking, stormwater facilities, landscaping and other appurtenant improvements and fixtures and equipment (the "Phase 1 Project").
 - 2. If market conditions warrant, construct and maintain additional similar market rent residential apartment structures on adjacent land in TID #2 (the "Phase 2 Project").

- D. Developer intends to begin construction of the first 69-unit building (Building #1) in 2020 and to complete and occupy Building #1 in 2021. Developer intends to begin construction of the second 69-unit building (Building #2) in 2021 and to complete and occupy Building #2 in 2022.
- E. Upon completion of the Project, the City and Developer estimate the Tax Increment Value of the property will be sufficient to generate the tax increment revenues required for the purposes of this Agreement.
- F. This Agreement is premised on the following findings:
- Developer's ability to complete the Project is contingent upon the City providing financial and other development incentive assistance to the Developer on the terms set forth in this Agreement.
 - It is in the public interest to utilize tax incremental financing incentives to assist the Developer to undertake the Project in a manner that is consistent with the terms and conditions of this Agreement.
 - The City intends to cover its costs through the available tax increment generated by the Project.
 - The Project and Property uses contemplated by this Agreement are necessary to serve the interests of the City and provide expanded and enhanced multi-family housing, all consistent with the purposes of a Tax Increment District under Wis. Stat. sec. 66.1105.
 - Construction of the Project and fulfillment of the terms and conditions of this Development Agreement are in the vital and best interests of the City and its residents and fulfill a public purpose in accordance with state law.

AGREEMENT

Section 1. Definitions. As used in this Agreement, the following terms shall have the following meanings:

1. "Annual Assessed Value" means the assessed value of the private improvements and the property, as defined in this Agreement, as of January 1 of any calendar year.
2. "Available Tax Increment" means the amount of Tax Increment (as defined below) actually received by the City generated by any increase of value of the Property above the base value and attributable to development within the tax incremental finance district, during the twelve (12) month period preceding a payment date, that has not been previously used to make payment on bonds or other obligations as determined by the City. The amount of Available Tax Increment may fluctuate based on variations in the property valuations, tax rate, depreciation and other independent factors.
3. "Base Value" means, for the purpose of this agreement, the aggregate assessed value of the Property which is \$71,200.00.
4. "Qualified Expenditures" means any expenditures of Developer for the Project that are eligible for TIF Incentives, as defined below, such as, infrastructure improvements; environmental remediation; demolition; clearing of land; and construction of new buildings.
5. Left blank purposefully.
6. Left blank purposefully.

7. "Tax Increment" shall have the meaning given in Wis Stat. sec. 66.1105(2)(i), as applied solely to the Development Property and Development Costs involved in this Agreement.
8. "Tax Increment Value" means the value of the property above the base value.
9. "TIF Incentive" means the financial incentive set forth in Section 4 of this Agreement including specifically the City Development Costs.

Section 2. City Obligations.

City shall:

1. Incur City development costs for the following project elements having anticipated costs allocated to the project:
 - a. Direct City Expenditures:
Infrastructure Improvements

| | |
|--------------------|--------------|
| Jones Road | \$466,878.00 |
| Sewer Lift Station | \$597,064.00 |
 - b. Project Grant \$675,000.00/building
 - c. Sewer connection fee 50% of the then applicable fee.
2. Borrow funds using general obligation (GO) debt to pay the City development costs.
3. Cooperate and assist Developer with regard to application and implementation of other government assistance for the Project.

4. Cooperate with Developer throughout with implementation of the project and promptly review and process all submissions and applications in accordance with applicable City ordinances.
5. Complete the following public infrastructure improvements as set forth in Exhibit B:
 - a. improve Jones Road (approximately 450') including street lights, sidewalk and install sanitary sewer, storm sewer and water to the property line;
 - b. reconstruct Trout Road including multi-use trail; and,
 - c. construct/install sewer lift station.

Section 3. Developer Obligations.

Developer shall:

1. Acquire the property as provided in Recital A and construct and operate the Phase 1 Project as provided in Recitals C and D.
2. Construct the project as follows:
 - a. Begin Building #1 in 2020 and complete and occupy Building #1 in 2021.
 - b. Begin Building #2 in 2021 and complete and occupy Building #2 in 2022.
 - c. Each building, when completed and occupied, shall add value to the Property in an amount not less than \$7.5 million; and shall generate real and personal property payable of not less than \$160,000.00
3. As provided in Section 5.4, for the term of this agreement generate, directly or indirectly, the annual amount of available tax increment revenue required to compensate City for its Development Costs.

4. For the term of this agreement, covenant and agree to take no actions, direct or indirect, to reduce or otherwise change the real property assessment of the property in such a manner as to decrease the available tax increment revenues required to compensate City for its Development Costs.
5. Obtain all necessary permits and approvals for the project and comply with all applicable laws, codes, ordinances, rules and regulations and pay all required permit, impact, connection and other fees; including, without limitation, then current building permit and sewer connection fees.
6. Submit site plan(s), including building plans and landscape plans for City review and approval; and construct and maintain the project in accordance with the approved plans.
7. Install and pay for onsite utilities and infrastructure.
8. Dedicate Trout Road and Jones Road right-of-way to City as requested and at no cost.

Section 4. Tax Increment Financing (TIF)

The Tax Increment Financing (TIF) incentive available to Developer under this Agreement shall be composed of the following City Development Costs funded as needed by General Obligation (GO debt):

1. Direct City Expenditures.
 - a. Jones Road improvements and sewer lift station costs allocated to the project: \$_____.
 - b. Pay 50% of then current sewer connection fee.

2. Project Grant.

- a. The City shall provide a direct business assistance grant to Developer as follows:
 - i. \$375,000.00 for each new building under roof before December 31, 2020.
 - ii. \$300,000.00 for each new building under roof before December 31, 2021.
 - iii. \$225,000.00 for each building completed and occupied between January 1, 2022 and December 31, 2025.
- b. The Developer may use the grant funds for Qualified Expenditures; i.e. without limitation, impact fees, storm water management facilities, site development, landscaping and construction.
- c. The project grant per building:
 - i. is dependent on the City Assessor determining and certifying that each building has a minimum assessed value of \$7.5 million.
 - ii. shall be paid by the City within 30 days of the assessor's determination and certification.
 - iii. shall be payable to Developer and Developer's primary lender.
- d. In this subsection:
 - i. "under roof" shall mean when the exterior structure of the building is enclosed including the roof; and,

- ii. "completed and occupied" shall mean when a certificate of occupancy has been issued by the City.

Section 5. Security.

1. In consideration for the benefits of the City's Tax Increment Financing, and to assure that City taxpayers will not incur responsibility for developments costs, Developer shall provide the security set forth in this section.
2. Insurance.
 - a. The Developer shall maintain insurance on the Project, in an amount not less than the full insurable value of the improvements, for fire, casualty, and external damage coverage and shall name the City as an additional insured, for the term of the Development Agreement. The City shall be in a subordinate position to any bank and/or other lender (collectively, the "Lender") providing construction or long-term financing for the Facility or to the Developer. A copy of an insurance binder or certificate of insurance demonstrating compliance with this Section shall be submitted to the City within thirty (30) days after commencement of construction. Thereafter, the Developer shall provide the City with written evidence compliance with this Section on an annual basis.
 - b. In the event the improvements on the Property are damaged or destroyed before the City has totally recovered its expenditures for this project, the proceeds from the insurance shall be payable

to the Developer, and subject to the Lender's requirements, shall be applied toward either (i) the reconstruction of the improvements so destroyed or damaged or (ii) the then outstanding unpaid principal balance of the City's loan taken out to fund the City's Development costs. The parties agree that solely for the purpose of this agreement, the amount of the City's Development Costs is \$_____ on conjunction with Phase 1.

3. Irrevocable Letter of Credit.

- a. The purpose of this subsection is to assure payment of the Jones Road and Trout Road costs and obligations incurred by the City in the event that Developer fails to timely complete the project.
- b. The parties acknowledge and agree that the Tax Increment received by the City from this project in TID No. 2 is intended to be sufficient to pay the City those sums which the City will incur in City Development Costs, plus interest. The parties agree that solely for purposes of this Letter of Credit, the amount of the City's Developer Cost will be the cost of the allocated Jones Road and sewer lift station improvements estimated to be \$_____.
- c. Notwithstanding any other provisions herein, if Developer does not timely complete the project and occupy the apartment buildings, then the City, at its sole option, may draw upon the Irrevocable Letter of Credit in a sum not exceeding \$_____, plus accrued interest. Developer shall

provide the City an Irrevocable Letter of Credit in the form attached as Exhibit C. The Irrevocable Letter of Credit shall be payable at sight to the City, authorize partial draws, and shall include a provision requiring that the City be given written notice not less than 45 days no more than 60 days prior to expiration of the Irrevocable Letter of Credit. The termination date of the Irrevocable Letter of Credit is the date of occupancy of Phase 1.

4. Tax Revenue Guarantee.
 - a. Developer and the City intend that commencing in the year 2021 (for taxes payable in 2022), the property tax assessment for the Project shall be such that the real and personal property taxes payable with respect to each building shall not be below \$160,000.00 for any year during the life of TID #2. Developer waives the right to appeal from a property tax assessment which provides for real and personal property taxes equal to \$160,000.00/building in any year and agrees that any such assessment has been determined on a reasonable basis, provided, however, that the foregoing shall not constitute a waiver of any rights to appeal from assessments resulting in real and property taxes for the Project that exceed \$160,000.00/building, it being acknowledged and agreed that the Project will be assessed according to State of Wisconsin methodology for multi-family residential use real and personal property taking into account Wis. Stat. sec. 70.32(1g).

- b. In the event that real and personal property taxes for a particular year are less than \$160,000.00/building, then Developer shall pay to the City for that year an amount which when added to the actual real and personal property taxes paid equals \$160,000.00 (such payment being a "Shortfall Payment").
- c. If, as of September 30th, the City has not received \$160,000.00 of real and personal property taxes in any tax collection year (defined below), then the Developer shall make the Shortfall Payment within fifteen (15) days of the City's written demand therefor. The "tax collection year" shall mean the year following the year of levy, for example for the taxes attributable to the year 2020, the tax collection year shall be 2021. Interest at the rate of 8% shall accrue on an annual basis and shall be due and payable by Owner to the City from the date on which any Shortfall Payment is due until such payment is actually received by the City.

Section 6. Miscellaneous Provisions

- 1. Use of Funds. Developer may use TIF supported funds only to fund Qualified Expenditures as set forth in this Agreement.
- 2. Maintenance and repair. Developer shall at all times keep and maintain, or cause to be kept and maintained, the Project in good condition and repair, in a safe, clean, and attractive condition, and free of all trash, litter, refuse, and waste, subject only to demolition and construction activities contemplated by this Agreement.

3. Transfer and Sale of Project property.

- a. Notice of Intent to Transfer. If Developer intends to sell, transfer or convey the Property or any part thereof before termination of this Agreement, Developer shall provide to the City a written request for transfer thirty (30) days prior to the anticipated transfer. The City shall not unreasonably withhold, condition, or delay consent to such request. Subject to Subsection 8.6 below, Developer may assign all rights and obligations under this Agreement only to an entity controlled and affiliated with Developer to own, manage and operate the Property. This Agreement inures to the benefit and becomes the obligation of the heirs, successors and assigns of Developer. This Agreement shall run with the land and shall be binding upon all current and future owners of the Property. Developer shall be required to provide the City with written notice of its intent to transfer in connection with the granting of any mortgage or security agreement to finance or refinance loans for the purchase of the Property of payment of costs of the Project.
- b. No Transfer to Exempt Entities. Prior to the closure of Tax Increment District #2, the Property shall not be sold, transferred or conveyed to, leased or owned by any entity or used in any manner that would render any part of the Project or Property exempt from taxation, unless the purchaser, transferee, lessee or

owner first executes a written agreement with the City in a form satisfactory to the City providing for acceptable payments to the City in lieu of taxes.

4. Easements/Conveyances. Developer and the City shall cooperate and grant to each other such easements and conveyances as are reasonably necessary for public improvements, infrastructure, ingress or egress, utilities, lighting or landscaping or any other access necessary to effectuate this Agreement.
5. General Indemnity.
 - a. Protection Against Losses. Developer shall indemnify, defend and hold harmless the City and their respective officers, employees, agents, attorneys, insurers and the successors and assigns of all of the foregoing, from any and all liabilities, claims, losses, damages, judgments or awards, costs or expenses, including reasonable attorney's fees, of whatsoever nature and by whomsoever asserted, whether asserted by a third party or by a party to this Agreement (hereinafter "Losses"), directly or indirectly, arising out of, resulting from or in any way connected with:
 1. Any breach by Developer of the terms of this Agreement;
 2. Any non-compliance with laws, ordinances, rules or regulations applicable to Developer's obligations under this Agreement; or

3. Any governmental, regulatory or other proceedings to the extent any such proceedings result from Developer's failure to comply with its obligations under this Agreement or otherwise.
- b. Indemnification Procedures. Developer shall promptly assume full and complete responsibility for the investigation, defense, compromise and settlement of any claim, suit or action arising out of or relating to the indemnified matters following the written notice thereof from the City, which notice shall be given by the City within ten (10) days of their knowledge of such claim, suit or action. Failure to provide such timely notice shall not eliminate Developer's indemnification obligations to the City unless and only to the extent to which such failure has substantially prejudiced Developer. Notwithstanding the foregoing, in its sole discretion and at its expense, the City may participate in or defend or prosecute, through their own counsel(s), any claim, suit or action for which either of them is entitled to indemnification by Developer; provided, however; that if the City is advised in writing by its legal counsel that there is a conflict between the positions of Developer and City, as appropriate, in conducting the defense of such action or that there are legal defenses available to the City different from or in addition to those available to Developer, then counsel for the City, at Developer's expense, shall be entitled to conduct that defense only to the

extent necessary to protect the interest of the City. Developer shall not enter into any compromise or settlement without the prior written consent of the City, as appropriate, which consent shall not be unreasonably withheld. The absence of a complete and general release of all claims against the City shall be reasonable grounds for the City to refuse to provide written consent to a compromise or settlement. If Developer does not assume the defense of such claim, suit or action, Developer shall reimburse the City for the reasonable fees and expenses of counsel(s) retained by the City and shall be bound by the results obtained by the City.

6. Assignment.

- a. Except as provided in subsection b., Developer may not assign its rights under this Agreement without the express prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed.
- b. Notwithstanding any provision in this Agreement which conflicts, this Agreement, and Developer's rights and obligations thereunder, may be assigned by Developer, and the Property conveyed by the Developer, without consent from the City if the assignment or conveyance is for the purpose of incorporating the Property into a tax-deferred, like-kind, exchange under Section 1031 of the Internal Revenue Code. Developer shall provide the City notice of such conveyance or assignment.

7. Future Development. If market conditions warrant Developer may, but is not required, to construct and maintain similar market rent residential apartment buildings and improvements i.e. Phase 2. In such event, this Agreement will be amended consistent with Section 4.2.iii. and the City may provide direct City expenditures, including infrastructure improvements.
8. Term. The term of this Agreement and any amendments shall be for a period commencing upon the date of execution of this Agreement and expiring on the expiration of the term of existence of TID 2.
9. Proof of Financing. Before the City incurs debt or costs related to this Agreement, Developer shall provide to the City's Clerk/ Administrator and Treasurer written confirmation from Developer's lender and/or other financing sources that Developer has financing sufficient to perform and complete the Project; and that Developer has notice of this Agreement and its terms and conditions.
10. Relationship of Parties. The City is not a partner or joint venture with Developer in the Project or otherwise. Under no circumstances shall the City be liable for any of the obligations of Developer under this Agreement or otherwise. There are no third party beneficiaries of this Agreement.
11. Force Majeure. No party shall be responsible to any other party for any resulting losses and it shall not be a default hereunder in the fulfillment of any of the terms of this Agreement is delayed or prevented by revolutions or other civil disorders, wars, acts of enemies, strikes, fires,

floods, acts of God, adverse weather conditions, legally required environmental remedial actions, industry-wide shortage of materials, or by any other cause not within the control of the party whose performance was interfered with, and which exercise of reasonable diligence, such party is able to prevent.

12. Parties and Survival of Agreement. Except as otherwise expressly provided herein, this Agreement is made solely for the benefit of the parties hereto and no other person, partnership, association or corporation shall acquire or have any rights hereunder or by virtue hereof. All representations and agreements in this Agreement shall remain operative and in full force and effect until fulfilled and shall survive the closing.
13. Time.
 - a. TIME IS OF THE ESSENCE with regard to all dates and time periods set forth herein.
 - b. Implementation Schedule. Any material modification or deviation from an approved schedule described in this Agreement shall occur only upon approval of the City and Developer, with any such approvals required to be in writing as an amendment to this Agreement, and which approvals shall not be unreasonably withheld, conditioned or delayed. City shall cooperate and act promptly with respect to any and all permits or approvals necessary for completion of the Project.

Notwithstanding the above, this Agreement shall not limit the discretion of the City, or any of its duly appointed and authorized governing bodies, boards or entities, in approving or rejecting any aspect of the Project or improvements contemplated on or about the Property.

14. Notices. All notices, demands, certificates, or other communications under this Agreement shall be given in writing and shall be considered given upon receipt if hand delivered to the party or person intended, or one (1) business day after deposit with a nationally recognized over-night commercial courier service, air bill pre-paid, or forty-eight (48) hours after deposit in the United States mail postage prepaid, by certified mail, return receipt requested, addressed by name and address to the party or person intended as follows:

To the City: City of Wisconsin Dells
 300 LaCrosse Street
 Wisconsin Dells, Wisconsin 53965

To the Developer: Duane Kleinsasser, LLC

The foregoing addresses shall be presumed to be correct until written notice of a different address is given according to this paragraph.

15. Governing Law and Venue. The laws of the State of Wisconsin shall govern this Agreement. Venue for any disputes shall be the Sauk County Circuit Court.

16. Recording of Agreement. The City may record this Agreement or a Memorandum of this Agreement with the Register of Deeds for Sauk County, Wisconsin. Upon request of the City, Developer shall execute and deliver to the City any such Memorandum or any other document in connection with such recording.
17. Priority Over Subsequent Liens. This Agreement shall run with the land and shall be binding upon and inure to the benefits of the parties and their heirs, successors and assigns. As such, the current and all future owners of the Property shall be subject to all of the obligations stated herein. Owner warrants and represents that there will not be any mortgage or any other lien against the Property at the time this Agreement is recorded other than mortgages for the purchase of the Property and to finance costs of constructing the Project. This Agreement shall have precedence and shall take priority over any mortgage, lien or other encumbrance that may be recorded against the Property (or any portion thereof) after the recording of this Agreement (or Memorandum thereof).
18. No Construction Against Drafter. This Agreement is a product of the negotiation and drafting of attorneys for the parties, and as such, the rule of construing ambiguous contracts against the drafter shall not apply to this Agreement.
19. Signatures and Counterparts. Electronic, facsimile and photocopy signatures shall have the same effect as original signatures.

20. Entire Agreement. This writing including all Exhibits hereto, and the other documents and agreements referenced herein, constitutes the entire Agreement between the parties hereto in respect to the Project and all prior letters of intent or offers, if any, are hereby terminated. This Agreement shall be deemed to include and incorporate such minutes, approvals, plans, and specifications, as referenced in this Agreement, and in the event of a conflict between this Agreement and any action of the City or Developer, granting approvals or conditions attendant with such approval, the terms of this Agreement shall be deemed controlling and the City and Developer will take the necessary action to amend any conflicting approvals or conditions.

CITY OF WISCONSIN DELLS

Dated: _____, 2019.

Edward Wojnicz, Mayor

Dated: _____, 2019.

Nancy R. Holzem, Clerk/ Administrative
Coordinator

DUANE KLEINSASSER, LLC

Dated: _____, 2019.

By: _____
Its: _____