

TAX INCREMENTAL DISTRICT DEVELOPMENT AGREEMENT

THIS TAX INCREMENTAL DISTRICT DEVELOPMENT AGREEMENT (the “**Agreement**”) is entered into as of January [__], 2022 (the “**Effective Date**”) by and among the CITY OF BARABOO (the “**City**”), a Wisconsin municipal corporation, PEWIT’S LANDING, LLC, a Wisconsin limited liability company (“**Developer**”) and SPIRIT LAKE, LLC, a Wisconsin limited liability company (“**Seller**”).

RECITALS

A. The City has established Tax Incremental District No. 11 (“**District**”) as a mixed-use tax increment district under the City’s project plan adopted by the City’s Common Council on September 22, 2020 and the Joint Review Board on October 7, 2020 (the “**Project Plan**”) in order to finance various project costs within the District as permitted under Wis. Stat. § 66.1105 (the “**TI Act**”).

B. Seller owns approximately fifty-four (54) acres of real estate in the District as described in greater detail in Exhibit A attached hereto and incorporated herein by reference (collectively, the “**Spirit Lake Development Parcels**”).

C. Seller agrees to convey to Developer a parcel making up approximately 9.7 acres of the Spirit Lake Development Parcels described in greater detail in Exhibit B attached hereto and incorporated herein by reference (the “**Apartment Parcel**”) pursuant to the terms and conditions of the Offer (as defined below) and this Agreement, which includes, without limitation, conveying the Apartment Parcel to the Developer in exchange for payments under the MRO (as defined below).

D. Developer, pursuant to the terms and conditions of this Agreement, is obligated to, among other things, construct one or more apartment buildings that house at least two hundred (200) residential units on the Apartment Parcel (the “**Project**”).

E. The City, pursuant to the terms and conditions of this Agreement, is obligated to complete the City Improvements (as defined below) on the Spirit Lake Development Parcels.

F. The City believes it is appropriate to use tax increments from the District to provide for, among other things, the: (1) acquisition, remediation and improvement of land, (2) completion of the City Improvements necessary for the Project and other development on the Spirit Lake Development Parcels, and (3) MRO for the benefit of the District to facilitate development and redevelopment within the District and to provide financing for portions of such improvements and redevelopment.

G. The City further believes that the Project, as described in this Agreement, is in the best interests of the City and its residents and is reasonably consistent with the public purposes and the development expectations of the City, including, but not limited to, expanding tax base and employment opportunities within the City.

NOW, THEREFORE, the City, Developer and Seller, in consideration of the terms and conditions contained in this Agreement and for other good and valuable consideration, the receipt of which is hereby acknowledged, each agrees as follows:

AGREEMENT

ARTICLE I – REQUIRED INFORMATION

1.1 Required Information. The City shall have no obligations under this Agreement, and shall have the right to terminate this Agreement in accordance with the provisions of Section 1.2 below, if the Required Information (as defined below) has not been timely provided to the City in form and substance reasonably acceptable to the City. On or before March 31, 2023, Developer or Seller, as applicable, shall provide to the City the following required information related to the Project (collectively, the “**Required Information**”) and such other documentation as the City may request, both in form and in substance acceptable to the City:

(a) A commitment for an owner’s policy of title insurance issued by a title insurance company licensed to do business in Wisconsin identifying Seller as the owner of the fee interest in the Apartment Parcel (the “**Apartment Parcel Commitment**”) and containing copies of all easements, restrictions, encumbrances, leases or other documents of record affecting the Apartment Parcel (collectively, “**Apartment Parcel Exceptions**”). None of the Apartment Parcel Exceptions shall interfere with the proposed development of the Project.

(b) A copy of an owner’s policy of title insurance issued by a title insurance company licensed to do business in Wisconsin identifying Seller as the owner of the fee interest in the Spirit Lake Development Parcels and containing copies of all easements, restrictions, encumbrances, leases or other documents of record affecting the Spirit Lake Development Parcels (collectively, “**Spirit Lake Parcels Exceptions**”). None of the Spirit Lake Parcels Exceptions shall interfere with the City Improvements to be performed on the Spirit Lake Development Parcels or the completion of the Project by Developer on the Apartment Parcel.

(c) A fully-executed offer to purchase the Apartment Parcel from Developer to Seller in form and substance of the offer attached hereto as Exhibit C which is incorporated herein by reference (the “**Offer**”) and all contingencies set forth in the Offer (other than having to do with the effectiveness of this Agreement at the closing for such purchase of the Apartment Parcel) have been waived, satisfied or are no longer applicable by passage of time or otherwise.

(d) The deed conveying the Apartment Parcel from Seller to Developer shall include a covenant affecting the Apartment Parcel (and running with the land for the life of the District) that prohibits all current and future owners or users of (including any other party with an interest – whether ownership, leasehold or otherwise – in) all or any portion of the Apartment Parcel from using or permitting the use of all or any portion of the Apartment Parcel in any manner which would render the Apartment Parcel exempt from property taxation (whether real estate, personal or otherwise).

(e) A schedule for the construction of Developer Improvements (as defined below) and identifying the following for the Project:

- (i) Intended commencement and completion date,
- (ii) Reasonably estimated costs associated with the construction, and
- (iii) Reasonably estimated value, upon completion, of the intended improvements to be constructed on the Property.

(f) An estimated cost breakdown and construction budget summary listing the intended cost of each improvement and construction expense for the Project, including all hard costs and soft costs, and the cost breakdown and budget shall be certified in writing by Developer.

(g) Documentation confirming that Developer has complied with all necessary federal, state, county, and municipal laws, ordinances, rules, regulations, directives, orders, and requirements necessary to obtain the governmental approvals relating to the Project. Developer shall also provide copies of all approvals by all applicable government bodies and agencies.

(h) A copy of the final construction plans and complete specifications for the intended construction related to the Project that are consistent with the provisions of this Agreement (the “**Final Plans**”). The Final Plans must be certified as final and complete and be signed by Developer, the consulting engineer, architect and the general contractor (as applicable) and approved by the City in writing.

(i) All documents authorizing the construction and financing of the Project and directing the appropriate officer of Developer to execute and deliver this Agreement, the Offer and all other agreements, documents and contracts required to be executed by it in connection with the transactions which are the subject of this Agreement (including, without limitation, authorizing resolutions of Developer).

(j) All documents authorizing the sale of the Apartment Parcel by Seller and directing the appropriate officer of Seller to execute and deliver this Agreement, the Offer and all other agreements, documents and contracts required to be executed by it in connection with the transactions which are the subject of this Agreement to which Seller is a party (including, without limitation, authorizing resolutions of Seller).

1.2 Termination Rights. If Developer or Seller (as applicable) fails to fully and timely provide the Required Information, as determined in the sole discretion of the City, the City shall have the right to terminate this Agreement and shall have no obligation to perform any act under this Agreement.

ARTICLE II – COMMENCEMENT NOTICE AND DEVELOPER IMPROVEMENTS

2.1 Commencement Notice. Developer shall provide a written notice to the City of Developer’s intention to commence the Project (the “**Commencement Notice**”). To be effective, the Commencement Notice shall be accompanied by, or Developer shall have previously delivered to the City, all of the Required Information. If Developer does not provide

the Commencement Notice and all of the Required Information to the City, Developer will be deemed to not be ready to develop the Project, and the City shall have no obligation to perform any obligation of the City under this Agreement (including, without limitation, any act related to the City Improvements), until such Commencement Notice and Required Information are provided to the City.

2.2 Developer Improvements. Developer shall undertake, at Developer's own expense, the following improvements, obligations and work on the Apartment Parcel consistent with the Final Plans and all applicable laws, regulations and ordinances (collectively, the "**Developer Improvements**"):

(a) Developer shall construct and timely complete the Project. Developer shall commence construction of the Project (installing footings for "Phase 1" on "Parcel 1" as depicted in the site plan attached as Exhibit D) on or before August 1, 2023. Upon such commencement, Developer shall proceed to the fully-satisfy and complete all of the improvements, obligations and work set forth in this Section 2.2 with due diligence and without unreasonable delay or interruption (with the exception of force majeure events, if any, as defined in Section 18.10 below). On or before December 31, 2026 (the "**Completion Date**"), the Project shall be completed and each of the (at least) two hundred (200) residential units shall be available for occupancy. Notwithstanding the immediately preceding sentence, if, on the Completion Date, the residential units that are already completed and available for occupancy have never been at least ninety percent (90%) occupied at any time, the Completion Date shall be extended to December 31, 2028, unless otherwise agreed to by the parties in writing.

(b) Developer shall promptly pay for all City impact fees. As additional consideration to Developer for this Agreement and as long as no Default exists under this Agreement, the City agrees to defer the due date for the payment of impact fees to on or before thirty (30) calendar days after the earlier of Developer receiving: (i) a certificate of occupancy for all units in the Project, or (ii) a certificate of substantial completion from Developer's architect for the Project.

(c) Developer shall be responsible for landscaping on the Apartment Parcel, including trees, shrubs, seeding or sod related to the Project.

(d) Developer shall install, or have installed, all electric, gas, fiber-optic, telephone and cable services and all improvements for the use and operation of the Project.

(e) Developer shall install, or have installed, all storm water drainage systems and facilities on the Apartment Parcel, including drain tiles, pipes, detention ponds and retention ponds, consistent with all applicable laws, regulations and specifications for such systems and facilities.

(f) Developer shall be responsible for all erosion control measures related to Project and the construction of all improvements on the Apartment Parcel.

(g) Developer shall be responsible for all costs related to the work to be performed by Developer under this Agreement, including, but not limited to, all engineering, inspections, materials, labor and permit, impact and license fees.

The obligations on Developer under this Agreement shall be deemed covenants running with the land and shall be applicable to Developer's successors and assigns and all other persons or entities acquiring any interest in the Apartment Parcel.

2.3 Progress and Quality of Work. Upon commencement of the Developer Improvements, Developer shall proceed to the full completion of the Developer Improvements with due diligence and without delay or interruption with the exception of force majeure events, if any, as defined in Section 18.10. All work to be performed by or on behalf of Developer related to the Project shall be performed in a good and workmanlike manner, consistent with the prevailing industry standards for such work in the area of the City.

2.4 Compliance Obligations. All of the Developer Improvements shall be completed in accordance with all applicable laws, regulations, ordinances and building and zoning codes and Developer shall, at Developer's cost, obtain and maintain all necessary permits and licenses for the Developer Improvements.

2.5 Indemnification and Insurance Required of Private Contractors. Developer hereby expressly agrees to indemnify and hold the City harmless from and against all claims, costs and liability related to any damage to the Apartment Parcel or injury or death to persons caused by Developer's performance of the Developer Improvements or any other work required of Developer under this Agreement, unless the cause is due to the willful misconduct by the City.

2.6 Compliance with Law. Developer shall comply with all applicable laws, ordinances, and regulations in effect at the time of final approval when fulfilling its obligations under this Agreement. When necessary to protect the public health, safety or welfare, Developer shall be subject to any applicable laws, ordinances and regulations that become effective after approval.

2.7 Payment of Taxes. Developer shall timely pay and discharge all taxes, assessments and other governmental charges upon the Property when due.

2.8 Time is of the Essence. Time is of the essence with reference to Developer's obligation to commence and complete the Developer Improvements. Developer acknowledges that the timely performance of its respective work under this Agreement is critical to the collection of the tax increment upon which the parties are relying for the performance of their respective obligations under this Agreement.

2.9 Reconstruction. Until the District is closed, in the event of any loss or damage to the improvements on the Apartment Parcel, Developer shall proceed with the repair and replacement of such improvements on the Apartment Parcel affected by such a loss or damage and restore such improvements to at least the condition and quality that such improvements were in, and with an equalized value at least equal to the equalized value, immediately prior to the casualty ("**Uncured Casualty Loss**"). In no event shall Developer take longer than 180 days after the date of a loss or damage to restore the affected improvements. If Developer fails to timely comply with all of the requirements in this Section 2.9, Developer shall be in Default under this Agreement and the City shall be entitled to the remedies and payments set forth in this Agreement.

ARTICLE III– DEVELOPER GUARANTY AND OBLIGATIONS

3.1 Guarantied Value. The parties anticipate that, upon completion, the currently contemplated land and improvements related to the Project will have an equalized value for purposes of real property assessment (“**Equalized Value**”) of not less than: (a) Eight Million Dollars (\$8,000,000) by December 31, 2024, (b) Twelve Million Five Hundred Thousand Dollars (\$12,500,000) by December 31, 2026, and (c) Twenty Million Dollars (\$20,000,000) by the later of: (i) December 31, 2027, and (ii) the immediately succeeding December 31 after the Completion Date. As a condition to entering into this Agreement, the City requires that Developer guaranty a minimum Equalized Value for the land and improvements related to the Project. By executing this Agreement, Developer and Jake Buswell (the “**Guarantor**”) each hereby jointly and severally guaranties that, on and after the dates set forth in the table below (each a “**Guarantied Value Date**”), the Equalized Value of the land and improvements on the Apartment Parcel shall at all times during the life of the District be at least the amounts set forth in the table below (each, the “**Guarantied Value**”).

Guarantied Value Date	Guarantied Value
December 31, 2024	\$8,000,000
December 31, 2026	\$12,500,000
December 31, 2027 and through the life of the District	\$20,000,000

3.2 Failure to Construct. If Developer provides a Commencement Notice as required by Section 2.1 but does not timely complete construction of the Project, then Developer and Guarantor shall repay to the City all sums incurred by the City in reliance upon the Commencement Notice and not recoverable from Tax Increments from the District. All repayments shall be completed within thirty (30) days after Developer’s non-performance or Default under this Agreement.

3.3 Guaranty Obligations. If on or any time after a Guarantied Value Date, whether as a result of an Uncured Casualty Loss or otherwise, the Equalized Value of the Apartment Parcel is less than the corresponding Guarantied Value (each a “**Shortfall Event**”), then Developer and the Guarantor shall jointly and severally owe the City an amount equal to the difference between (a) the Priority Project Costs (as defined below and including, without limitation, debt service payments owed by the City) due and owing for the year in which a Shortfall Event occurs, and (b) the Tax Increment received by the City in the year a Shortfall Event occurs (such difference referred to as the “**Tax Increment Shortfall**”). If a Tax Increment Shortfall is owed to the City, then unless and until the Equalized Value of the Apartment Parcel achieves the corresponding Guarantied Value for the Guarantied Value Date, for each January 1 following a Shortfall Event, that the Equalized Value of the Apartment Parcel is less than the applicable Guarantied Value, Developer and the Guarantor, shall pay to the City an amount equal to the Tax Increment Shortfall for such calendar year. If and when the Equalized Value of the Apartment Parcel as of any January 1 is equal to or greater than the applicable Guarantied Value for the corresponding Guarantied Value Date, no further January 1 assessment valuations shall occur or be required and no Tax Increment Shortfall

payment obligation shall be incurred for such year or any year thereafter unless a new Shortfall Event occurs. In addition, no further Equalized Value assessment calculations shall occur and no further Tax Increment Shortfall payment obligations of Developer or the Guarantor shall arise after the District is closed. Developer agrees that it shall not, and hereby waives any right to, during the life of the District, challenge the assessed value of the Apartment Parcel.

3.4 Payment of Tax Increment Shortfall. Any Tax Increment Shortfall payment due to the City shall be deducted from any MRO payment due Developer or Seller from the City during the year in which the Tax Increment Shortfall payment obligation arises. If the Tax Increment Shortfall payment exceeds the amount of such MRO payment, Developer shall pay to the City an amount equal to the difference between such MRO payment and the Tax Increment Shortfall. If there is no MRO payment due Developer and Seller for such year, Developer shall pay to the City the full amount of the Tax Increment Shortfall for such year. Any Tax Increment Shortfall payment due to the City from Developer pursuant to this ARTICLE III shall be made within ten (10) days of written request for payment by the City.

ARTICLE IV – CITY IMPROVEMENTS

4.1 City Work. Within thirty (30) days after receipt of the Commencement Notice and all Required Information, the City shall commence designing the City Improvements. The City shall install the improvements and perform the work listed in Exhibit E attached hereto and incorporated by reference (the “**City Improvements**”) and pursuant to the terms of this Agreement. If the City Improvements are not completed within the timeframes provided in Exhibit E, solely as a result of acts or omissions by the City (for example and for the avoidance of any doubt, force majeure events are not acts or omissions by the City) and not as a result of untimely performance by Developer, any performance dates applicable to Developer Improvements that require the City Improvements (or any of them) to be complete shall be automatically extended for the same period of time as the delay of the completion of the City Improvements.

4.2 Third Party Approvals. The City represents to Developer that the City has obtained or will obtain all federal, state and county approvals required to commence and complete construction of the City Improvements.

ARTICLE V – ACCESS, INSPECTIONS AND CONTRACTORS

5.1 Access and Inspections. Developer hereby grants to the City, its agents, employees, officials, representatives, contractors and consultants the right to enter upon the Apartment Parcel at all reasonable times (upon reasonable advance notice to Developer) for the purpose of facilitating the City Improvements or the City’s inspection of the Apartment Parcel and the Project.

5.2 Inspections for City’s Benefit Only. Each inspection conducted by the City or its agents shall be deemed to have been for the City’s own benefit and shall in no way be construed to be for the benefit of or on behalf of Developer. Developer shall not (and hereby each waives any right to) rely in any way upon such inspections, appraisals or determinations of the City.

5.3 Contractors and Consulting Engineers. At any time, the City shall have the right to retain consulting engineers and architects to perform services for the City (which shall be

at the City's expense, unless the City must perform multiple inspections as a result of Developer's failure to meet the Final Plans) including, without limitation:

- (a) to make periodic inspections with reasonable advance notice to Developer for the purpose of assuring that construction is in accordance with the Final Plans and the requirements of this Agreement;
- (b) to advise the City of the anticipated cost of, and a time for, the completion of construction work; and
- (c) to review and advise the City of any proposed changes in the construction of the Project.

The City's selection of, and reliance upon, the consulting engineers and architects shall not give rise to any liability on the part of the City for the acts or omissions of the consulting engineers or architects or their employees or agents.

Contractors selected for the Project shall be qualified in the City to perform the work, shall be licensed to do business in the State of Wisconsin, shall have experience in providing the type of work and materials required of Developer Improvements, and shall have a good reputation for diligent performance of their obligations under their respective contracts.

ARTICLE VI – MUNICIPAL REVENUE OBLIGATION

6.1 Municipal Revenue Obligation. Pursuant to the terms of this Agreement, the City agrees to issue to Developer and Seller, within sixty (60) calendar days after the City's receipt the Commencement Notice, a non-interest bearing municipal revenue obligation (the "MRO"). The amount of the MRO shall equal the lesser of: (a) twenty percent (20%) of the Available Tax Increment generated on the Apartment Parcel and all other Spirit Lake Development Parcels during the life of the District, and (b) Four Million Nine Hundred Fifty Thousand Dollars (\$4,950,000.00) with up to Four Million Dollars (\$4,000,000.00) payable to Developer and up to Nine Hundred Fifty Thousand Dollars (\$950,000.00) payable to Seller.

Except as otherwise provided herein, payments on the MRO will equal the Available Tax Increment (as defined below) in each year appropriated by the City's Common Council until and including the earlier of the Final Payment Date (as defined below) and the MRO is paid in full. "Available Tax Increment" means an amount equal to the Tax Increment (as defined below) actually received by the City in each year less the following (collectively, the "Priority Project Costs"): (i) all debt service payments incurred or to be incurred by the City in a given year for work performed or to be performed with regard to the City Improvements; (ii) the amount of the City's administrative expenses, including, but not limited to, reasonable charges for the time spent by City employees in connection with the negotiation and implementation of this Agreement, (iii) professional service costs, including, but not limited to, those costs incurred by the City for outside architectural, planning, engineering, financial consulting and legal advice and services related to the negotiation and implementation of this Agreement, and (iv) other eligible project costs previously incurred by the City in preparation for this Project or to be incurred by the City under the Project Plan, including, without limitation, site preparation and costs and expenses related to the City Improvements, the Apartment Parcel or the Project provided such eligible project costs are not financed by the debt service referenced in (i) above. Any Priority Project Cost not paid due to insufficient Tax Increment shall be carried forward and

paid from Tax Increment in the next year, or if necessary, following years until fully paid. “**Tax Increment**” shall have the meaning given under Wis. Stat. § 66.1105(2)(i) but shall be limited to the Tax Increment attributable to the Project, the land and improvements on the Apartment Parcel and all other Spirit Lake Development Parcels and any taxable personal property associated with the Apartment Parcel and all other Spirit Lake Development Parcels.

Provided that neither Developer nor Seller is in Default under this Agreement, the City shall, subject to annual appropriation of such payment by the City’s Common Council, pay the Available Tax Increment, if any, to the holder of the MRO in one annual payment, on or before October 31st of each year commencing on October 31, 2025, and continuing to (and including) October 31, 2040 (each, a “**Payment Date**”). Notwithstanding the previous sentence, in the event that Developer or Seller is in Default on a Payment Date, payment by the City may be suspended until all such Defaults are cured, provided each Default is cured within the applicable cure period for such Default (beyond which the City shall have no obligation to make such payment). Furthermore, notwithstanding any provision herein to the contrary, the City, Developer and Seller all agree that each payment of Available Tax Increment to be made on the MRO by the City will be split eighty percent (80%) to Developer and twenty percent (20%) to Seller; so, for example, if in a given year there was \$100,000.00 of Available Tax Increment to be paid by the City, Developer would receive an \$80,000.00 payment and Seller would receive a \$20,000.00 payment.

To the extent that on any Payment Date the City is unable to make all or part of a payment of principal due on the MRO from such Available Tax Increment due to an absence of adequate Available Tax Increment, such failure shall not constitute a default under the MRO. The amount of any such deficiency shall be deferred without interest. The deferred principal shall be due on the next Payment Date on which the City has Available Tax Increment. The term of the MRO and the City’s obligation to make payments hereunder shall not extend beyond October 31, 2040 (the “**Final Payment Date**”) or the MRO being paid in full. If the MRO has not been paid in full by the Final Payment Date, then the City shall have no obligation to make further payments on the MRO. Upon the Final Payment Date, the MRO shall terminate and the City’s obligation to make any payments under the MRO shall be discharged, and the City shall have no obligation and incur no liability to make any payments hereunder or under the MRO, after such date.

The MRO shall not be payable from or constitute a charge upon any funds of the City, and the City shall not be subject to any liability thereon or be deemed to have obligated itself to pay thereon from any funds except the Available Tax Increment which has been appropriated for that purpose, and then only to the extent and in the manner herein specified. The MRO is a special, limited revenue obligation of the City and shall not constitute a general obligation of the City. The City will use good faith efforts to annually appropriate the Available Tax Increment for the MRO, until the earlier of the Final Payment Date, the termination of this Agreement or the MRO, or the payment in full of the MRO as provided herein. If Available Tax Increment is received by the City earlier than the first Payment Date, the applicable portion of such increment shall be retained by the City and applied to the first payment subject to appropriation by the City Common Council. Neither Developer nor Seller shall have the right to assign the MRO except as set forth therein. Interests in the MRO may not be split, divided or apportioned.

6.2 MRO Form. The MRO shall be substantially in the form attached hereto as Exhibit F and shall be payable in accordance with the terms and conditions set forth in such

MRO. In the event of a conflict between the terms of this Agreement and the terms of the MRO, the terms in this Agreement shall prevail. The principal payments shall be payable solely from the Available Tax Increment appropriated by the City. On or about each Payment Date under the MRO, the City shall provide to Developer and Seller an accounting identifying the Available Tax Increment, the amount of the payment being made on such Payment Date, and the remaining principal balance due on the MRO after the application of such payment.

6.3 Issuance of MRO and Payment Limitation. Provided that neither Developer nor Seller is in Default under this Agreement beyond the applicable cure period (if any), the City will deliver the MRO to Developer within sixty (60) calendar days after the City's receipt the Commencement Notice. Notwithstanding the previous sentence, in the event that either Developer or Seller is in Default prior to the City's issuance of the MRO, the City shall not be required to deliver the MRO to Developer until a reasonable time after, but in no event less than thirty (30) days after, all such Defaults are cured, provided each Default is cured within the applicable cure period for such Default. The total amount of principal to be paid under the MRO shall in no event exceed the lesser of: (a) twenty percent (20%) of the Available Tax Increment generated on the Apartment Parcel and all other Spirit Lake Development Parcels during the life of the District, and (b) Four Million Nine Hundred Fifty Thousand Dollars (\$4,950,000.00) with up to Four Million Dollars (\$4,000,000.00) payable to Developer and up to Nine Hundred Fifty Thousand Dollars (\$950,000.00) payable to Seller. The City's obligation to make payments on the MRO is conditioned on the requirement that neither Developer nor Seller is in Default under this Agreement beyond any applicable cure period. For the avoidance of any doubt, upon the occurrence of a Default, the City may suspend all payments until the Default is cured, provided that if the Default is not cured within the applicable cure period (if any), the City shall have no further obligation to make such payment and the City may exercise any and all available remedies.

6.4 Payment of Priority Project Costs and Repayment Schedule. From the Tax Increment received by the City each year, the City shall first pay the outstanding Priority Project Costs. The estimated repayment schedule of the MRO shall be set forth in Schedule 1 to the MRO. The City reserves the right to modify the MRO repayment schedule based upon market conditions, the actual and projected Available Tax Increment generated from the Project. The Available Tax Increment held by the City each year in excess of the outstanding Priority Project Costs shall be applied to the payment of principal due on the MRO in accordance with the payment schedules set forth in such MRO and the eighty percent (80%) to Developer and twenty percent (20%) to Seller until a maximum payout for a given party as set forth above has been made at which time the remaining Available Tax Increment will be made to the other party until all maximum payouts have been made, subject to appropriation by the City Common Council.

ARTICLE VII – ZONING, LAND USE AND RESTRICTIVE COVENANT

7.1 Zoning Compliance. The Project shall be in compliance with the applicable zoning ordinance and land use guidelines applicable to the Apartment Parcel and shall be subject to the payment of any applicable impact fees in the amounts applicable at the time each required permit is issued, unless otherwise provided herein. Nothing in this Agreement shall obligate the City to grant variances, re-zoning, exceptions or conditional use permits related to the Project.

7.2 Tax Status/Restrictive Covenant. Without the prior written consent of the City (which may be withheld for any reason), Developer shall not use or permit the use of the

Apartment Parcel in any manner which would render the Apartment Parcel exempt from property taxation during the life of the District. Further, Developer will not challenge or contest any assessment on the Property by the City, including, but not limited to, filing any objection under Wis. Stat. Section 70.47, Wis. Stat. Section 74.37, or any Department of Revenue related assessment proceeding. Prior to the conveyance of all or any portion of the Apartment Parcel, Developer agrees to record a deed restriction or restrictive covenant evidencing the restrictions on the Apartment Parcel set forth in this Section 7.2. The foregoing deed restrictions or restrictive covenants shall permit, but shall not obligate, the City to enforce such deed restrictions or restrictive covenants and shall be in form and in substance acceptable to the City. The deed restrictions or restrictive covenants shall continue to be applicable until the termination of the District. However, Developer shall not have a continuing obligation for compliance with this provision as to any portion of the Apartment Parcel in which Developer no longer maintains an interest (whether as owner, tenant, occupant or otherwise) provided that Developer has timely recorded the deed restriction or restrictive covenant as approved by the City.

7.3 Land Dedications, Transfers and Easements for City Improvements.

Developer and Seller each agrees to make such land dedications and to grant such temporary or permanent easements as are required by the City for the construction and maintenance of the City Improvements. All documentation for such dedications or easements shall be in form and substance acceptable to the City and Developer or Seller (as applicable). Developer and Seller each agrees to cooperate with the City if the City desires to prepare certified survey maps or other documentation as deemed appropriate by the City to facilitate the implementation and documentation of the dedications and easements and to adjust the lot lines of the Apartment Parcel or the Spirit Lake Development Parcels in a manner reasonably acceptable to the City and Developer or Seller (as applicable).

ARTICLE VIII – ASSIGNMENTS AND CHANGES OF CONTROL

8.1 Assignments and Change of Control. This Agreement and the MRO shall not be assignable by Developer or Seller without the prior written consent of the City (which may be withheld by the City for any reason). The ownership or control of Developer or Seller shall not be transferred to any person or entity without the prior written consent of the City (which may be withheld by the City for any reason). The prohibition on the transfer of ownership or control shall not be applicable in the event of the death of a member and the interest being transferred is the deceased member’s interest. The term “ownership or control” shall mean 20% or more of the Ownership Interests in Developer or Seller (as applicable). For the purposes of this Agreement, “**Ownership Interests**” shall mean the members’ right to share in distributions and other economic benefits of Developer or Seller (as applicable), the members’ right to participate in decision making, or both. The current members of Developer and Seller are identified on Exhibit G attached hereto and incorporated herein by reference.

ARTICLE IX – DEVELOPER REPRESENTATIONS, WARRANTIES AND COVENANTS

9.1 Developer Representations, Warranties and Covenants. Developer represents, warrants and covenants that:

- (a) it is a limited liability company duly formed and validly existing in the State of Wisconsin, has the power and all necessary licenses, permits and franchises to

own its assets and properties and to carry on its business, and is in good standing in the State of Wisconsin and all other jurisdictions in which failure to do so would have a material adverse effect on its business or financial condition;

(b) it has full authority to execute and perform this Agreement and the Offer and has obtained all necessary authorizations to enter into, execute and deliver this Agreement and the Offer;

(c) the execution, delivery, and performance of its respective obligations pursuant to this Agreement and/or the Offer will not violate or conflict with its articles of organization, operating agreement or any indenture, instrument or agreement by which it is bound, nor will the execution, delivery, or performance of its obligations pursuant to this Agreement and/or the Offer violate or conflict with any law applicable to it, the Offer or the Project;

(d) this Agreement constitutes (and any instrument or agreement that it is required to give under this Agreement (including, without limitation, the Offer) when delivered will constitute) legal, valid, and binding obligations of it enforceable against it in accordance with their respective terms;

(e) it will expeditiously complete the development and construction of Developer Improvements and the Project in a good and workmanlike manner and in accordance with all acceptable statutes, ordinances and regulations, any restrictions of record and the Final Plans provided to the City regarding the Project;

(f) it will not make or consent to any material modifications to the Final Plans without the prior written consent of the City;

(g) it will discharge all claims for labor performed and materials, equipment, and services furnished in connection with the construction of Developer Improvements and the Project; nothing contained in this Agreement shall require Developer to pay any claims for labor, services or materials which it, in good faith, disputes and is currently and diligently contesting, provided, however, that it shall, within ten (10) days after the filing (or the assertion) of any claim of lien that is disputed or contested by Developer, obtain and record (if required by the City) a surety bond sufficient to release said claim or lien or provide the City with other such assurances that the City may require;

(h) it will take all steps to forestall claims of lien against the Apartment Parcel (any part thereof or right or interest appurtenant thereto) or any personal property and fixtures located or used in connection with the Apartment Parcel;

(i) it will maintain, at all times during construction, a policy of builder's risk completed value and contractor's multiple perils and public liability, extended coverage, vandalism and malicious mischief hazard insurance covering the Apartment Parcel in at least the amount of the full replacement, completed value of the improvements on the Apartment Parcel;

(j) it will pay and discharge all taxes, assessments and other governmental charges upon the Apartment Parcel when due, as well as claims for labor and materials which, if unpaid, might become a lien or charge upon the Apartment Parcel;

(k) it will promptly furnish to the City, during the term of this Agreement, written notice of any litigation affecting Developer and any claims or disputes which involve a material risk of litigation against Developer;

(l) it shall deliver to the City revised statements of estimated costs of the construction for Developer Improvements showing changes in or variations from the original cost statement provided to the City as soon as such changes are known to Developer;

(m) it shall provide to the City, promptly upon the City's request, any information or evidence deemed necessary by the City related to performance of Developer under this Agreement to enable the City to timely and accurately complete any accounting or reporting requirements applicable to the City related to the transactions under this Agreement;

(n) no litigation, claim, investigation, administrative proceeding or similar action (including those for unpaid taxes) against Developer is pending or threatened, and no other event has occurred which may materially adversely affect Developer's financial condition or properties, other than litigation, claims, or other events, if any, that have been disclosed to and acknowledged by the City in writing;

(o) there are no delinquent outstanding personal property taxes, real estate taxes, or special assessments affecting the Apartment Parcel; and

(p) subject to the terms of this Agreement, it shall not challenge or contest any assessment on the Apartment Parcel by the City including, but not limited to, filing any objection under Wis. Stat. Section 70.47, Wis. Stat. Section 74.37, or any Department of Revenue related assessment proceeding.

9.2 Execution Representations and Warranties. The person(s) signing this Agreement on behalf of Developer represent(s) and warrant(s) that he/she/they have full power and authority to execute this Agreement on behalf of Developer and to bind Developer to the terms and conditions of this Agreement.

9.3 Cooperation. Developer warrants that it shall exercise all reasonable diligence and expend all commercially reasonable efforts to undertake its obligations under this Agreement and the Offer.

ARTICLE X – SELLER REPRESENTATIONS, WARRANTIES AND COVENANTS

10.1 Seller Representations, Warranties and Covenants. Seller represents, warrants and covenants that:

(a) it is a limited liability company duly formed and validly existing in the State of Wisconsin, has the power and all necessary licenses, permits and franchises to own its assets and properties and to carry on its business, and is in good standing in the State of Wisconsin and all other jurisdictions in which failure to do so would have a material adverse effect on its business or financial condition;

(b) it has full authority to execute and perform this Agreement and the Offer and has obtained all necessary authorizations to enter into, execute and deliver this Agreement and the Offer;

(c) the execution, delivery, and performance of its respective obligations pursuant to this Agreement and/or the Offer will not violate or conflict with its articles of organization, operating agreement or any indenture, instrument or agreement by which it is bound, nor will the execution, delivery, or performance of its obligations pursuant to this Agreement and/or the Offer violate or conflict with any law applicable to it, the sale of the Apartment Parcel pursuant to the Offer or the Project;

(d) this Agreement constitutes (and any instrument or agreement that it is required to give under this Agreement (including, without limitation, the Offer) when delivered will constitute) legal, valid, and binding obligations of it enforceable against it in accordance with their respective terms;

(e) it will take all steps to forestall claims of lien against any of the Spirit Lake Development Parcels (including, without limitation, the Apartment Parcel or any part thereof or right or interest appurtenant thereto) or any personal property and fixtures located or used in connection with any of the Spirit Lake Development Parcels (including, without limitation, the Apartment Parcel);

(f) it will pay and discharge all taxes, assessments and other governmental charges owed by it upon the Spirit Lake Development Parcels when due, as well as claims for labor and materials owed by it which, if unpaid, might become a lien or charge upon the Spirit Lake Development Parcels;

(g) it will promptly furnish to the City, during the term of this Agreement, written notice of any litigation affecting Seller and any claims or disputes which involve a material risk of litigation against Seller, provided such litigation, claims or disputes could impact any of the Spirit Lake Development Parcels or the Project in any way;

(h) no litigation, claim, investigation, administrative proceeding or similar action (including those for unpaid taxes) against Seller is pending or threatened, and no other event has occurred which may materially adversely affect Seller's financial condition or properties, other than litigation, claims, or other events, if any, that have been disclosed to and acknowledged by the City in writing;

(i) there are no delinquent outstanding personal property taxes, real estate taxes, or special assessments affecting any of the Spirit Lake Development Parcels;

(j) subject to the terms of this Agreement, it shall not challenge or contest any assessment on any of the Spirit Lake Development Parcels by the City including, but not limited to, filing any objection under Wis. Stat. Section 70.47, Wis. Stat. Section 74.37, or any Department of Revenue related assessment proceeding; and

(k) Seller shall include in each deed that conveys all or any portion of the Spirit Lake Development Parcels restrictive covenants substantially similar to the restrictive covenants set forth in Section 1.1(d) (regarding no tax-exempt use) and

Section 10.1(j) (regarding no tax assessment challenges or contests) above and such restrictive covenants shall run with the land during the life of the District.

10.2 Execution Representations and Warranties. The person(s) signing this Agreement on behalf of Seller represent(s) and warrant(s) that he/she/they have full power and authority to execute this Agreement on behalf of Seller and to bind Seller to the terms and conditions of this Agreement.

10.3 Cooperation. Seller warrants that it shall exercise all reasonable diligence and expend all commercially reasonable efforts to undertake its obligations under this Agreement and the Offer.

ARTICLE XI – CITY REPRESENTATIONS

11.1 City Representations. The City represents that:

(a) It is a body politic of the State of Wisconsin with full power and authority to enter into this Agreement and that all statutory procedures and requirements have been followed, fulfilled and satisfied in connection with the approval of this Agreement and the authorization of all City obligations required by this Agreement; and

(b) The individuals signing this Agreement on behalf of the City have full authority to do so and upon such execution by such individuals, this Agreement will constitute (and any instrument or agreement that the City is required to give under this Agreement when executed and delivered will constitute) legal, valid and binding obligations of the City enforceable against it in accordance with their respective terms.

ARTICLE XII – DEFAULTS

12.1 Default. Any one or more of the following shall constitute a “Default” under this Agreement.

(a) Developer fails to timely or fully perform, or comply with, any one or more of its obligations or any of the terms or conditions of this Agreement or any document related hereto or referenced herein that is applicable to Developer (including, without limitation, the untimely delivery of the Required Information, completion of the Developer Improvements or any default under the Offer).

(b) Seller fails to timely or fully perform, or comply with, any one or more of its obligations or any of the terms or conditions of this Agreement or any document related hereto or referenced herein that is applicable to Seller (including, without limitation, the Offer).

(c) Any representation or warranty made by Developer or the Seller in this Agreement, any document related hereto or referenced herein or any financial statement delivered by Developer or Seller pursuant to this Agreement shall prove to have been false or misleading in any material respect as of the time when made or given.

(d) Developer (or any permitted successor or assign of Developer) or Seller (or any permitted successor or assign of Seller) shall:

(i) become insolvent or generally not pay, or be unable to pay, or admit in writing its inability to pay, its debts as they mature,

(ii) make a general assignment for the benefit of creditors or to an agent authorized to liquidate any substantial amount of its assets,

(iii) become the subject of an “order for relief” within the meaning of the United States Bankruptcy Code, or file a petition in bankruptcy, for reorganization or to effect a plan, or other arrangement with creditors,

(iv) have a petition or application filed against it in bankruptcy or any similar proceeding, or have such a proceeding commenced against it, and such petition, application or proceeding shall remain undismissed for a period of ninety (90) days or more, or such party, shall file an answer to such a petition or application, admitting the material allegations thereof,

(v) apply to a court for the appointment of a receiver or custodian for any of its assets or properties, or have a receiver or custodian appointed for any of its assets or properties, with or without consent, and such receiver shall not be discharged within sixty (60) days after his appointment, or

(vi) adopt a plan of complete liquidation of its assets.

(e) The City fails to timely or fully perform, or comply with, any one or more of its obligations or any of the terms or conditions of this Agreement or any document related hereto or referenced herein that is applicable to the City.

ARTICLE XIII – REMEDIES

13.1 Remedies. In the event of a Default, the non-defaulting party shall provide written notice to the defaulting party and the other party of the Default (the “**Default Notice**”); however, neither Developer nor Seller shall be entitled to a Default Notice or a right to cure in the event the Default occurs under Subsection 12.1(d) above.

(a) The Default Notice shall provide the defaulting party at least thirty (30) days to cure a Default; however, the 30-day period shall be extended to the period of time reasonably necessary to cure the Default (in the event that such 30-day period is not sufficient time to reasonably cure such Default), if the defaulting party promptly commences activities to cure the Default in good faith and diligently pursues such activities to fully cure the Default but in no event shall the period of time to cure the Default exceed ninety (90) days from the date of the Default Notice, unless otherwise agreed to by the parties in writing.

(b) In the event the Default is not fully and timely cured by Developer or Seller, the City shall have all of the rights and remedies available in law or in equity, including, but not limited to, all or any of the following rights and remedies, and the exercise or implementation of any one or more of these rights and remedies shall not be

a bar to the exercise or implementation of any other rights or remedies of the City provided for under this Agreement:

(i) The City may refuse to issue any permits to Developer for the construction of Developer Improvements or any other improvements on the Apartment Parcel;

(ii) The City may recover from Developer or Seller (as applicable) all damages, costs and expenses, including, but not limited to, reasonable attorneys' fees incurred by the City related to or arising out of each Default;

(iii) The City may terminate or postpone its obligation to perform any one or more of its obligations under this Agreement, including, but not limited to, any payment obligations under the MRO; or

(iv) The City may terminate this Agreement.

(c) In the event the Default is not fully and timely cured by the City, Developer and/or Seller (as applicable) shall have all of the rights and remedies available in law or in equity, however, the City shall not be liable for any punitive or consequential damages and Developer may not perform any acts required to be performed by the City under applicable law.

ARTICLE XIV – SUCCESSORS AND ASSIGNS

14.1 Successors and Assigns; Assignment. This Agreement shall be binding upon the successors and assigns of the parties hereto; however, this provision shall not constitute an authorization of Developer or Seller to assign or transfer its rights and obligations under this Agreement. This Agreement shall not be assigned by Developer or Seller without the prior written consent of the City, which consent may be withheld for any reason.

ARTICLE XV – TERMINATION

15.1 Termination. This Agreement shall not terminate until the earlier of:

- (a) termination by the City of the District pursuant to §66.1105(7) of the TI Act,
- (b) the MRO being paid in full, or
- (c) termination by the City pursuant to the terms of this Agreement;

however, the termination of this Agreement shall not cause a termination of the rights and remedies of the City under this Agreement.

ARTICLE XVI – NOTICES

16.1 Notices. Any notice given under this Agreement shall be deemed effective when: (a) personally delivered in writing; (b) a commercially recognized overnight delivery service provides confirmation of delivery; or (c) the third day after notice is deposited with the United

States Postal Service (postage prepaid, certified with return receipt requested) and addressed as follows:

If to the City:

City of Baraboo
Attention: City Administrator
101 South Boulevard
Baraboo, WI 53913

with a copy to:

Brion T. Winters, Esq.
von Briesen & Roper, s.c.
411 E. Wisconsin Ave., Suite 1000
Milwaukee, WI 53202

If to Developer:

[NAME]
[ADDRESS]

with a copy to:

[NAME]
[ADDRESS]

If to Seller:

Spirit Lake, LLC
1150 College Avenue
Baraboo, WI 53913-1824

with a copy to:

[NAME]
[ADDRESS]

ARTICLE XVII – APPLICABLE LAW

17.1 Applicable Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Wisconsin. Any litigation related to this Agreement shall be brought in the state courts of the State of Wisconsin and the parties hereto agree to submit to the jurisdiction and venue of the Circuit Court for Sauk County, Wisconsin.

ARTICLE XVIII – MISCELLENEOUS

18.1 Entire Agreement. This Agreement and all of the documents referenced herein or related hereto (and as any of the aforementioned documents have been or may be amended, extended or modified) embody the entire agreement between the parties relating to the transactions contemplated under this Agreement and all agreements, representations or understanding, whether oral or written, that are prior or contemporaneous to this Agreement are superseded by this Agreement.

18.2 Amendment. No amendment, modification or waiver of any provision of this Agreement, nor consent to any departure by a party from any provision of this Agreement shall in any event be effective unless it is in writing and signed by each of the parties hereto, and then such waiver or consent shall be effective only in the specific instance and for the specific purposes for which it is given by the respective party.

18.3 No Vested Rights Granted. Except as provided by law, or as expressly provided in this Agreement, no vested rights in connection with the Project shall inure to Developer nor does the City warrant by this Agreement that Developer is entitled to any required approvals, permits or the like with regard to the Project.

18.4 Invalid Provisions. The invalidity or unenforceability of a particular provision of this Agreement shall not affect the other provisions, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

18.5 Headings. The article and section headings of this Agreement are inserted for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

18.6 No Waiver; Remedies. No failure on the part of the City to exercise, and no delay in exercising, any right, power or remedy under this Agreement shall operate as a waiver of such right, power or remedy; nor shall any single or partial exercise of any right under this Agreement preclude any other or further exercise of the right or the exercise of any other right. The remedies provided in this Agreement are cumulative and not exclusive of any remedies provided by law.

18.7 No Third-Party Beneficiaries. This Agreement is solely for the benefit of the named parties hereto and their permitted assignees, and nothing contained in this Agreement shall confer upon anyone other than such parties any right to insist upon or enforce the performance or observance of any of the obligations contained in this Agreement.

18.8 No Joint Venture. The City is not a partner, agent or joint venture of or with Developer or Seller.

18.9 Recording of a Memorandum of this Agreement Permitted. A memorandum of this Agreement may be recorded by the City on the Apartment Parcel and any or all of the Spirit Lake Development Parcels in the office of the Register of Deeds for Sauk County, Wisconsin, and, upon request of the City, Developer and Seller shall execute and deliver to the City a memorandum of this Agreement for recording purposes.

18.10 Force Majeure. If any party is delayed or prevented from timely performing any act required under this Agreement by reason of extraordinary and uncommon matters beyond the reasonable control of the party obligated to perform, including (but not limited to) fire, earthquake, war, terrorist act, pandemic, epidemic, flood, riot, strike, lockout, supply shortages, freight embargo, power outages, extreme weather or other similar causes or acts of God, such act shall be excused for the period of such delay, and the time for the performance of any such act shall be extended for a period equivalent to such delay; provided, however, that the time for performance shall not be extended by more than ninety (90) days unless agreed to in writing by the parties hereto. Notwithstanding any provision herein to the contrary, the City, in its sole and absolute discretion, may allow up to a twelve (12) month extension on the deadlines set forth in Section 2.2 or 0 above should reasonable delays occur as a result of supply chain issues or material cost increases. Any such approved delay by the City will be evidenced in writing and provided to Developer, and without any written evidence approving such delay, the other provisions of this Agreement shall control and the immediately preceding sentence shall not apply.

18.11 Immunity. Nothing contained in this Agreement constitutes a waiver of any immunity available to the City under applicable law.

18.12 Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument. The

parties hereto agree that electronic (.pdf files or otherwise) copies bearing signatures shall be binding upon receipt by the other parties. If requested by a party, each party shall execute and deliver an original, hard-copy version of this Agreement for each party's permanent files.

18.13 Recitals. The RECITALS set forth above are true, accurate and incorporated herein by reference.

[The remainder of this page is intentionally left blank with a signature page to follow.]

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

CITY: CITY OF BARABOO

By: _____
Name: Casey J. Bradley, City Administrator

Attest: _____
Name: Brenda Zeman, City Clerk

DEVELOPER: PEWIT’S LANDING, LLC

By: _____
Name: _____
Title: _____

SELLER: SPIRIT LAKE, LLC

By: _____
Name: _____
Title: _____

STATE OF WISCONSIN)
)I
SAUK COUNTY)

Personally came before me this ____ day of _____, 2022, the above named Casey J. Bradley and Brenda Zeman, the City Administrator and the City Clerk of the City of Baraboo, respectively, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

Notary Public, Wisconsin
My commission _____

STATE OF WISCONSIN)
)I
_____ COUNTY)

Personally came before me this _____ day of _____, 2022, the above named _____, the _____ of Pewit's Landing, LLC to me known to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public, Wisconsin
My commission _____

STATE OF WISCONSIN)
)I
_____ COUNTY)

Personally came before me this _____ day of _____, 2022, the above named _____, the _____ of Spirit Lake, LLC to me known to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public, Wisconsin
My commission _____

EXHIBIT A

Spirit Lake Development Parcel

[ADD LEGAL DESCRIPTION HERE]

EXHIBIT B

Apartment Parcel

[ADD LEGAL DESCRIPTION HERE]

EXHIBIT C

Offer

[SEE ATTACHED]

Exhibit D

Site Plan

Phase 1 = Parcel #1 & #2
Phase 2 = Parcel #3
Phase 3 = Parcel #4

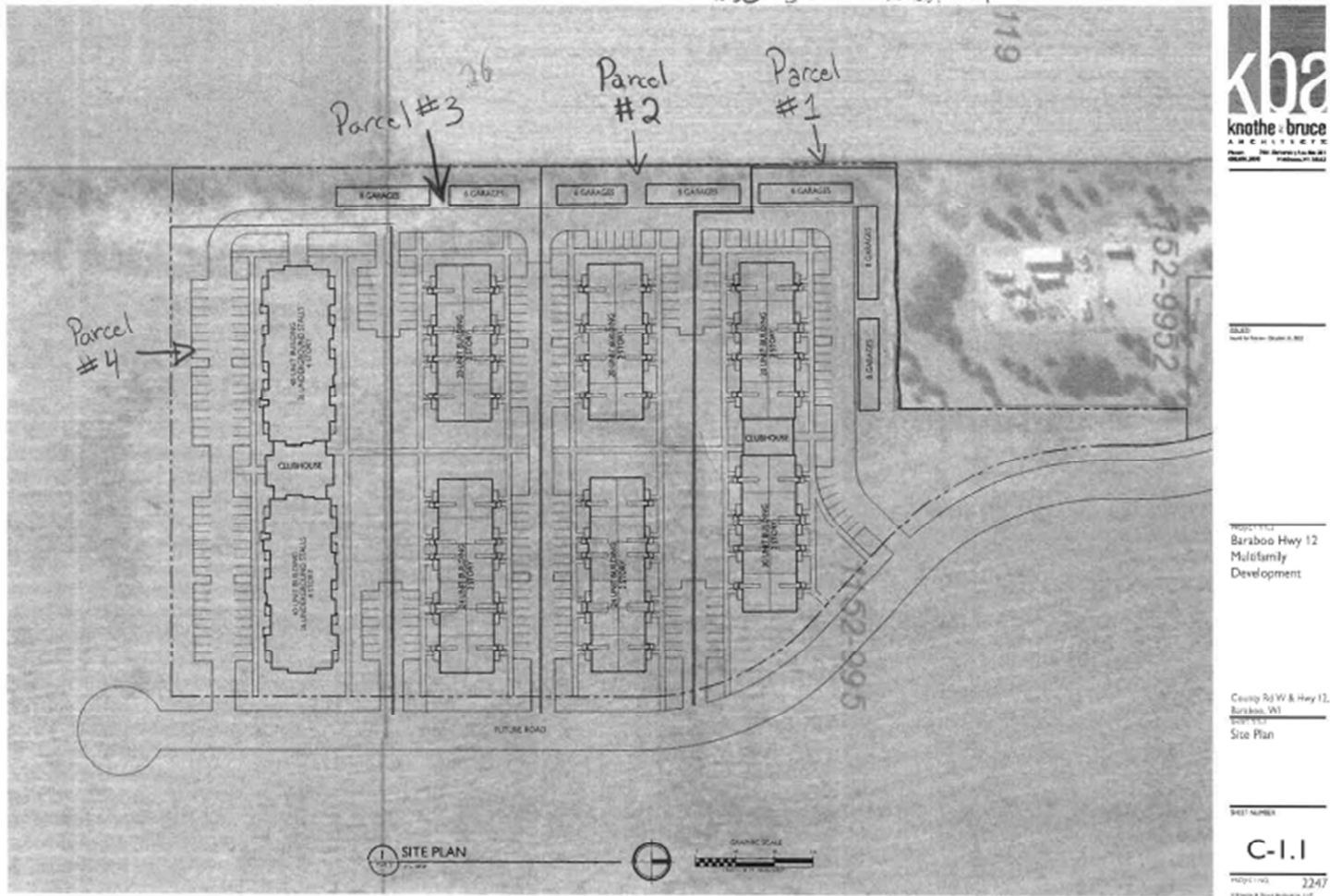


EXHIBIT D

Exhibit E

City Improvements

Design work shall begin on the City Improvements within 30 days after the City's receipt of the Commencement Notice and the Required Information. The following are the completion timeframes for the noted projects.

Provided Developer is not in Default and timely performs under this Agreement, the City anticipates that the City will complete the City Improvements within one (1) year after receipt of the Commencement Notice:

- (1) Installation of water main, laterals and related improvements;
- (2) Installation of sanitary sewer, laterals and related improvements;
- (3) Installation of storm sewer and storm water management facilities and related improvements; and
- (4) Installation of public road and trail and related curb, gutter and sidewalks.

Exhibit F

MRO

UNITED STATES OF AMERICA
STATE OF WISCONSIN
COUNTY OF SAUK
CITY OF BARABOO

TAXABLE TAX INCREMENT PROJECT MUNICIPAL REVENUE OBLIGATION (“**MRO**”)

<u>Number</u>	<u>Date of Original Issuance</u>	<u>Amount</u>
_____	_____	Up to \$4,700,000.00

FOR VALUE RECEIVED, the City of Baraboo, Sauk County, Wisconsin (the “**City**”), promises to pay to Pewit’s Landing, LLC (the “**Developer**”) and Spirit Lake, LLC (the “**Seller**”), or registered assigns, but only in the manner, at the times, from the source of revenue and to the extent hereinafter provided, the Revenues described below, without interest.

This MRO shall be payable in installments of principal due on October 31 (the “**Payment Dates**”) in each of the years and in the amounts set forth on the debt service schedule attached hereto as Schedule 1.

This MRO has been issued to finance projects within the City’s Tax Incremental District No. 11, pursuant to Article XI, Section 3 of the Wisconsin Constitution and Section 66.0621, Wisconsin Statutes and acts supplementary thereto, and is payable only from the income and revenues herein described, which income and revenues have been set aside as a special fund for that purpose and identified as the “Special Redemption Fund” provided for under the Resolution adopted on _____, 20____, by the Common Council of the City (the “**Resolution**”). This MRO is issued pursuant to the Resolution and pursuant to the terms and conditions of the Tax Incremental District Development Agreement dated as of December [___], 2022 by and between the City, Developer and Seller (the “**Development Agreement**”). All capitalized but undefined terms herein shall take on the meaning given to such terms in the Development Agreement.

This MRO does not constitute an indebtedness of the City within the meaning of any constitutional or statutory limitation or provision. This MRO shall be payable solely from Available Tax Increments generated by the Apartment Parcel and appropriated by the City’s Common Council to the payment of this MRO (the “**Revenues**”). Reference is hereby made to the Resolution and the Development Agreement for a more complete statement of the revenues from which and conditions and limitations under which this MRO is payable and the general covenants and provisions pursuant to which this MRO has been issued. The Resolution and Development Agreement are incorporated herein by this reference.

If on any Payment Date there shall be insufficient Revenues appropriated to pay the principal due on this MRO, the amount due but not paid shall be deferred. The deferred principal shall be payable on the next Payment Date until the Final Payment Date (as defined below). The City shall have no obligation to pay any amount of this MRO which remains unpaid after the Final Payment Date. The owners of this MRO shall have no right to receive payment of any deferred amounts, unless there are available Revenues which are appropriated by the City's Common Council to payment of this MRO. The "**Final Payment Date**" is October 31, 2040.

At the option of the City, this MRO is subject to prepayment in whole or in part at any time.

The City makes no representation or covenant (express or implied) that the Available Tax Increments or other Revenues will be sufficient to pay, in whole or in part, the amounts which are or may become due and payable hereunder.

The City's payment obligations hereunder are subject to appropriation, by the City's Common Council, of Tax Increments or other amounts to make payments due on this MRO. In addition, as provided in Section 6.3 of the Development Agreement, the total amount of principal to be paid shall in no event exceed the lesser of: (a) twenty percent (20%) of the Available Tax Increment generated on the Apartment Parcel and all other Spirit Lake Development Parcels during the life of the District, and (b) Four Million Nine Hundred Fifty Thousand Dollars (\$4,950,000.00) with up to Four Million Dollars (\$4,000,000.00) payable to Developer and up to Nine Hundred Fifty Thousand Dollars (\$950,000.00) payable to Seller. When that amount of Revenues has been appropriated and applied to payment of this MRO, the MRO shall be deemed to be paid in full and discharged, and the City shall have no further obligation with respect hereto. Further, as provided in Sections 6.1, 6.3 and 13.1 of the Development Agreement or otherwise, the City's obligations to make payments on this MRO may be suspended in the event either Developer or Seller is in default beyond the applicable cure period(s) under any of the terms and conditions of the Development Agreement, provided payments shall be resumed when any such default is cured and any payments missed due to an uncured default also shall be paid from Available Tax Increment upon cure of the default.

This MRO is a special, limited revenue obligation and not a general obligation of the City and is payable by the City only from the sources and subject to the qualifications stated or referenced herein. This MRO is not a general obligation of the City, and neither the full faith and credit nor the taxing powers of the City are pledged to the payment of the principal or interest of this MRO. Further, no property or other asset of the City, except the above-referenced Revenues, is or shall be a source of payment of the City's obligations hereunder.

This MRO is issued by the City pursuant to, and in full conformity with, the Constitution and laws of the State of Wisconsin.

This MRO may be transferred or assigned, in whole or in part, only upon prior written consent of the City which may be withheld, conditioned or delayed for any reason. Interests in this MRO may not be split, divided or apportioned, except as set forth herein. In order to transfer or assign the MRO, if permitted by the City, the transferee or assignee shall surrender

the same to the City either in exchange for a new, fully-registered municipal revenue obligation or for transfer of this MRO on the registration records for the MRO maintained by the City. Each permitted transferee or assignee shall take this MRO subject to the foregoing conditions and subject to all provisions stated or referenced herein.

It is hereby certified and recited that all conditions, things and acts required by law to exist or to be done prior to and in connection with the issuance of this MRO have been done, have existed and have been performed in due form and time.

IN WITNESS WHEREOF, the Common Council of the City of Baraboo has caused this MRO to be signed on behalf of the City by its duly qualified and acting City Administrator and City Clerk, and its corporate seal to be impressed hereon, all as of the date of original issue specified above.

CITY OF BARABOO

By: _____
Name: _____, City Administrator

(SEAL)

Attest: _____
Name: _____, City Clerk

Schedule 1

Payment Schedule

Subject to the City’s actual receipt of Available Tax Increment and the terms and conditions of the Development Agreement (including, without limitation, the City’s right to modify this payment schedule based upon market conditions and the actual and projected Available Tax Increment generated from the Project), the City shall make the following payments on the MRO to Developer:

<u>Payment Date</u>	<u>Payment Amount</u>
October 31, 2025	\$ _____
October 31, 2026	\$ _____
October 31, 2027	\$ _____
October 31, 2028	\$ _____
October 31, 2029	\$ _____
October 31, 2030	\$ _____
October 31, 2031	\$ _____
October 31, 2032	\$ _____
October 31, 2033	\$ _____
October 31, 2034	\$ _____
October 31, 2035	\$ _____
October 31, 2036	\$ _____
October 31, 2037	\$ _____
October 31, 2038	\$ _____
October 31, 2039	\$ _____
October 31, 2040	\$ _____
Total	=====
	Up to \$4,700,000.00

REGISTRATION PROVISIONS

This MRO shall be registered in registration records kept by the Clerk of the City of Baraboo, Sauk County, Wisconsin, such registration to be noted in the registration blank below and upon said registration records, and this MRO may thereafter be transferred only upon presentation of this MRO together with a written instrument of transfer in form and substance acceptable to the City and duly executed by the registered owner or his/her/its attorney, such transfer to be made on such records and endorsed hereon.

Date of Registration

Name of Registered Owner

Signature of [City Clerk]

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

EXHIBIT G

Members of Developer and Seller

MEMBERS OF DEVELOPER:

[DEVELOPER TO CONFIRM]

MEMBERS OF SELLER:

[SELLER TO CONFIRM]