



Wauwatosa, WI

Financial Affairs Committee

Meeting Agenda - Final

7725 W. North Avenue
Wauwatosa, WI 53213

Tuesday, February 28, 2023

7:00 PM

Committee Room #1 and Zoom:
<https://servetosa.zoom.us/j/81144274572>,
Meeting ID: 811 4427 4572

Regular Meeting

HYBRID MEETING INFORMATION

Members of the public may observe and participate in the meeting in-person or via Zoom at the link above. To access the Zoom meeting via phone, call 1-312-626-6799 and enter the Meeting ID.

CALL TO ORDER

ROLL CALL

FINANCIAL AFFAIRS COMMITTEE ITEMS

1. Presentation by the Finance Interns on the 2017-2021 City of Wauwatosa Fiscal Health Indicators [23-534](#)
2. 2022 Operating Budget carryover approval [23-535](#)
3. Memo from the Director of Public Works recommending modifications to the City's Consolidated Fee Schedule related to snow and ice removal from sidewalks [23-536](#)
4. Memo from the Director of Public Works recommending award of a contract for processing of recyclable materials to Waste Management [23-537](#)
5. Memo from the Director of Public Works recommending approval of a multi-year agreement with Perry Weather for a software subscription for the outdoor warning system at Hart Park [23-538](#)
6. Approval of a term sheet with MSP Real Estate, Inc. to construct affordable multi-family apartments at the Burleigh Triangle [23-553](#)
The Committee may convene into closed session regarding this item pursuant to Wis. Stat. §19.85 (1)(e), to deliberate or negotiate the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session. The Committee may reconvene into open session to consider the balance of the agenda.
7. Approval of contract with Prism Technical for the creation and monitoring of a Procurement Equity Participation Plan for the MSP multi-unit residential proposal, in an amount not to exceed \$82,344 [23-565](#)

-
8. Discussion and possible action regarding redevelopment of the former Boston Store parcel at 2400 N. Mayfair Road [23-566](#)

The Committee may convene into closed session regarding this item pursuant to Wis. Stat. §19.85 (1)(e), to deliberate or negotiate the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session. The Committee may reconvene into open session to consider the balance of the agenda.

ADJOURNMENT

NOTICE TO PERSONS WITH A DISABILITY

Persons with a disability who need assistance to participate in this meeting should call the City Clerk's office at (414) 479-8917 or send an email to tclerk@wauwatosa.net, with as much advance notice as possible.



Wauwatosa, WI

7725 W. North Avenue
Wauwatosa, WI 53213

Staff Report

File #: 23-534

Agenda Date: 2/28/2023

Agenda #: 1.

Presentation by the Finance Interns on the 2017-2021 City of Wauwatosa Fiscal Health Indicators

Submitted by:

John Ruggini

Department:

Finance Department

A. Issue

Each year, the City of Wauwatosa and other local governments publish their Annual Financial Report, which is publicly available on the City's website. In order to better utilize the information as a diagnostic tool, a series of financial ratios were calculated and analyzed for the past 5 years. The analysis of financial condition is intended to be an annual report going forward and is capstone project completed by the City's Finance Interns who will provide the presentation.

B. Background/Options

Many of the ratios analyzed were developed by the International City Management Association (ICMA) and presented in the book, Evaluating Financial Condition. Some of the indicators found in the book were adjusted to better fit the City of Wauwatosa and based on feedback from the City's auditor. In addition, utility metrics were based on those used by the Moody's bond rating agency. A stop-light analysis, included below, was used to evaluate the ratios. A green check mark indicates a positive trend, a yellow exclamation mark indicates a neutral trend, and a red "x" indicates a warning trend. Attachment one presents a graph for each ratio from 2017-2021.

#	Indicator	Trend	Description
1	Capital Expenditures	↔	Capital Expenditures
2	Personal Income: Capital	↗	Has increased the past four years
3	...	↗	...
4	...	↗	...
5	...	↗	...
6	...	↗	...
7	...	↗	...
8	...	↗	...
9	...	↗	...
10	...	↗	...
11	...	↗	...
12	...	↗	...
13	...	↗	...
14	...	↗	...
15	(Change in fund balance)	↔	Has remained flat since
16	Intergovernmental revenue	↗	increasing since 2018

It is important to note that these indicators are meant to be another tool to help evaluate the financial health of the City; however, they need to be considered in context with other information. Often the trend is most important and one-year deviations require additional explanations.

C. Recommendation

This report is for informational purposes only.

Financial Condition

Introduction

- What is Financial Condition Analysis?
 - Historical trend analysis using audited financial data from the CAFR
 - Use ratios to normalize data for comparison purposes
- Why use Financial Condition Analysis?
 - Helps tell a story for your CAFR
 - <https://www.wauwatosia.net/home/showpublisheddocument/4262/637731946550100000>
 - Synthesizes information in easy-to understand charts
 - Objective analysis for policy makers

Summary

#	Indicator	Trend	Explanation
1	Capital Expenditures: Depreciation Expense		
	Governmental activities	!	Back above warning line
	Business activities	!	Consistently above warning line
	Total Primary Govt	!	Consistently above warning line
2	Personal Income: Capita	!	Has increased the past four years, 2021 unavailable
3	(Property Tax Revs. *100): Total assessed property value	✓	Decreased from 2020 to 2021
4	Tax leverage ratio	✓	Decreased from 2018 to 2021
5	Top 10 Taxpayers		
	% of Equalized Value	✗	Ratio has been increasing from 2018 to 2021
	% of Assessed Value	✗	Ratio increased from 2019 to 2021
6	% Change in Property Value		
	Assessed Value	✓	Increase due to hospitals becoming taxable
	Equalized Value	✓	Ratio significantly increased
7	Employees/capita *100		
	Wauwatosa		Remained flat from 2020 to 2021
8	General Fund Expenditures/capita	!	Decreasing due to high COVID spending in 20, vacancies and inflation in 21
9	Expenditures by function (General Fund)		
	General government	✓	Decreased from 2020 to 2021
	Protection of persons and property	!	Increased slightly from 2020 to 2021
	Health and sanitation	✓	decreased from 2020 to 2021
	Highway and transportation	✓	Increased from 2020 to 2021
	Education and recreation	✓	Consistently stable, slight increase from 2020 to 2021
	Conservation and development	✓	Decreased significantly from 2020 to 2021, no issue

- Green – all good
- Yellow – caution, we should monitor
- Red – problem, we should take action

Summary (continued)

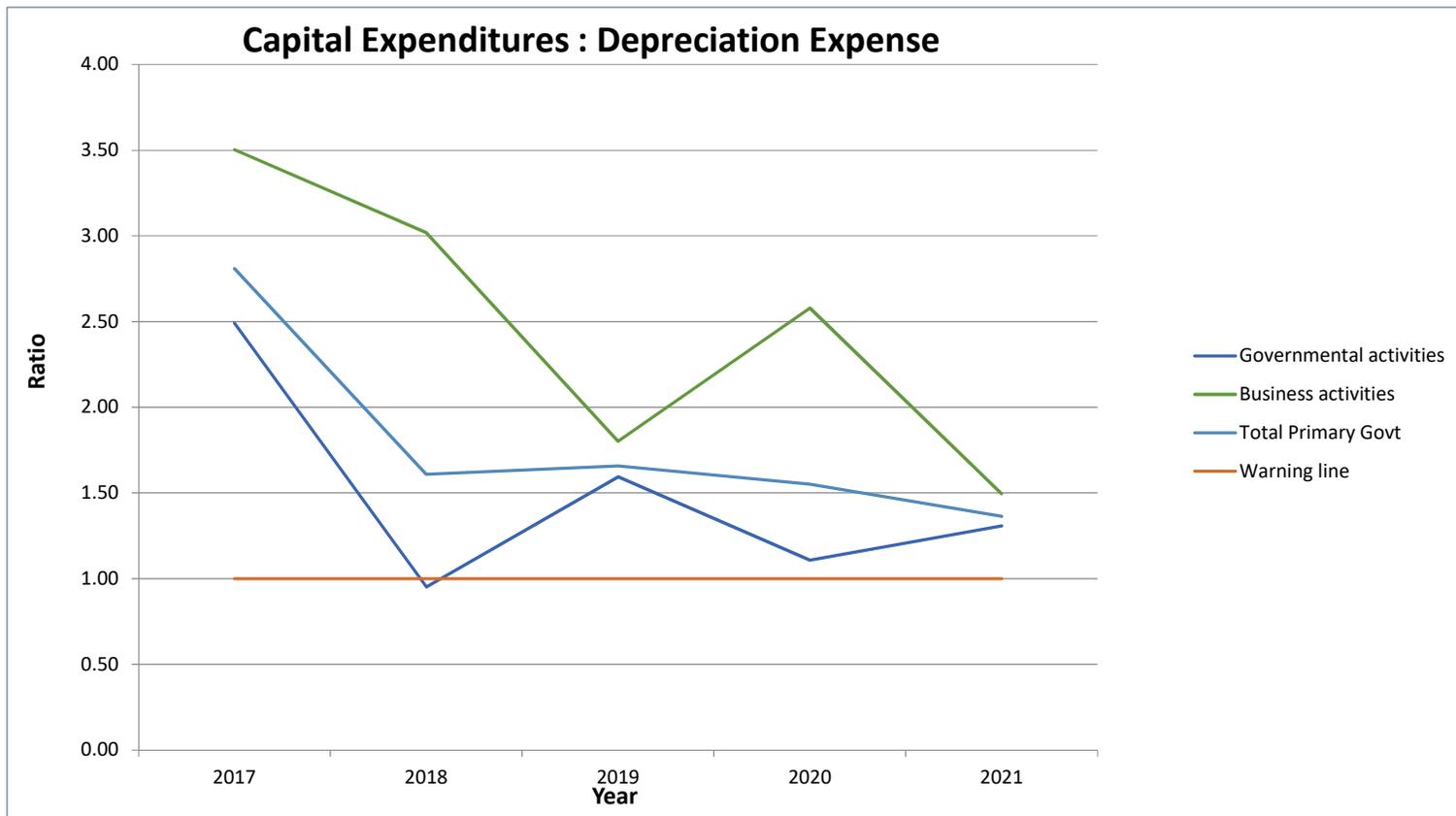
10	Debt Service	⚠	Slightly increasing but still below warning line
11	LT Debt (total)	✓	Decreasing since 2018
	LT Debt (Govt)	✓	Decreasing since 2018
12	Quick Ratio	⚠	Large increase in liabilities as well as cash and short term positions in 2021
	Quick Ratio (Gen. Fund)	✓	Slight increase across the board, staying constant with 2020
13	Enterprise operating income (constant \$)		
	Water	⚠	Have had operating income losses the past two years
	Storm	✓	Increased significantly in 2021 from 2020
	Sanitary	✓	Have not had any operating losses
14	General Fund Balance: Gen Fund Expenditures + (Change in fund balance)/general fund expenditures +	✓	Has increased from 2017-2020, Decreased in 2021
15	transfers	⚠	Has remained flat since
16	Intergovernmental revenues	✓	Increasing since 2018
17	Net Assets: total operating revenues	✓	Slightly increasing for five years in a row now

Mechanics

Indicator	2017	2018	2019	2020	2021	Notes
Personal Income: Capita	89,773.01	91,954.93	92,439.69	91,821.64	-	
Population	47,389	47,781	48,314	48,478	486,604	CAFR- Statistical Section (Demographic and Economic Statistics)
Personal income	3,877,000,000	4,081,000,000	4,210,000,000	4,236,000,000	No data yet	
(2015CPI/CYCPI)	1.10	1.08	1.06	1.05	1.00	

- Most indicators are ratios in order to normalize – personal income per capita in this example
- Adjusted for inflation using CPI – www.bls.gov
- Notate where in the Annual Comprehensive Financial Report the information is obtained

Indicator 1



Capital Expenditures and Depreciation Expense

CITY OF WAUWATOSA, WISCONSIN
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2021

Indicator	2017	2018	2019	2020	2021	Notes
Capital Expenditures:						
Depreciation Expense						
Governmental activities	2.49	0.95	1.60	1.11	1.31	
Business activities	3.50	3.02	1.80	2.58	1.50	
Total Primary Govt	2.81	1.61	1.66	1.55	1.36	
Warning line	1.00	1.00	1.00	1.00	1.00	
Net Capital Assets Additions (Govt)	15,676,847	6,209,702	11,242,996	8,130,841	10,146,944	Note 4-Detailed Notes on All Funds (E. Capital Assets)
Net Capital Assets Additions (Business)	10,126,367	9,165,807	5,577,224	8,174,518	4,910,235	Note 4-Detailed Notes on All Funds (E. Capital Assets)
Net Capital Assets Additions	25,803,214	15,375,509	16,820,220	16,305,362	15,057,179	Note 4-Detailed Notes on All Funds (E. Capital Assets)
Accumulated Depreciation (Govt)	6,295,368	6,522,433	7,048,573	7,338,215	7,759,201	Note 4-Detailed Notes on All Funds (E. Capital Assets)
Accumulated Depreciation (Business)	2,891,288	3,036,453	3,095,564	3,171,321	3,283,039	Note 4-Detailed Notes on All Funds (E. Capital Assets)
Accumulated Depreciation (Primary Govt)	9,186,656	9,558,886	10,144,137	10,509,536	11,042,240	Note 4-Detailed Notes on All Funds (E. Capital Assets)

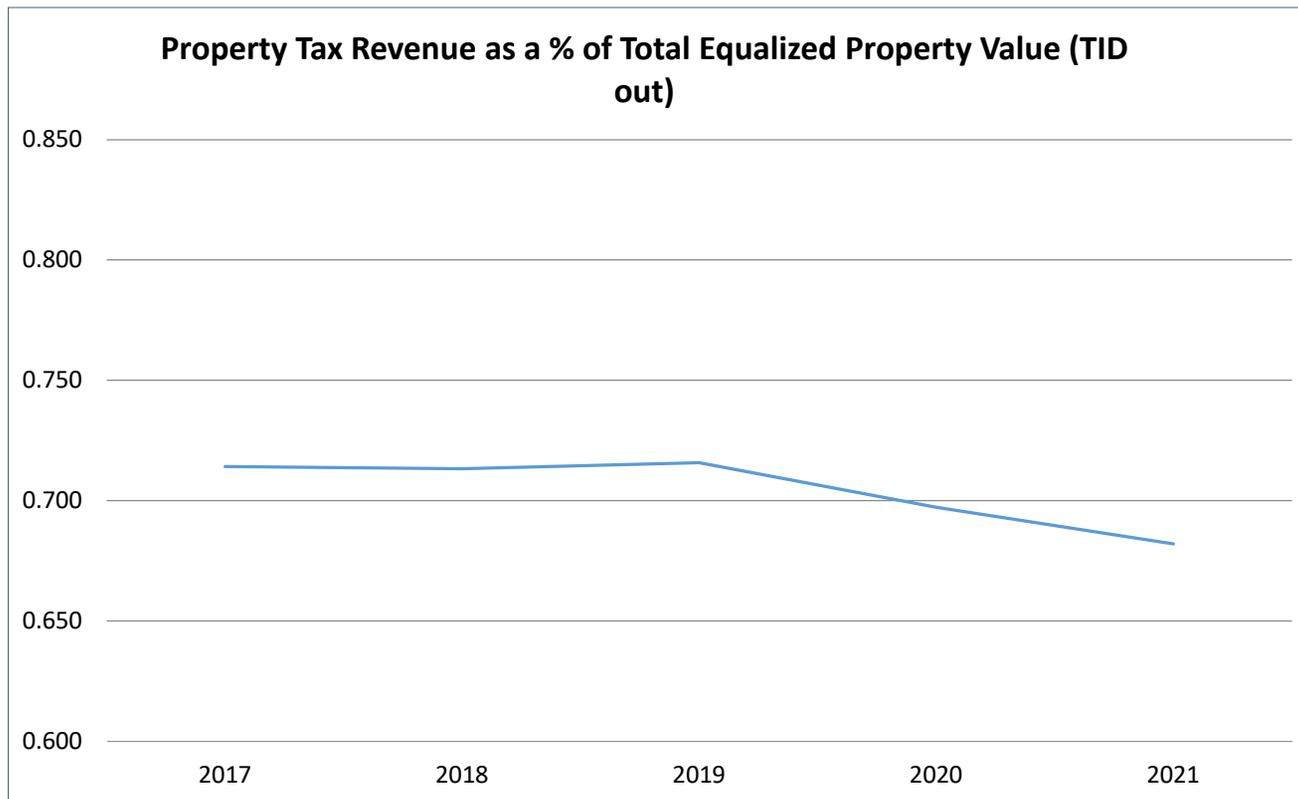
NOTE 4 DETAILED NOTES ON ALL FUNDS (CONTINUED)

E. Capital Assets

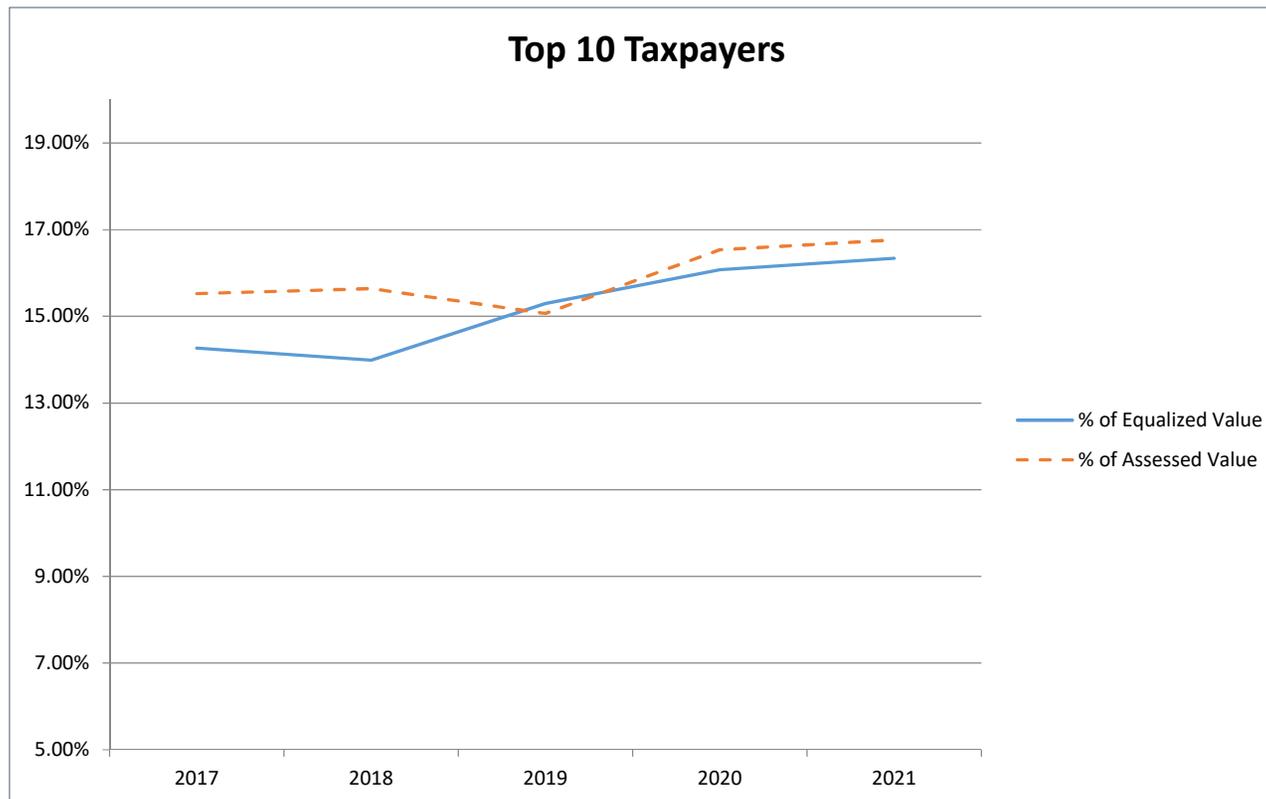
Capital asset activity for the year ended December 31, 2021, was as follows:

	Beginning Balance	Additions	Deletions	Ending Balance
Governmental Activities:				
Capital Assets not Being Depreciated:				
Land	\$ 24,590,639	\$ -	\$ -	\$ 24,590,639
Construction in Progress	3,656,817	2,305,678	3,590,713	2,371,782
Total Capital Assets not Being Depreciated	28,247,456	2,305,678	3,590,713	26,962,421
Capital Assets Being Depreciated:				
Buildings	28,585,361	1,747,525	-	30,332,886
Improvements	13,641,349	36,400	-	13,677,749
Machinery and Equipment	25,971,641	3,864,693	859,965	28,976,369
Infrastructure	122,819,590	7,131,130	1,772,839	128,177,881
Total Capital Assets Being Depreciated	191,017,941	12,779,748	2,632,804	201,164,885
Less: Accumulated Depreciation for:				
Buildings	14,695,693	706,706	-	15,402,399
Improvements	4,543,022	706,526	-	5,249,548
Machinery and Equipment	17,292,222	1,884,823	829,855	18,347,190
Infrastructure	45,794,648	4,461,146	1,772,839	48,482,955
Total Accumulated Depreciation	82,325,585	7,759,201	2,602,694	87,482,092
Capital Assets Being Depreciated, Net of Depreciation	108,692,356	5,020,547	30,110	113,682,793

Indicator 3



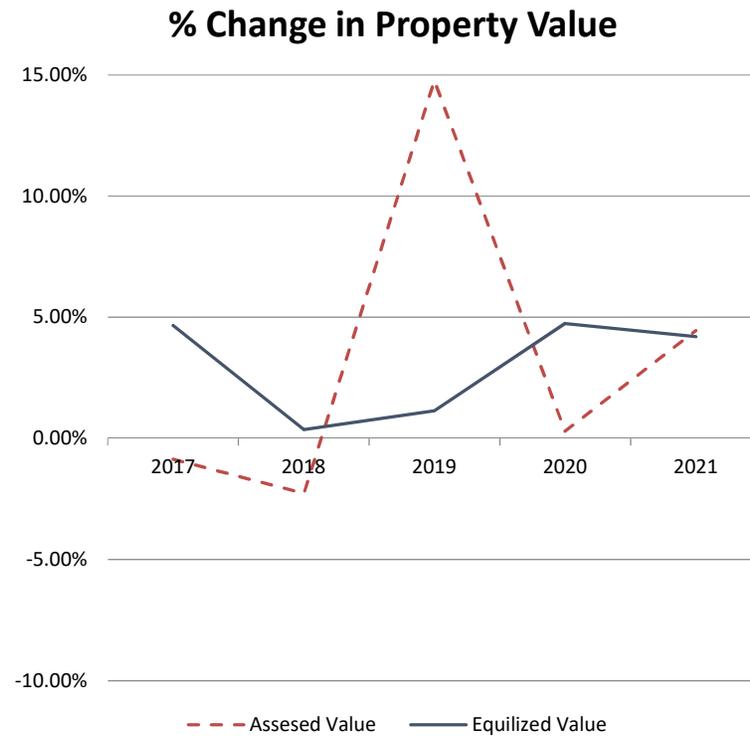
Indicator 5



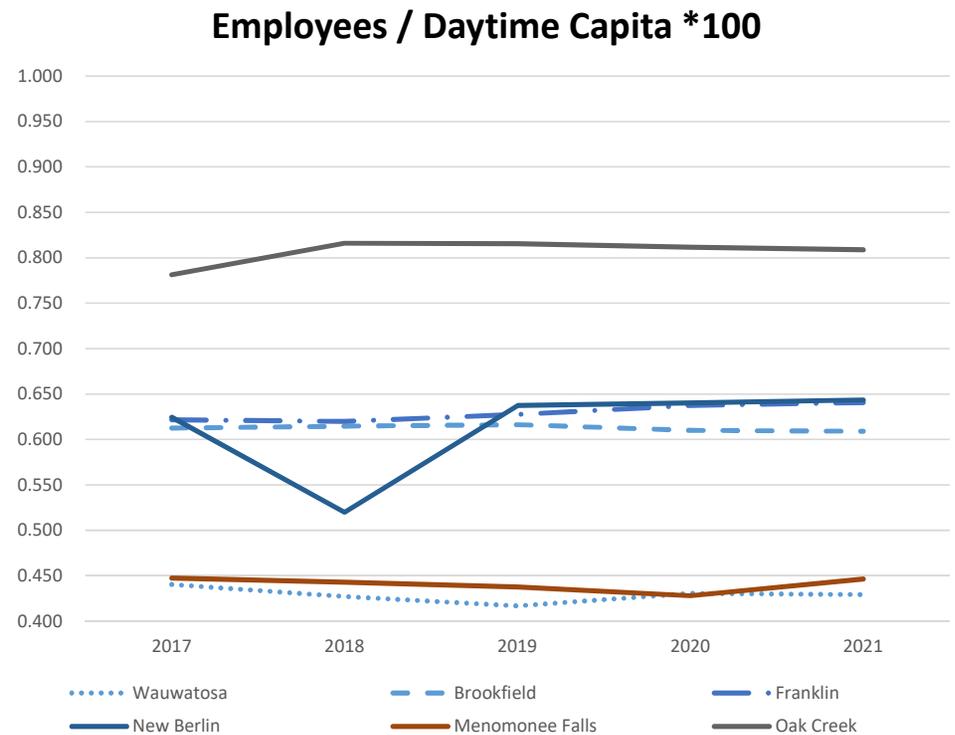
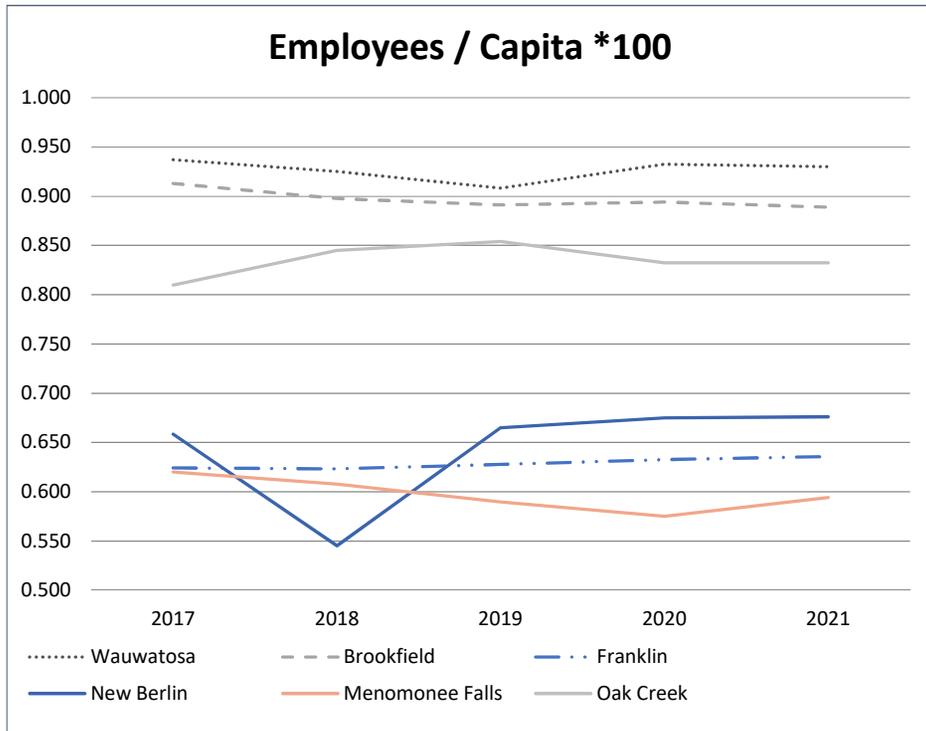
Top 10 Taxpayers Comparison

City of Wauwatosa							Table 7
Principal Property Tax Payers							
Current Year and Ten Years Ago							
Taxpayer	2021			2011			
	Taxable Assessed Value	Rank	Percentage of Total City Taxable Assessed Value	Taxable Assessed Value	Rank	Percentage of Total City Taxable Assessed Value	
Froedtert Memorial Lutheran Hospital	438,005,600	1	5.96%				
Mayfair Mall LLC (Mayfair Shopping Center)	402,366,900	2	5.47%	269,427,771	1	4.93%	
Childrens Hospital Wisconsin	182,401,300	3	2.48%				
Irgens Development Partners (Office Buildings)	151,804,200	4	2.06%				
Burleigh Mayfair LLC (Mayfair Collection Retail Stores)	99,011,600	5	1.35%				
HSI (State Street Station, Apartment Complexes)	81,017,200	6	1.10%				
Wheaton Franciscan Healthcare	78,881,000	7	1.07%				
Bell Marquette I LLC (formerly, GE Healthcare)	64,131,600	8	0.87%	57,490,571	3	1.05%	
Gateway Tosa HC LLC (Medical Office Building)	53,805,000		0.73%				
The Medical College of Wisconsin	53,136,200	10	0.72%				
H-D Capitol Drive LLC (Harley Davidson)				60,064,095	2	1.10%	
Innovation Partners LLC (Office Building)				24,268,952	8	0.44%	
North Mayfair 8				23,066,067	9	0.42%	
Bonstores Realty One LLC				26,131,657	5	0.48%	
Covenant Healthcare System inc.				38,698,438	4	0.71%	
Briggs & Stratton				24,427,714	7	0.45%	
JC Penny Properties Inc.				25,237,533	6	0.46%	
Mayfair Woods LLC				22,783,810	10	0.42%	
Total	1,166,555,000		15.86%	\$ 571,596,608		9.99%	

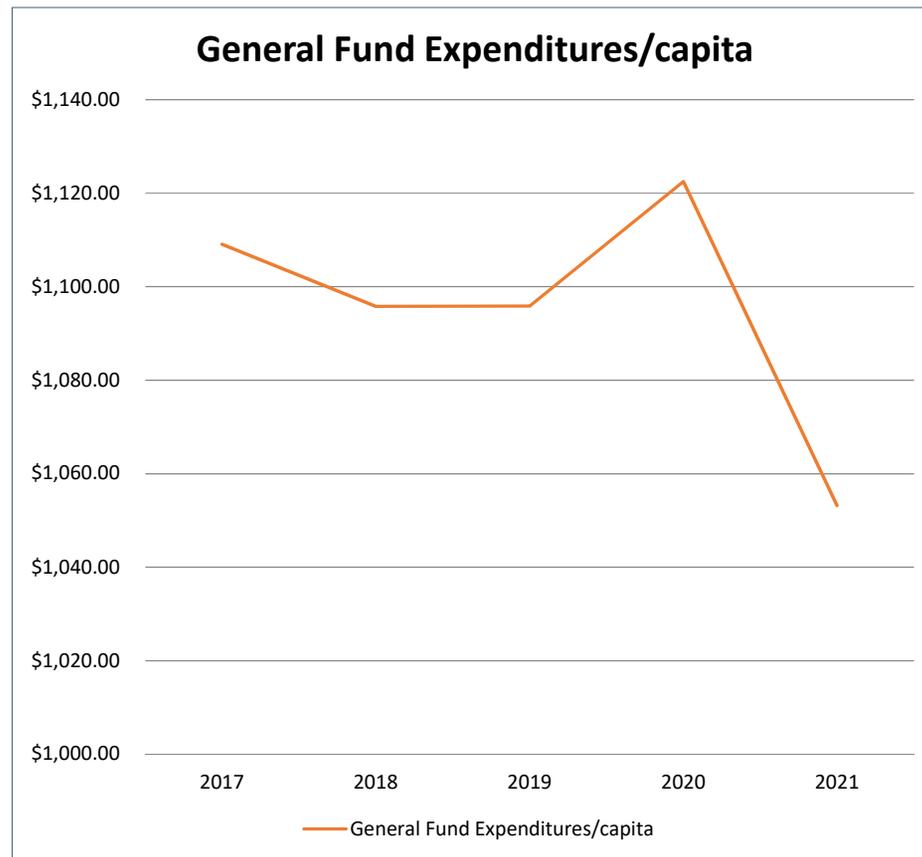
Indicator 6



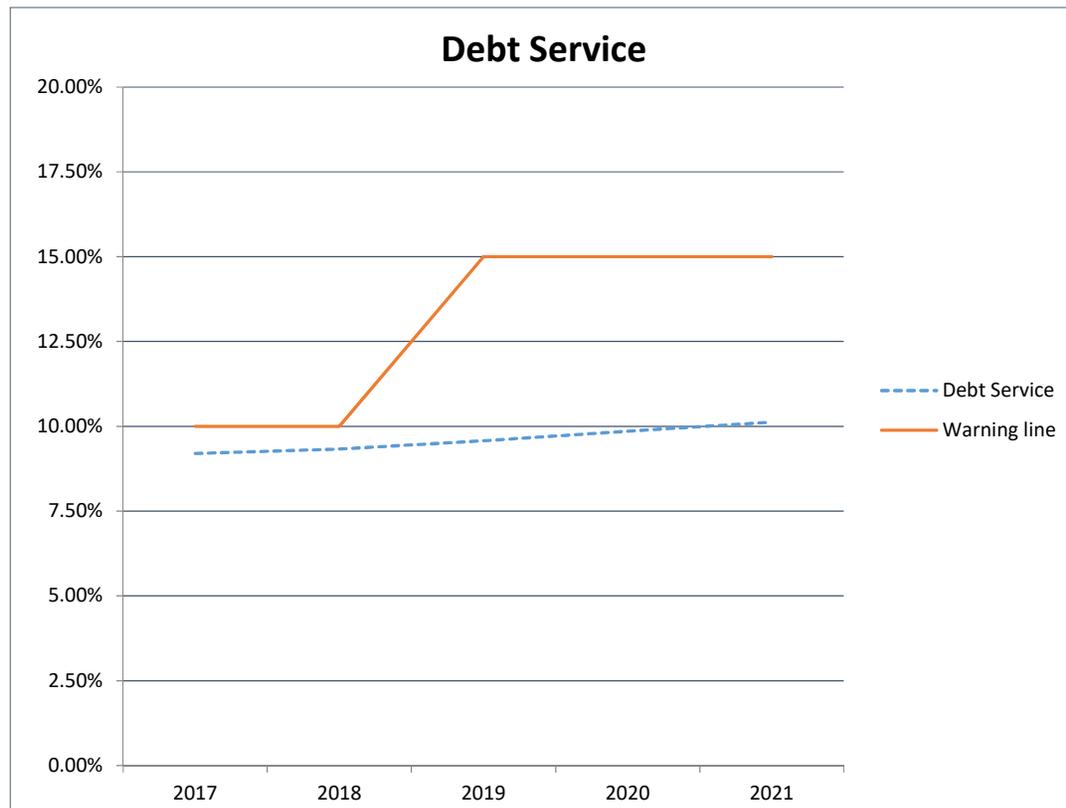
Indicator 7



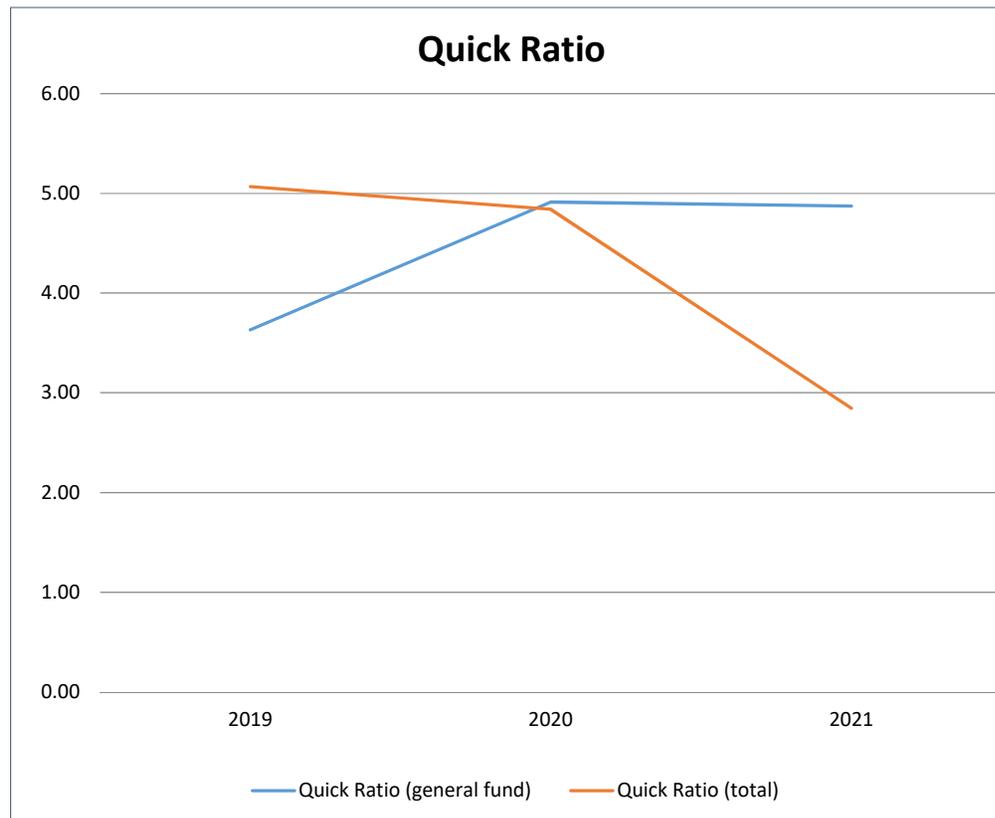
Indicator 8



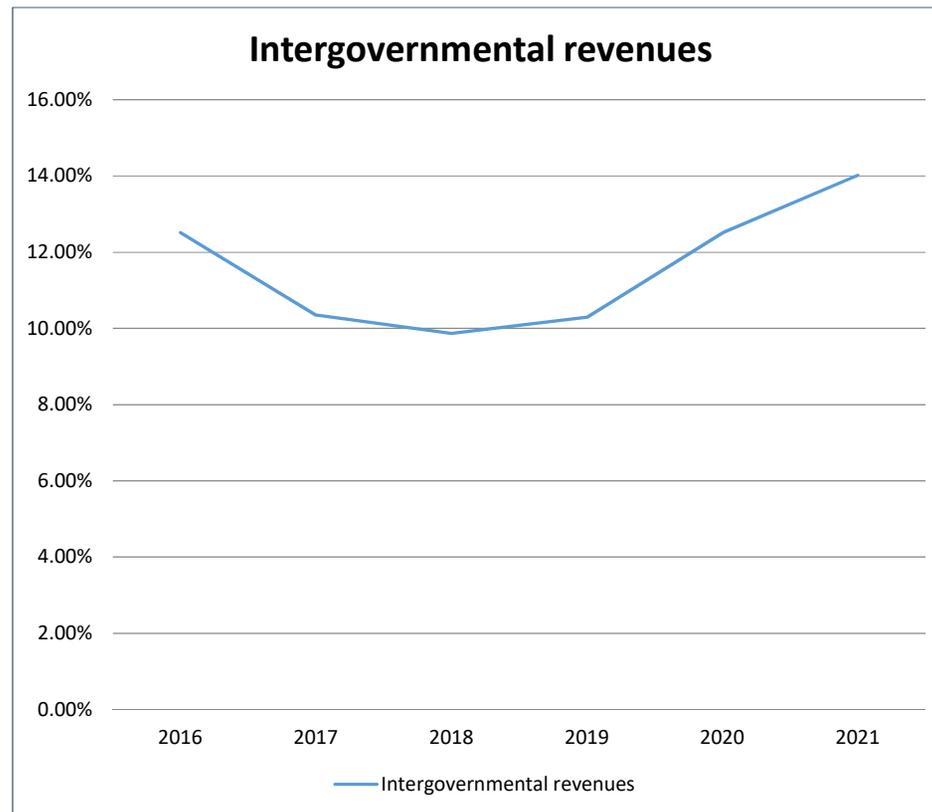
Indicator 10



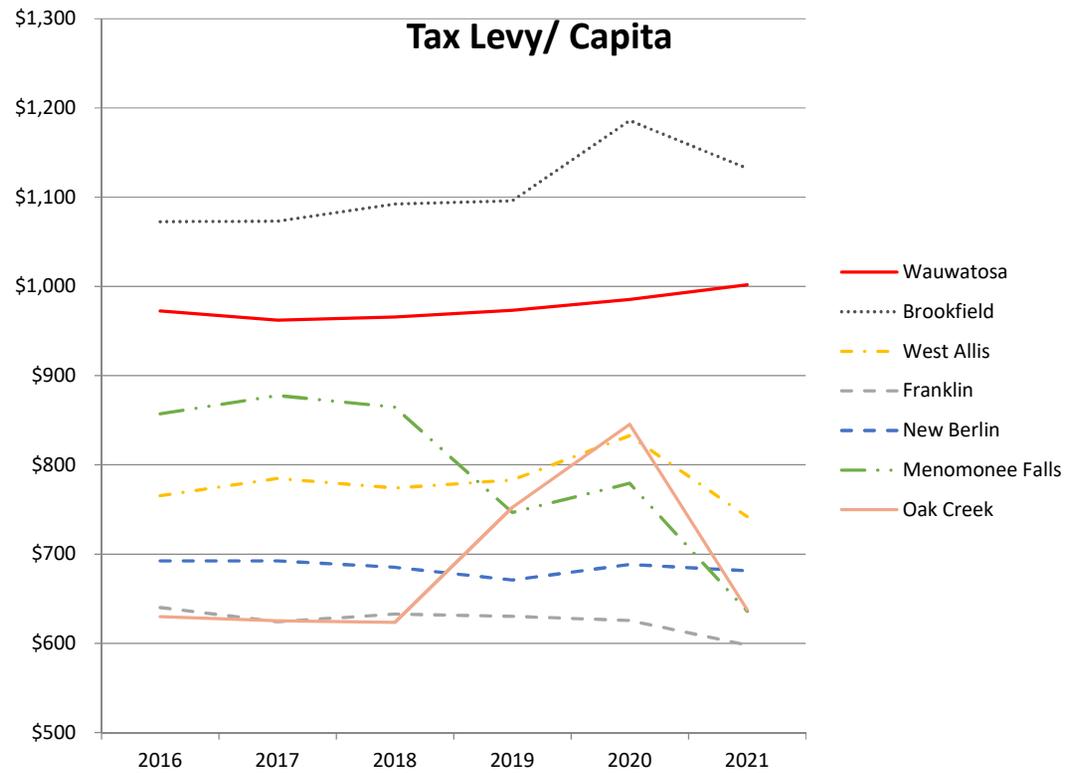
Indicator 12



Indicator 16



Indicator 17





Staff Report

File #: 23-535

Agenda Date: 2/28/2023

Agenda #: 2.

2022 Operating Budget carryover approval

Submitted by:

John Ruggini

Department:

Finance Department

A. Issue

Carryover requests represent one of the final annual budgetary processes as unused but committed funds are transferred from the 2022 Budget to the 2023 Budget. As these funds would have alternatively positively impacted the end of the year surplus/deficit, approval of a carryover requests represent an important decision.

B. Background/Options

A carryover is a budgetary mechanism by which spending authority is transferred from one fiscal year to the next. This is most often necessary where a project budgeted for in one fiscal year (2022) is not completed so that remaining committed but unspent funds associated with the project are transferred to the following fiscal year (2023). This is accomplished by amending the 2023 expenditure budget to reflect approved carryovers. For the General Fund, in order to maintain a balanced budget, the unspent 2022 funds that are carried over are deposited in the fund balance as an "assigned" fund balance and reflected as a revenue in the subsequent year's budget. As a result, carryovers can have an impact on the unassigned fund balance if a greater amount is carried over as compared to the prior fiscal year as funds are then shifted from the unassigned to the assigned fund balance, all other things being equal.

Departments submitted carryover requests in early January. Following Finance Department review, final recommendations are presented below by fund and in detail in Attachment A. Funds that were already encumbered on a purchase order or are designated as non-lapsing in the budget resolution are automatically approved for carryover and not included in these charts.

Recommended Carryover Amounts by Fund

FUND#	FUND	AMOUN
10	GENERAL FUND	432.30
22	MUNICIPAL COMPLEX	27.00
51	SANITARY	1,475.00
52	STORM	25.00

The General Fund carryover is \$176,673 less than the amount carried over last year. As a result, the unassigned fund balance would decrease by this difference if that were the only change as less funds are needed to be set aside for subsequent year expenditures.

The attached tables describe each carryover. Year-end forecasts assumed funds for projects already in progress would be spent by year-end. Therefore, approving these carryovers does not worsen the forecast. Denying the carryover would only create an unbudgeted 2023 expense in the cases where a project is already begun and the City has a contractual commitment.

However, carryovers for uncommitted funds do have the effect of reducing the eventual year-end surplus. Staff give careful consideration to these carryovers and only recommend those that have a beneficial impact on City operations or services.

C. Fiscal Impact

See discussion above.

D. Recommendation

I recommend that 2023 Budget be amended to reflect the carryovers as presented in Attachment A. These figures are intended to be not-to-exceed amounts and may change as final 2022 bills are paid and are contingent upon year-end results.

Recommended Carryovers

FUND	Department	Available Balance	Amount Recommended	Reason
10	ASSESSOR	\$6,258.03	\$6,000.00	We have a newer assessment staff and preparing and developing their knowledge base prior to the next reval is a high priority. Coursework will be primarily focused on commercial valuation and residential modeling.
10	ASSESSOR	\$26,199.91	\$1,150.00	Due to a tough job market and difficulties recruiting for an appraiser position, our department has been understaffed for a significant amount of time in 2022. In order to process and value over 1,900 personal property accounts between February and April 2023, we will need additional over time hours.
10	ASSESSOR	\$26,199.91	\$14,400.00	We continue to have a need to hire an intern to convert hardcopy sketches to digital format in our assessment software. It is a statutory requirement. Over the past year we contracted with a previous Wauwatosa staff member to work remotely on this task and we look forward to continuing with his services.
10	Elections	\$33,750.02	\$33,750.00	Carry over for next year elections
10	Elections	\$24,802.30	\$10,000.00	Postage for ballots
10	Finance	\$6,258.03	\$4,000.00	Conferences or training for 2023 (Tyler or GFOA training)
10	Finance	\$1,334.00	\$500.00	Unused Pcard rebate to be used to replace staff refridgerator
10	Traffic Control	\$7,499.84	\$2,825.00	Purchase of No Parking signs (150 - \$9.64/ea) and blank single sided signs (150 - \$9.19/ea). Quote provided by Bureau of Correctional Enterprises.
10	Traffic Control	\$3,459.78	\$2,907.00	Purchase of square sign post kits, 12' pole package, posts bolts and nuts (20 - \$143.35/ea). Quote provided by TAPCO.
10	Solid Waste	\$5,773.78	\$3,906.00	Purchase of 96 Gallon carts (50 - \$57.75/ea) and yellow recycling lids (50 - \$0.25/ea). Quote provided by Toter. Shipping additional \$1,006.00.
10	Forestry	\$6,158.10	\$4,195.00	One month bucket truck rental fee (\$4,195.00). Due to additional costs for grinding and mulching and truck rentals in early 2022, we anticipated we would only able to rent 1 truck for November and December. Additional funds remaining will be carried over to cover the cost of a 2nd bucket truck rental. (City typically rents 2 bucket trucks November-March to handle the annual tree pruning.)
10	Traffic Control	\$3,653.50	\$1,500.00	As part of the Neighborhood Association signage program, the City supplies the materials and labor to install the neighborhood signs. Funds will be used for the purchase and painting of sign brackets and purchase of banding for signs to be installed in 2023. The carry over amount will support sign installation for 2-3 neighborhoods.
10	Engineering	\$12,788	\$12,000.00	Professional license's required continuing education has been deferred due to COVID-19 concerns
10	Engineering	\$2,650	\$2,000.00	Mass mailings regarding sewer laterals not sent out due to staffing and workload-Envelopes
10	Engineering	\$7,777	\$7,000.00	Mass mailings regarding sewer laterals not sent out due to staffing and workload-Printing
10	Engineering	\$1,157	\$1,000.00	Memberships lapsed, additional FTE's in 2023 budget
10	Engineering	\$9,286	\$9,000.00	Mass mailings regarding sewer laterals not sent out due to staffing and workload-Postage
10	Engineering	\$84,702	\$15,000.00	Purchase office furniture for Eng office move and two additional FTEs to be added in 2023
10	Engineering	\$50,000	\$25,000.00	Contingency funding for non-capital consultant assistance
10	Human Resources	\$27,906.22	\$18,000.00	Carryover due to not being able to complete director development training in 2022. Also, using funds for leadership assessments at Police Department.
10	Human Resources	\$99,880.00	\$77,000.00	Carrying over funds to be used for compensation plan review and redesign.

Recommended Carryovers

FUND	Department	Available Balance	Amount Recommended	Reason
10	Police	\$72,283.19	\$72,284.00	Unutilized Governor Evers Law Enforcement Grant funds
10	Police	\$72,283.19	-\$47,284.00	Unutilized Governor Evers Law Enforcement Grant funds \$25,000 rev was budgtd but no expenses.
10	Police	\$3,385.00	\$3,385.00	Unutilized "pilot" Citizen Police Academy overtime funds
10	Police	\$0.00	-\$13,440.00	DOJ training funds were received in Decembe, but were unable to be expended by year end.
10	Police	\$21,499.40	\$13,440.00	DOJ training funds were received in Decembe, but were unable to be expended by year end.
10	Police	\$81,716.34	\$10,752.00	Equipment, including radio and body worn camera chargers, related to PD expansion and an increased roster remained unpurchased during 2022.
10	Police	\$70,964.34	\$2,620.00	Miscellaneous supplies related to CIRT remained unpurchased by year end 2022.
10	Police	\$68,344.34	\$3,342.00	Axon Cameras contract payment for CSO vehicles was divided over 5 years, rather than a single payment. Note that the PD began utilizing additional program codes in 2023, so the Org/Object codes are different.
10	Development	\$1,002.66	\$1,000.00	Professional development carryover for staff to attend the Urban Land Institute's Housing Opportunity Conference in March, 2023 which aids in maintaining staff's professional certifications.
10	Development	\$14,516.59	\$14,000.00	To relocate the City Hall Bublr bike station to Hoyt Park/Pool at the request of Public Works Department. Costs will include concrete work, electrical work, and installation. Funds will also be used to purchase new 3.0 bike docks that are smaller and a better fit for City Hall and can be located outside the parking lot.
10	Fire	\$8,636.95	\$8,630.00	Should be revolving account - Emergency Management
10	Fire	\$2,000.00	\$2,000.00	Replacement furniture for station break room were in the process of being purchased at year end.
10	Fire	\$2,000.00	\$2,000.00	We Energies Grant for RTF gear.
10	Fire	\$35,491.60	\$35,491.60	EMS Flex great
10	Fire		-\$35,491.60	EMS Flex great - Paid 1/2 in 2022 and then 1/2 in 2023 to use
10	Fire	\$10,884.03	\$10,000.00	Change of use of capital outlay funding. 2022 projects were done under budget. Request funding to be transferred to building repair account to help offset the cost of replacement window at Station 53.
10	Police Station	\$26,233.14	\$8,000.00	Funds to be used for an indoor air quality review requested by police staff
10	Undistribted Payroll		\$72,036.00	0.5% of eligible wages for performance pay
10	Undistribted Payroll		\$5,510.00	0.5% of eligible wages for performance pay - FICA
10	Undistribted Payroll		\$4,900.00	0.5% of eligible wages for performance pay - WRS
10	Police Station	\$26,233.14	\$8,000.00	Funds to be used for an indoor air quality review requested by police staff
			\$432,308.00	

Recommended Carryovers

FUND	Department	Available Balance	Amount Recommended	Reason
22	Facilities	\$31,006.75	\$15,000.00	Funds to be used to do the drywall repairs in the library where the windows had been leaking in NE corner of the adult library.
22	Facilities	\$16,066.75	\$12,000.00	Funds to be used to complete tuck-pointing repairs that are causing leaks near the public elevator for city hall
			\$27,000.00	
51	Sanitary	\$200,851.10	\$200,000.00	Sanitary manhole rehabilitation project budget.
51	Sanitary	\$66,480.00	\$25,000.00	Sewer evaluations not completed due to staff workload.
51	Sanitary	\$1,392,896.34	\$1,250,000.00	Private lateral replacement program to minimize rainwater infiltration not completed in 2022.
			\$1,475,000.00	
52	Storm Sewer	\$30,054.82	\$25,000.00	Storm sewer bacteria identification equipment and consulting
			\$25,000.00	

CITY OF WAUWATOSA
MEMO



To: **Financial Affairs Committee**

From: **David Simpson, Public Works Director**

Date: **February 21, 2023**

Subject: **Modifications to the City's Consolidated Fee Schedule related to snow and ice removal from sidewalks**

A. Issue

In early 2022 the Common Council modified the City’s Municipal Code related to snow and ice removal from sidewalks. The code change was implemented so that enforcement of the changes would begin with this winter season (2022-23). In response to one of the changes made to the Municipal Code, I recommend that fees charged to property owners for City snow removal on sidewalks be reduced at this time.

B. Background/Options

In order to more quickly respond to pedestrian complaints related to snow and/or ice not being removed from public sidewalks, the City’s Municipal Code was modified to allow for City initiated the removal of snow and/or ice from a public sidewalk immediately upon receiving a complaint if more than 24 hours have passed from the completion of a snow event. This change has allowed the Department of Public Works to respond to complaints quicker, work more efficiently, and reduce expenses when clearing a public walkway that needs to be completed by the City. When the Municipal Code was changed, the Consolidated Fee Schedule was not adjusted; however, we believe that the fees should be lowered to accurately reflect the new cost of clearing the walkways. Currently, the City charges a base fee of \$100 per location plus \$1.00/linear foot up to 30 feet and \$2.00/linear foot for everything past 30 feet. We have calculated our staff and equipment time necessary to clear walkways and believe that a base fee of \$100 plus \$0.25/linear foot of walkway accurately reflects the current removals cost. The table below summarizes the sidewalks we have cleared this winter season with the current and proposed fees.

Location	Property Type	Storm Date	Work Date	Linear Feet	Bill with Current Fee	Bill with Proposed Fee
1	Commercial	12/24/2022	12/28/2022	826	\$1,722.00	\$306.50
2	Commercial	12/24/2022	12/28/2022	75	\$220.00	\$118.75
3	Single Family	12/24/2022	12/28/2022	217	\$504.00	\$154.25
4	Single Family	12/24/2022	12/28/2022	225	\$520.00	\$156.25
5	Commercial	1/29/2023	1/30/2023	185	\$440.00	\$146.25
6	Two-family	1/29/2023	1/31/2023	48	\$166.00	\$112.00
7	Single Family	1/29/2023	1/31/2023	143	\$356.00	\$135.75
8	Single Family	1/29/2023	1/31/2023	200	\$470.00	\$150.00
9	Commercial	1/29/2023	1/31/2023	171	\$412.00	\$142.75
10	Commercial	1/29/2023	1/31/2023	400	\$870.00	\$200.00
11	Commercial	1/29/2023	1/31/2023	528	\$1,126.00	\$232.00
12	Commercial	1/29/2023	1/31/2023	220	\$510.00	\$155.00
13	Commercial	1/29/2023	2/1/2023	183	\$436.00	\$145.75
14	Commercial	1/29/2023	2/2/2023	442	\$954.00	\$210.50
15	Commercial	1/29/2023	2/6/2023	178	\$426.00	\$144.50
16	Commercial	1/29/2023	2/6/2023	398	\$866.00	\$199.50

I am recommending that if the Common Council approves the new fee and if implemented apply it retroactively to the beginning of the 2022-23 snow season so that the 16 properties shown on the chart would be billed the proposed fee instead of the current fee.

C. Strategic Plan (Area of Focus)

Priority 2: Public Safety

D. Fiscal Impact

The City's budget currently includes anticipated revenue from sidewalk snow & ice removals in the amount of \$5,000. This revenue number is very unpredictable because it varies widely based on the number of snow events and complaints received each year. I would anticipate that this amount of revenue would generally be reached in an average year.

E. Recommendation

Modify the Consolidated Fee Schedule by reducing the current snow removal fee billed for removal of snow and/or ice from public sidewalks to be a \$100 base fee plus \$0.25 per linear foot of public sidewalk cleared.



Wauwatosa, WI

7725 W. North Avenue
Wauwatosa, WI 53213

Staff Report

File #: 23-537

Agenda Date: 2/28/2023

Agenda #: 4.

Memo from the Director of Public Works recommending award of a contract for processing of recyclable materials to Waste Management



CITY OF WAUWATOSA MEMO

To: **Financial Affairs Committee**

From: **David Simpson, Director of Public Works**

Date: **February 21, 2023**

Subject: **Memo from the Director of Public Works recommending award of a contract for processing of recyclable materials to Waste Management**

A. Issue

The City is currently under contract with Republic Services to process recyclable materials at the Materials Recovery Facility owned by the City of Milwaukee and Waukesha County (Joint MRF) through the end of 2023, however we have been unable to haul recyclable materials to the facility for over three months so we are recommending entering into a new contract with a different vendor at this time.

B. Background/Options

The City's costs to process recyclable materials increased drastically in 2019 so proposals for processing of recyclable materials beginning in 2020 were acquired from all available vendors. At that time the decision was made to contract with Republic Services at the Joint MRF for 2020 and evaluate how the year went before deciding on a long-term contract. In 2020 Republic Services provided quality service and only had one day of downtime. The commodity values that Republic Services were able to obtain were also higher than expected. Based on the positive experience the City entered into a 3-year contract with Republic Services starting in 2021.

In 2021, there were approximately 20 days where the City was not able to haul recyclables to the Joint MRF and we were required to find an alternate location. In 2022 there were 123 days where the City was not able to haul to the Joint MRF making this location extremely unreliable. Although the City has a contract with Republic Services, we are considered a third-party source so our materials can be turned away if deemed necessary when the Joint MRF is over capacity and/or the facility has a shutdown due to mechanical issues which is often the case. The City has been put in a position to haul to alternate locations where we are not able to partake in a revenue share or have protection from being turned away. As a result, the City has requested to terminate the contract with Republic Services who is agreeable to the early termination.

City staff acquired pricing for recycling processing from the remaining available recycling processors in the area which are Waste Management and John's Disposal. The following are the total annual estimated costs for recyclable processing and hauling, which is the net cost of the processing fees and revenue and includes additional costs for City required fuel to travel to the MRFs:

- Waste Management: \$208,684
- John's Disposal: \$250,602

Waste Management has proposed a three-year contract with an annual increase up to CPI based on the Water, Sewer, and Trash Collection (WST CPI) 12-month average. This average increase for

2022 was 4%. The City's cost share of the commodity values will remain the same throughout the contract, which is 80% of the blended net value, as opposed to 70% share currently received from Republic Services. Recycling commodity values have been on a down turn recently, however the commodity values provided by Waste Management were the highest of the proposals.

Additionally, Waste Management guarantees alternative hauling locations if they experience a shut down and will be upgrading their facility in the late spring and summer of 2023. Based on all factors evaluated we are recommending that we proceed with the proposed three-year contract with Waste Management for processing of recyclable materials. The contract with Waste Management would be effective immediately, upon approval.

C. Fiscal Impact

Based upon the proposal provided by Waste Management there will be a savings of \$14,916 for the 2023 budget, however actual costs will vary depending upon the value of commodities and amount of recyclable materials processed throughout the year.

D. Recommendation

Authorize execution of a 3-year contract with Waste Management for processing of recyclable materials with a processing fee of \$95/ton, an environmental fee of \$5/ton, and a potential fuel surcharge of \$4/ton. An annual increase after year one no greater than CPI based on the Water, Sewer, and Trash Collection (WST CPI) 12-month average. The City to receive 80% of the commodity value revenue through the life of the contract.



CITY OF WAUWATOSA MEMO

To: **Financial Affairs Committee**

From: **David Simpson, Director of Public Works**

Date: **February 21, 2023**

Subject: **Approval of a multi-year agreement with Perry Weather for a software subscription for the outdoor warning system at Hart Park**

A. Issue

In 2022 the City replaced the existing lightning detection system at Hart Park Stadium with a more advanced outdoor warning system that serves a larger area of Hart Park. There is an annual fee associated with the system and entering into a multi-year agreement allows for reduced annual fee increases so approval of a multi-year agreement is being sought at this time.

B. Background/Options

In 2022 the City installed two Perry Weather outdoor warning system modules at Hart Park. These modules are off-grid and cellular enabled so that during a power failure the outdoor warning system will still operate. This also allows the system to operate independent of the City's IT infrastructure so no IT staff support is needed for this system. This system automatically warns the public of possible severe weather and it also allows City staff to send other messages related to public safety through mobile enabled software.

Part of the operation of this system relies on an annual software subscription, of which, one year's expense was included as an annual fee with the initial purchase. The first year of operation was successful so we have asked the vendor to provide a pricing option that keeps the costs as low as possible. The vendor has agreed to a keep the fee in 2023 the same as 2022 and then increase the annual fee no greater than 3% per year for a term of five years. Given the cost of inflation and the success to date with the system I am recommending entering into a five year contract to avoid potential large increases in cost that we would be subject to if we weren't under contract with the vendor.

C. Fiscal Impact

The subscription is \$3,000/year with a maximum increase of 3% per year subsequent to year one for a term of five years which is paid through the Operating Budget of the park.

D. Recommendation

Authorize execution of a 5-year software subscription contract with Perry Weather for the outdoor warning system at Hart Park with an initial fee of \$3,000 per year and an annual cost increase limited to 3% during the term of the agreement.



Staff Report

File #: 23-553

Agenda Date: 2/28/2023

Agenda #: 6.

Approval of a term sheet with MSP Real Estate, Inc. to construct affordable multi-family apartments at the Burleigh Triangle

A. Issue

MSP Real Estate, a Midwest development company with a track record in Wauwatosa for developing successful multi-unit residential projects for a range of income levels is requesting Tax Increment Financing assistance for an 80 unit project at the Mayfair Collection at 11500 West Burleigh Street. A term sheet between the City and the developer is under negotiation.

B. Background/Options



Tax Increment District 7 - Burleigh Triangle was created in 2013 to redevelop a blighted property centered around an abandoned Roundy's warehouse. The master plan for the site calls for a mixture of retail, residential and office uses. The City of Wauwatosa received an application from MSP Real Estate, the developer, for financial assistance through Tax Increment Financing (TIF) to fund portion of the eligible costs related to the construction of an

approximate 80-unit mixed income affordable housing project as shown on the map below. The project will include 1, 2 and 3-bedroom housing units within 2 buildings that are dedicated for both families and seniors within each respective building. The income levels of the units will be a mix of 30%, 50%, 60% and market rate levels. The land use has been approved by the Common Council and the full Planned Unit Development packet can be found here: <http://wauwatosacitywi.iqm2.com/Citizens/FileOpen.aspx?Type=1&ID=3910&Inline=True>

The developer has requested \$2,275,909 of financial assistance through tax increment financing (TIF) from the City. City assistance would be the final source of funding required for the project to proceed. The other funding sources include Wisconsin Housing and Economic Development Authority tax credits, Federal Home Loan Bank Affordable Housing Program grant, Developer equity and a Milwaukee County Affordable Housing grant.

Staff will share in closed session more details on the terms of the TIF assistance which is currently under negotiation. The purpose of this open session memo is to discuss the impact of the proposal on the TIF District including infrastructure necessary to facilitate the development.

The table below describes the current financial status of Tax Increment District 7. The District was established in 2013 with a 27 year life that will expire in 2040. It had a base value of \$20.1 million when it was created and over the past 10 years, that value has increased 878% (City average of 380%) to \$183.7 million. At 2.03% of the City’s total equalized value, TIF 7 is the most successful of the City’s current districts in that measure. For every dollar invested to date, \$4.57 of property value has been created compared to a current average of 4.63. The only negative indicator is that as of the end of 2022, the District had a negative cash balance of \$279,288. The City purposely drew down cash to avoid additional borrowing for the demolition of the Schoeneck warehouse and internal road construction knowing that the District has an annual average positive surplus of approximately \$400,000.

	TIF 7
Categories	Burleigh Triangle
Year Established	2013
Base Value	\$ 20,815,000
Incremental Value	\$ 182,718,800
Total Expenditures (through 12/31/21)	\$ 39,955,602
% of Equalized Value	2.03%
Growth over base	878%
Incremental Value per Investment	4.57
Change in Value from 2021	\$ 36,255,300
% Change in Value	22%
Annual Property Tax Increment	\$ 2,548,164
12/31/22 Fund Balance	\$ (279,288)

The MSP proposal requires \$2,275,909 in tax incremental financing assistance due to the number of affordable units (56 of 80) and the level of affordability (30-80% of median income). In addition, the following expenses are required for the development:

- an estimated \$1,109,000 is required to relocate public utilities that will be privately owned but eventually dedicated to the City. (see attached)
- architectural and design fees totaling \$114,298 incurred to date for master plan design work (see attached)
- \$288,000 in incentives provided to the developer as part of a prior agreement for unfunded phase II utility and public amenities incurred (see attached development agreement - section 10)
- \$82,344 for procurement equity and inclusion monitoring
- \$16,300 for construction inspection and monitoring

\$20,000 for financial analysis consulting support

Working with a financial consultant, staff modeled the impact of these costs on the life of the Tax Increment District assuming the MSP project creates \$7,200,000 in additional incremental value and the full TIF request is funded.

Under these assumptions:

The Debt Coverage Ratio dips to a low of 1.28 in 2024 but grows steadily thereafter, averaging 9.1 over the remaining life of the District. City policy requires a ratio of 1.25.

The cash balance remains negative until 2024 and then grows steadily. It would reach \$36.5 million by 2040 assuming no additional development or liabilities. This is a hypothetical scenario. The District would either use those funds for additional project expenses, public improvements (such as a pedestrian/bike crossing over the railroad tracks to Currie Park) or close the District early.

Based on this analysis, the Tax Increment District can support the expenditures necessary for the MSP development.

C. Fiscal Impact

The proposed expenditures would utilize existing Tax Increment District 7 funds and would have no impact on the General Fund.

D. Recommendation

Assuming approval of the proposed term sheet by both the City and MSP Real Estate, staff recommend that the Committee authorize the following expenditures:

1. \$2,275,909 to be disbursed per the final approved term sheet to MSP Real Estate for extraordinary expenses associated with providing affordable housing.
2. Up to \$1,200,000 in Tax Increment District 7 funds for the relocation of utilities necessary for the MSP Real Estate project
3. Reimburse Citadel Property Advisors (formerly HSA) for architectural and design expenses totaling \$114,298 incurred to date for master plan design work
4. Pay Citadel Property Advisors \$288,000 in incentives provided to the developer as part of a prior agreement for unfunded phase II utility and public amenities incurred.
5. Pay up to \$16,300 to Mannedge Consulting for an assumed 18 months of construction inspection and budget to actual construction analysis.
6. Pay up to \$20,000 to Baker Tilly for consulting support in the analysis of this TIF request and its impact on Tax Increment District 7.

Staff recommend a level three fund transfer be approved to amend the Tax Increment District 7 2023 budget for these expenses as appropriate.

The Committee may convene into closed session regarding this item pursuant to Wis. Stat. §19.85 (1)(e), to deliberate or negotiate the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session. The Committee may reconvene into open session to consider the balance of the agenda.

John,

I had Chris send the invoices (attached) for the animation which are summarized below. This is separate from Chris' work. I've already paid these, so we can get them paid at a later date if that works better for you.

Invoices from ATChain: *ANIMATION*

- 1. Initial Payment Invoice 1/9/16: \$11,010.00
- 2. Balance Payment Invoice 2/1/18 \$23,520.00
- 3. Additional Work Invoice 2/27/18 \$695.00
- 4. Froedert Modification Inv 3/13/18 \$528.00
- 5. Hi Res Still Invoice 10/9/18 \$500.00

Total \$36,253.00

TOA Architecture / Urban Design
Christopher L. Thomas, AIA, Principal
1120 Grant Street | Evanston, Illinois 60201
Direct: [224.999.7350](tel:224.999.7350) | Mobile: [312.519.9624](tel:312.519.9624)
www.toadesigns.com

11/11/11

July 22, 2019

Mr. Tim Blum
Managing Director – Retail Group
HSA Commercial, Inc.
100 South Wacker Drive, Suite 950
Chicago, Illinois 60606



**Re: Mayfair Collection Phase IV Infrastructure
Infrastructure Coordination Services / Master Plan &
Marketing Support Proposal**

Dear Tim:

Further to our recent discussions, Thomas / O'Connor Associates, LLC, (hereinafter the "TOA") is pleased to submit the following proposal to HSA Commercial, Inc. (hereinafter "the Owner") for architectural services as outlined below, in support of the Mayfair Collection Phase IV Infrastructure Improvements.

The project is comprised of approximately 22.75 acres within the Mayfair Collection site, bounded partially by 112th Street on the east, the rail road rite-of-way, Phase I of the Mayfair Collection on the West and Synergy Drive on the south. The work will consist of developing a Master Plan, coordinating Civil Engineering, Landscaping, and Environmental consultants and development of a phasing plan for the construction of:

1. Seven (7) buildable pads.
2. Extension of 112th Street under US 45 to Wirth street, including extension of multi-path.
3. Design and realignment of 113th street.
4. Design of future cross-streets to accommodate buildable pads.

The work will also consist of coordinating production of a video animation of the project, and on-going marketing support services.

It is understood that a portion of the services outlined above, have been completed (preliminary master plan and video animation production coordination and some marketing support services).

A. SCOPE OF SERVICES

Based on the above understanding TOA proposes to provide the following services.

Thomas / O'Connor Associates, LLC
1120 Grant Street
Evanston, Illinois 60201
312-519-9624

A.1 Master Planning, Programming and Concept Design Phase

TOA shall provide Master Planning of the new site to identify existing site conditions, analyze the proposed site parameters, determine site attributes, review zoning and design guidelines, constraints, setbacks, easements and other related site issues.

TOA will prepare preliminary programming and initial graphic architectural documentation to assist the Owner in the further evaluation of the program concepts. TOA shall provide conceptual site utilization diagrams, preliminary area calculations and general definition of the various uses proposed for the site. TOA shall summarize the character of the project in a Master Planning/Programming/Concept Design Document.

TOA will prepare documentation required to assist the Owner in presenting the design concepts to jurisdictional authorities for their initial review and approval.

A.2 Video Animation Production Coordination

TOA work with the Owner and a selected animation production vendor to produce an animation descriptive of the current and future phases of the project. The animation will utilize 3d models previously prepared for the project and will prepare new ones for use where necessary.

A.3 Marketing Support

TOA will provide graphic documents, Lease Diagrams, Renderings, and site test-fits for the 7 buildable pads on an as-needed basis.

A.4 Infrastructure Package

Based on the Master Plan previously prepared by TOA, we will work with the Owner and his consultants and City of Wauwatosa representatives to develop and refine the Master Plan, and coordinate the work of Owner's consultants, to create an Infrastructure Package for the purposes of bidding and construction of the first phase of the project, and to provide a clear direction of development for future phases of infrastructure work.

TOA will provide selective demolition drawings in support of the Infrastructure Package that are not included as part of the Civil Engineering package.

A.5 Bidding and Negotiations

Based on the Owner's approval of the Infrastructure Package TOA will assist the Owner in obtaining competitive bids or negotiated proposals for the work.

TOA will assist in the preparation of bid documents, schedule and coordinate pre-bid meetings with prospective contractors, review bids, and assist in the bid analysis and award to the contractor.

A.6 Construction Administration

TOA will provide Construction Administration services to include the processing, review and approval of shop drawings, samples and mock-ups, as specified in the Infrastructure Package. Services will include review of the contractor's request for payment, response to requests for information/request for clarification, and the review of change order proposals. TOA will provide periodic observation of the construction for general conformance of the work with the contract documents.

A.7 Special Studies

Specific design studies and/or detailed program reviews required to verify major tenant occupancies shall be considered as "special studies". Special studies that are specifically consistent with the approved program direction and are of reasonable scope, scale and quantity, as mutually determined by the Owner and Architect, shall be provided under this basic services proposal.

If a request for a special study is determined to be divergent from the continuing development of the project documents, it shall be considered a "Change" to the design and subject to the provisions of Paragraph A.7.

A.8 Changes

The Owner shall be permitted to modify the scope of work, the design and/or the program of the project. However, should such modification invalidate completed work or otherwise cause the Architect to abandon and/or revise previously completed work, such modification shall be considered a "Change" to the design. Requests for redesign by the Owner after completion of a specific design phase shall be considered a "Change" to the design. Revisions to the documents resulting from late review by the owner, tenant or operator shall be considered a "Change" to the design. Preparation of and/or revision to the design and construction documents that are not a result of any act, error or omission of the Architect, or not required to fully describe the initial scope of the work, shall be considered a "Change" to the design.

TOA shall identify all "Changes" to the design. A separate fee proposal and schedule shall be prepared for any such "Change". Owner approval of costs and schedule shall be obtained prior to commencing any work resulting from a "Change".

B. SCHEDULE

TOA proposes to perform the services listed above in accordance with the following schedule. A reasonable time period for design phase document review will be mutually agreed by the Architect and the Owner, and included in the Project Schedule. The Owner shall be responsible for the timely review including, comment and approval of the design and/or construction documents in accordance with the schedule.

B.1 *Master Planning, Programming and Concept Design Phase*

These services have been completed.

B.2 *Video Animation Production Coordination*

These services have been completed.

B.3 *Marketing Coordination*

The Marketing Coordination Phase will be ongoing for the life of this agreement.

B.4 *Infrastructure Package*

Development of the Infrastructure Package will take approximately eight (8) weeks.

B.5 *Bidding and Negotiations Phase*

The Bidding and Negotiation Phase of services will follow immediately after the completion of Infrastructure Package. The bidding and negotiation phase has a scheduled duration of approximately thirty (30) days from the completion of the construction documents.

B.6 *Construction Administration Phase*

The Construction Administration Phase will commence with the beginning of construction and end at project closeout. The construction schedule is dependent on the contractor(s) performance of the work will be estimated at the time of contract award.

B.7 *Duration of Professional Services*

The scope of professional services contained herein is anticipated to be completed within the estimated schedule durations identified above. For professional services required after the anniversary date of the Contract, Architect shall be compensated in accordance with Section D.

C. COMPENSATION

For the Scope of Services described in Section A and within the scheduled durations described in Section B, TOA proposes a lump sum fee for the above listed Architectural services, exclusive of all reimbursable expenses, Owner's consultants' fees and costs, site costs and Owner testing agencies.

C.2 Lump Sum Fee

A.1 Master Planning (complete)		\$30,000.00
A.2 Video Animation Coordination (complete)		\$7,045.00
A.3 Marketing Support		\$10,500.00
A.4 Infrastructure Package		\$15,000.00
A.5 Bidding and Negotiations		\$5,000.00
A.6 Construction Administration		\$10,500.00
Total Fee	100%	\$78,045.00

C.5 Invoicing and Payment

TOA will invoice monthly based upon a percentage completion of work by project component and by phase. We will modify the form and appearance of the invoice to suit the requirements of the Owner. Payment of invoices is due thirty (30) days after the receipt. Payment of all invoices is independent of the terms of any interim or construction financing agreements. Failure to make payment within thirty (30) days will result in the temporary suspension of work until all invoices are made current. TOA reserves the right to discontinue all services in the event that invoices remain unpaid after sixty (60) days. Invoices that are outstanding beyond sixty (60) days from the date of the invoice will accrue interest at the prevailing Prime Rate plus 2%.

D. SUPPLEMENTAL SERVICES

For supplemental services requested in addition to the scope of services defined above; for redesigning a component of the project as a result of a program revision initiated by the Owner or tenant/operator; or for "Changes" as defined above, TOA shall be reimbursed at our customary hourly billing rates as listed below to achieve the same level of completion and detail prior to the change.

Principal	\$225.00/hour
Project Architect	\$ 125.00/hour

These billing rates shall not be modified for one (1) year from the date of this agreement. Thereafter, the Architect shall be permitted to adjust the customary hourly billing rates not to exceed the lesser of the Architect's company-wide salary increases or eight percent (8%) per annum.

E. REIMBURSEMENT EXPENSES

In addition to the professional services fee quoted above, TOA will invoice for reimbursable expenses monthly based on 1.10 times the of cost (110%) for out-of-pocket expenses directly related to the project. These expenses typically include messenger service, reprographics, plotting, telecommunications, transportation, US mail, overnight courier services and other similar expenses. Payment of reimbursable expenses invoices shall be due thirty (30) days after receipt.

Please execute both original copies of this proposal and return one to our offices, keeping the other for your records.

Tim Blum, HSA Commercial, Inc.
Professional Services Proposal
July 22, 2019
Page 6 of 6

Sincerely,
Thomas / O'Connor Associates, LLC



Christopher Thomas, AIA
Principal

Accepted by:
HSA Commercial, Inc.

Tim Blum, Managing Director, Retail Division

Date

Thomas / O'Connor Associates, LLC
1120 Grant Street
Evanston, Illinois 60201
312-519-9624

MAYFAIR COLLECTION
11100 W. BURLEIGH AVENUE - WAUWATOSA, WI
COST TO DATE BREAKDOWN

December 19, 2022

	<u>Completed</u>	<u>Completed Phase</u>	<u>Affordable</u>
	<u>Demo Scope</u>	<u>IV Infrastructure</u>	<u>Senior Housing</u>
			<u>(Lot N. of</u>
			<u>Lineage)</u>
<u>EXISTING BUILDING DEMOLITION (Contract #1961)</u>			
DEMOLITION (EXISTING BUILDINGS)	\$655,477		
ABATEMENT	\$249,476		
GENERAL CONDITIONS	\$107,250		
OVERHEAD/FEE/INSURANCE	\$40,488		
EXISTING BUILDING SUBTOTAL:	\$1,052,691		
<u>PHASE IV INFRASTRUCTURE WORK (Contract #2047)</u>			
DEMOLITION		\$42,928	
EXCAVATION / GRADING		\$370,164	
HAUL-OFF		\$200,000	
SITE UTILITIES - WATER		\$60,851	
SITE UTILITIES - WATER METER SEPERATION SCOPE		\$72,300	
WATER METER SPERATION ESCALLATION COSTS (BASE COSTS INCLUDED ABOVE)		\$7,230	
SITE UTILITIES - STORM		\$244,605	
SITE UTILITIES - DETENTION		\$699,244	
PAVING		\$122,096	
CURBS & SIDEWALK		\$109,985	
GUARDRAILING		\$128,245	
SURVEYING		\$10,000	
LANDSCAPING		\$80,000	
FENCING & BOLLARDS		\$67,930	
RETAINING WALL		\$181,050	
LIGHTING		\$106,735	
WE ENERGIES		\$150,000	
CONTINGENCY		\$108,161	
GENERAL CONDITIONS		\$143,000	
OVERHEAD/FEE/INSURANCE		\$115,892	
PHASE IV INFRASTRUCTURE SUBTOTAL:		\$3,020,416	
<u>UTILITY RELOCATION AND CITY ENGINEERING PUNCHLIST</u>			
RELOCATION OF SANITARY AND STORM AROUND NORTH PARCEL			\$525,680
RELOCATION OF WATER AROUND NORTH PARCEL			\$100,000
WATERLINE RELOCATION ROUTE PREMIUM PER ENGINEERING REQUEST - CITY REQUEST			\$59,730
PAVING SCOPE ASSOCAITED WITH UTILITY WORK (APPROX. 1,600SF)			\$15,333
MILL & PAVING SOUTH DRIVE WITH HD ASPHALT (APPROX. 11,400SF)			\$58,000
SITE CURBING WORK ASSOCAITED WITH DEVELOPMENT OF NORTH PARCEL			\$37,100
MULTI-USE PATH EXTENSION			\$35,000
LANDSCAPING AND FENCING ASSOCAITED WITH ADDITIONAL SCOPE			\$15,000
COMPLETE MAYFAIR COLLECTION ENGINEERING PUNCHLIST - CITY REQUEST			\$39,600
INSTALLATION OF TRACER WIRE FOR EXISTING WATER MAIN IF REQUIRED			\$49,500
SURVEY FOR ADDITIONAL SCOPE OF WORK			\$15,000
NPDES/SWPPP REPORTING AND COMPLIANCE			\$6,062
CONTINGENCY			\$48,837
GENERAL CONDITIONS			\$53,625
GENERAL CONDITIONS ESCALLATION			\$9,375
OVERHEAD/FEE/INSURANCE			\$41,023
AFFORDABLE SENIOR HOUSING LOT SUBTOTAL:			\$1,108,865
TOTAL COMPLETED AND PROPOSED SCOPE:			\$5,181,972

7

DEVELOPMENT AGREEMENT

by and between

MAYFAIR DEVELOPER II, INC.

and

FIDUCIARY REAL ESTATE DEVELOPMENT, INC.

and the

CITY OF WAUWATOSA

**RELATIVE TO TAX INCREMENTAL DISTRICT NO. 7 FOR THE
REDEVELOPMENT OF 11220 WEST BURLEIGH STREET
(PHASE III OF THE DISTRICT)**

THIS DEVELOPMENT AGREEMENT (the “Development Agreement”) is made as of the date last written below by and between the City of Wauwatosa, Wisconsin, a municipal corporation (the “City”), Mayfair Developer II, INC., an Illinois corporation and its successors and assigns however designated (the “Primary Developer”), and Fiduciary Real Estate Development, Inc., a Wisconsin corporation and its successors and assigns however designated (the “Residential Developer”). All parties acknowledge that certain subsidiaries and affiliates of the Primary Developer and Residential Developer shall succeed to some or all of the rights and obligations of either Primary Developer or Residential Developer.

RECITALS

WHEREAS, the Primary Developer has control over approximately 62 acres of land at the Burleigh Triangle (now known as “The District”) in the City of Wauwatosa, Wisconsin, all as legally described on Exhibit A, which is attached hereto and incorporated herein by this reference (the “Primary Developer’s Property”), and which is located in Tax Incremental District No. 7 (“TID No. 7” or “TIF District”); and

WHEREAS, the Primary Developer has caused to be constructed The Mayfair Collection Phase I (“Phase I”) at the western most 23-acre parcel of the District now known as Lot 2 of Certified Survey Map (“CSM”) No. 8481 and Lot 1 of CSM No. 8850; and

WHEREAS, the Primary Developer has caused to be constructed The Mayfair Collection Phase II (“Phase II”) at Lots 2 and 4 of CSM 8850 and Lots 1 and 2 of CSM No. 8859 of Primary Developer’s Property, well as constructed improvements in preparation for a future mixed-use retail and residential development; and

WHEREAS, Primary Developer’s affiliates JES Burleigh, LLC, an Illinois limited liability company, Burleigh III, LLC, an Illinois limited liability company, TCB Burleigh III,

LLC, an Illinois limited liability company, RES Burleigh III, LLC, an Illinois limited liability company, DFM Burleigh III, LLC, an Illinois limited liability company, and EEO Burleigh III, LLC, an Illinois limited liability company, as successors to Primary Developer, and Residential Developer's affiliates have entered into that certain Purchase and Sale Agreement dated March 20, 2017 for Lot 2 of CSM No. 8859 at 11220 West Burleigh Street in the City (the "Property"); and

WHEREAS, the Primary Developer and the Residential Developer have agreed to the construction of a mixed-use development with approximately 268 multi-family apartment units in two (2) buildings with structured parking (the "Residential Project") which will also include approximately 50,000 square feet of ground floor retail space known as The Mayfair Collection Promenade at the District (the "Retail Space") and certain site and infrastructure work including partial demolition/restoration, environmental remediation, street and utility extensions, corrective pedestrian connections to address sloped sidewalks and install ADA handrail systems, subsurface stabilization, below-grade storm water detention and soil correction (the "Site Work") (collectively, the Residential Project, Retail Space and Site Work are hereinafter the "Project," "Development" or "Phase III Mixed-Use Buildings A&B"). The Residential Project will be owned and operated by Residential Developer or its affiliates and the Retail Space will be owned and operated by an affiliate of the Primary Developer; and

WHEREAS, an additional 250 residential units ("Option A") or 750 residential units or more ("Option B") in primarily-residential buildings may be developed by Residential Developer in the future; and

WHEREAS, the parties enter into this Development Agreement for the purpose of setting forth certain rights, duties and obligations of the parties with respect to the Property and Project.

WHEREAS, the Property is presently zoned for the development and operation of this Project; and

WHEREAS, the Primary Developer and the Residential Developer, through their affiliated entities and authorized representatives, in connection with the Project and the Property, have participated in the municipal approval process required by the City for this Project, which municipal process has been what is required of a development such as the Project; and

WHEREAS, the City, including, without limitation, the Common Council, Community Development Authority (the "CDA") and Plan Commission, conditionally approved the Project and the Plans (as defined below) and a performance incentive tax increment financing ("TIF") funding term sheet for the Project; and

WHEREAS, the City's Standing Joint Review Board, following review and recommendation by the CDA, adopted a resolution approving the project plan amendment for TID No. 7 ("TID 7 Amendment").

AGREEMENTS

NOW, THEREFORE, in consideration of the recitals and mutual agreements herein set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1. PROJECT OVERVIEW

On October 18, 2005, the City's Common Council adopted Ordinance O-05-30, an amendment to the Wauwatosa municipal code rezoning the Property from AA Light Manufacturing to Business Planned Development.

On May 17, 2011, the Common Council adopted Resolution R-11-64, a resolution approving the preliminary plan for the Business Planned Development approving the Primary Developer's mixed-use development with conditions (the "Development Plan").

On February 4, 2016, the City's Standing Joint Review Board adopted a resolution approving the project plan for the TID 7 Amendment.

On August 2, 2016, the Common Council adopted Resolution R-16-152, a resolution approved a term sheet outlining the transactions contemplated herein (the "Term Sheet") and authorized the appropriate City officials to draft and execute this Development Agreement. The Common Council has approved the issuance of the MRO (as defined below) and all other agreements and/or transactions that require its approval.

On or before August 19, 2016, Primary Developer and Residential Developer executed the Term Sheet accepting the same.

On September 20, 2016, the Common Council adopted Resolution R-16-170, a resolution approving the final plans for the Planned Unit Development (the "Final PUD").

A summary of the Project is shown on the attached **Exhibit B**, the final plans approved on September 20, 2016 by the Common Council in Resolution R-16-170.

SECTION 2. ADDITIONAL DEFINITIONS

a. "Available Tax Increment" means: an amount equal to the annual gross Tax Increment revenues actually received by the City at any time prior to the Payment Date with respect to assessments made in the immediately preceding calendar year against the Property, minus allowable TID administrative costs and other allowable deductions.

b. "Eligible Project Costs" means up to \$9,499,800 of construction and non-construction cost items related to:

1. site demolition, site preparation (including subsurface stabilization and soil correction) and environmental remediation and contingencies related thereto,

2. street and corrective pedestrian connections to address sloped sidewalks including installing ADA handrail systems and contingencies related thereto,
3. utility extensions and below-grade storm water detention and contingencies related thereto,
4. parking spaces within the footprint of the structure on the site,
5. previously-incurred Phase II development expenses, and
6. other direct costs of development, design, construction and installation of the Project within the definition of eligible project costs set forth in Section 66.1105 of the Wisconsin Statutes, as approved by the City, which approval shall not be unreasonably withheld,

all in accordance with the Plans for the Project.

c. “Land Closing” means: The closing of the acquisition of the Property by the Residential Developer.

d. “MRO” means: the Municipal Revenue Obligation issued by the City as described further below in Section 8.

e. “Tax Increment” means “Tax Increment” as that term is defined in Section 66.1105(2)(i) of the Wisconsin Statutes.

SECTION 3. PLANS

The City, including, without limitation, the City’s engineer, has received the following Final PUD plans (collectively, the “Plans”) related to the development of the Project:

- a. Architectural Site Layout Plan (ASP-100) prepared by JLA Architects Planners dated July 1, 2016;
- b. Civil Engineering Plans including the Paving Plan C-1.0, Grading & Erosion Control Plan C-2.0, and Utility Plan C-3.0 prepared by JSD Professional Services, Inc. dated June 24, 2016 (the “Civil Engineering Plans”);
- c. Architectural Plans, including Exterior Elevations A200B, A201B, A202B, A203B, A204B, A205B and A206B prepared by JLA Architects Planners dated July 1, 2016 (the “Architectural Plans”); and
- d. Conceptual Landscape Plan dated July 23, 2016.
- e. *See also* Exhibit B.

The City represents, warrants and covenants that it and every instrumentality or officer of the City has reviewed the Plans and determined such Plans are acceptable and sufficient to fulfill all conditions of the Final PUD in accordance with Resolution R-16-170 approving the final

plans for the Planned Unit Development. The City further represents, warrants and covenants that, upon receipt of all necessary project plans for the issuance of a building permit, it and every instrumentality or officer of the City will review the plans in a timely and professional manner and will not unreasonably delay permit issuance due to plan review, provided such plans are reasonably acceptable and sufficient for approval. The City agrees that it does not need to review or approve any other types of plans, designs or specifications for this Project in order to issue a building permit for the Project.

SECTION 4. COMMUNITY IMPACT

The City has determined that the proposed development of the Project will be a benefit to the City and will not have negative effects on the environment, abutting property values, the character of the surrounding neighborhood, demand for service and infrastructure and traffic safety, provided that the items in this Development Agreement are complied with by the Primary Developer and the Residential Developer.

SECTION 5. AESTHETICS AND VISUAL GUIDELINES

The City's Design Review Board reviewed the Plans at a series of meetings and approved the Plans at its meeting on January 19, 2017. Minor changes in the approved Plans, such as a change in exterior colors, materials, design elements and/or changes in dimensions of building footprints amounting to adjustment of less than five (5) feet at any one dimension shall be subject only to additional review and approval by the City's Design Review Board, which approval shall not be unreasonably withheld. All more significant changes in the approved Plans (other than minor changes described in the previous sentence) shall be subject, not only to additional review and approval by the City's Design Review Board, but also to additional review and approval by the Common Council. Primary Developer or Residential Developer may also request review by the Common Council.

SECTION 6. THE DEVELOPMENT

a. Development Overview: Primary Developer and Residential Developer, respectively, covenant and warrant to the City that the Development will be constructed in accordance with the Plans to contain multifamily residential apartments for lease to the public, commercial regional specialty retail space for lease, and reasonable uses related thereto. Notwithstanding anything to the contrary set forth in this Development Agreement, the City agrees that this Development Agreement does not prohibit or restrict Primary Developer and Residential Developer from adding additional amenities to the Project, subject to any applicable zoning restriction, and with respect to physical improvements, any municipal approval process.

b. Costs: The total costs of the Project are anticipated to be \$62,006,629 (the "Budgeted Costs") as shown on the attached Exhibit C-1. The Eligible Project Costs to be reimbursed under the TID 7 Amendment shall total \$9,499,800 and as stated in the attached Exhibit C-2.

c. **Updated Budgeted Costs:** Primary Developer and Residential Developer shall file a revised list of Budgeted Costs for the Project and related work (the “Updated Budgeted Costs”) in a form similar to the table set forth in Exhibit C-1, including all project costs, at the later of (i) both Primary Developer and Residential Developer signing a construction contract(s) with the general contractor; (ii) the City issuing a final building permit for the Project; or (iii) six (6) months from the Term Sheet approval.

SECTION 7. CITY FINANCIAL ASSISTANCE AND CITY OBLIGATIONS

The City shall provide financial assistance in the form of a Developer-Funded Performance Incentive for reimbursement to Primary Developer of certain Eligible Project Costs as follows:

- a. “Eligible Developer Expenses” shall be the costs of the Site Work totaling \$2,192,000 as defined in the Term Sheet, including demolition/restoration, environmental remediation, street and utility extensions, corrective pedestrian connections to address sloped sidewalks and install ADA handrail systems, subsurface stabilization, below-grade storm water detention and soil correction and identified as “Northern Off Site Road & Detention Improvements,” “Ground Level Pedestrian Area,” and “Demo & Reconst of Schoeneck Wall” on Exhibit C-1.
- b. The City shall fund the Eligible Developer Expenses, in an amount of not more than \$2,192,000, in completion of the work, but not later than thirty (30) days of a certificate of occupancy being issued for the Phase III base buildings unoccupied Retail Space.
- c. “Unfunded Infrastructure Costs” shall be those Phase II development expenses previously incurred by Primary Developer, totaling \$2,320,000, for which the City shall provide the incentive-based opportunity to the Primary Developer as reflected in Section 10 of this Development Agreement.

SECTION 8. MUNICIPAL REVENUE OBLIGATION

The City shall fund the reimbursement to the Residential Developer of certain Eligible Project Costs, including the costs associated with construction of structured parking for the Residential Project in the amount of \$4,987,800.00 (the “Eligible Residential Expenses”) as follows:

a. Subject to the terms and conditions of this Development Agreement, the City, in order to reimburse the Residential Developer for Eligible Residential Expenses, at the City’s cost and expense, shall grant and issue the MRO and deliver the same to Residential Developer on the date of the Land Closing in the principal amount equal to Six Million, Nine Hundred Seventy Nine Thousand, Two Hundred Eighteen Dollars (\$6,979,218.00), without interest, and otherwise substantially in form and substance as shown on **Exhibit D**. The TIF

District is scheduled to expire on June 30, 2032 (such date as may be extended from time-to-time shall be referred to herein as the “TIF District Expiration Date”). So long as the City has used its best efforts and good faith to all meet any prior obligations and the value of the Residential Project results in an IRR calculation in which the Residential Developer’s IRR is more than 600 basis points above the original Springsted projection (with assistance) of 10.72%, all obligations for payment of the MRO shall expire on the TIF District Expiration Date. The Tax Increments identified on **Exhibit E** are projected to be generated from the Project, after construction and placing the Project in service.

b. Prior to the first Payment Date (defined below), Residential Developer shall provide the City with a breakdown of the Four Million, Nine Hundred Eighty Seven Thousand, Eight Hundred Dollars (\$4,987,800.00) in Eligible Residential Expenses incurred by Residential Developer. Thereafter and as set forth in Exhibit E:

i. The City shall, subject to annual appropriation of such payment by the Common Council, pay to the holder of the MRO seventy percent (70%) of the Available Tax Increment, in one annual payment, on the first day of June of each year, commencing on June 1, 2019 (each, a “Payment Date”) until the Eligible Residential Expenses and any other costs hereunder are completely reimbursed to Residential Developer in the form of payments totaling \$6,979,218.00 constituting the present value amount of the Eligible Residential Expenses.

c. No payment shall be made by the City on the MRO if (a) the Residential Developer is in material, uncured default under this Development Agreement or (b) real property taxes on the Property are delinquent. To the extent that on any Payment Date the City is unable to make a payment from such Available Tax Increment due to an actual absence of Available Tax Increment, such failure shall not constitute a default under the MRO, provided the City, including, without limitation, the City’s officers and the Common Council, acts in good faith. The amount of such deficiency shall continue to accrue and be deferred and shall be due together with the then current amount due on the next Payment Date on which the City has Available Tax Increment. If any such deficiency has not been paid in full by the TIF District Expiration Date, then the City shall have no obligation to pay such deficiency so long as the City has used its best efforts and good faith to pay such deficiency from Available Tax Increment and the value of the Residential Project results in an IRR calculation in which the Residential Developer’s IRR is more than 600 basis points above the original Springsted projection (with assistance) of 10.72%. In no case, however, shall the term of the MRO and the City’s obligation to make payments hereunder, extend beyond the TIF District Expiration Date. Upon expiration of the TIF District, the MRO shall expire and the City’s obligation to make any payments under the MRO shall be discharged (except as specifically set forth herein), and the City shall have no obligation to make any payments hereunder 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 deemed to have obligated itself to pay thereon from any funds except the Available Tax Increment, and then only to the extent and in the manner herein specified. The City shall not appropriate, and shall not allow to be appropriated, the Available Tax Increment

for any other purpose than this MRO until said MRO has been paid in full to Developer or has expired as provided herein, and the City shall use good faith and best efforts to cause the Common Council to annually appropriate the Available Tax Increment for the MRO, until the TIF District Expiration Date or payment in full of the MRO to Developer as provided herein.

Notwithstanding anything to the contrary in this Development Agreement or the MRO, Residential Developer shall have the right, but not the obligation, to assign the MRO and this Development Agreement to a member of Residential Developer, an entity that Residential Developer is affiliated with or is a partner or member in, or a lender financing the Project (for collateral purposes only), but with respect to a collateral assignment to a lender, only upon documents that are reasonably satisfactory to the City, as evidenced by agreement of the Mayor and the City Attorney.

Residential Developer's affiliate purchased the Property March 20, 2017 and significant work will be performed on the Project during 2017 such that there will be a partial assessment as of January 1, 2018 that exceeds the current assessed value of the Property. Accordingly, the first tax bill resulting in Available Tax Increment will be issued for the Project in December of 2018, payable by the end of January of 2019, so the first payment likely to be made to Residential Developer under the MRO will be on June 30 of 2019. Notwithstanding the foregoing, if work does not commence in 2017 or work is delayed due to a force majeure event under Section 22(j), including, without limitation, the failure to receive any necessary approval from the City or Milwaukee County, the issuance of the first tax bill will be deferred accordingly.

d. The City hereby covenants that, as long as any portion of the Six Million, Nine Hundred Seventy Nine Thousand, Two Hundred Eighteen Dollars (\$6,979,218.00) principal amount under the MRO remains outstanding, then: (i) the City shall take no action to terminate or dissolve the TIF District prior to the TIF District Expiration Date; (ii) each year, the City shall include the application of the entire Available Tax Increment toward payment of the MRO in the applicable budget request recommendation for an upcoming year's budget; (iii) if the City's proposed annual budget does not in any year provide for the appropriation of Available Tax Increment sufficient to make the payment due on the MRO in that year, the City shall notify Residential Developer of that fact at least sixty (60) days prior to the date such budget is presented to the Common Council for final approval; (iv) funds in the special fund of the TIF District attributable to the Available Tax Increments generated by the Property shall not be used for any other purposes, including, without limitation, the payment of any other project costs of the TIF District until the City has paid in full and satisfied the MRO; (v) immediately after the City becomes aware of the Available Tax Increment for a given year, the City shall provide such information to Residential Developer and the City shall provide any and all supporting documentation and information related thereto and requested by the Residential Developer within five (5) business days of such request; and (vi) the project costs under the TID 7 Amendment will not be increased such that the MRO payments as set forth in Exhibit E could be in any way reduced, without the approval of Residential Developer.

SECTION 9. FUTURE DEVELOPMENT INCENTIVE

As set forth in the Phase II development agreement, the Primary Developer shall be paid an incentive for continued development of Phase III. Whereas the Residential Project in this Phase III consists of 268 residential units, this payment shall be in the amount of \$134,000 and made to Primary Developer within 45 days after the first time in which the taxes on the new development have been paid.

SECTION 10. ADDITIONAL FUTURE DEVELOPMENT INCENTIVE

As an additional incentive for continued development of the Primary Developer's Property, the Primary Developer shall be paid (i) an additional amount of \$3,600.00 per residential unit constructed after the Residential Project (consisting of 268 residential units) in this Phase III which is granted occupancy within the current TID No. 7 boundary during the term of TID No. 7; and (ii) an additional amount of \$3,600.00 per 1,000 square feet of office space which is granted occupancy within the current TID No. 7 boundary during the term of TID No. 7, to a maximum amount of \$2,689,400 (the "Additional Future Development Incentive"). Any such Additional Future Development Incentive payment shall be made to the Primary Developer within 45 days after the first time in which the taxes on the new development have been paid.

SECTION 11. ADJUSTMENT OF REIMBURSEMENT FOR ELIGIBLE DEVELOPER EXPENSES AND PRIMARY DEVELOPER-FUNDED EXPENDITURES

The City will engage a construction expert to compare actual expenses to the Updated Budgeted Costs for the Eligible Developer Expenses. Cost of said expert shall be an eligible TIF District administrative expense. If Primary Developer's total actual costs for the Site Work are less than the Updated Budgeted Costs, the City and Primary Developer shall share in those cost savings. Primary Developer will have the right to move funds between the line items in the project budget as set forth in the Updated Budgeted Costs, except that any Primary Developer overhead and fees shall remain fixed at an overall percentage equal to or less than the "Total Development Costs" shown on Exhibit C-1. In the event of any savings in the actual expenses of the Site Work, the Available Tax Increment payable will be reduced by approximately 50% of said savings; provided, however that Primary Developer shall be credited for expenditures pursuant to Section 16, below, as though they were expenditures for Eligible Project Costs and included in the Updated Budgeted Costs. If Primary Developer's costs exceed the final approved budget for such items, Primary Developer shall be responsible for all cost overruns.

SECTION 12. ADJUSTMENT OF REIMBURSEMENT FOR ELIGIBLE RESIDENTIAL EXPENSES AND RESIDENTIAL DEVELOPER-FUNDED EXPENDITURES

The City will engage a construction expert to compare actual expenses to the Updated Budgeted Costs for the Eligible Residential Expenses in a timely manner. Cost of said expert shall be an eligible TIF District administrative expense. If Residential Developer's total actual costs for the Eligible Residential Expenses are less than the Updated Budgeted Costs, the City and Residential Developer shall share in those cost savings. Residential Developer will have the right to move funds between the line items in the project budget as set forth in the Updated

Budgeted Costs, except that any Residential Developer overhead and fees shall remain fixed at an overall percentage equal to or less than the “Total Development Costs” shown on Exhibit C-1. In the event of any savings in the actual expenses of the Eligible Residential Expenses, the Available Tax Increment payable will be reduced by approximately 50% of said savings; provided, however that Residential Developer shall be credited for expenditures pursuant to Section 16, below, as though they were expenditures for Eligible Residential Costs and included in the Updated Budgeted Costs. If Residential Developer’s costs exceed the final approved budget for such items, Residential Developer shall be responsible for all cost overruns.

SECTION 13. PARTICIPATION IN ADDITIONAL EARNINGS OF PRIMARY DEVELOPER

The purpose of providing tax incremental financing is to eliminate any funding gap related to construction of the Project which could not be repaid through anticipated revenues in the future. This amount is calculated by determining a projected Internal Rate of Return (“IRR”) on equity invested in the Site Work and Retail Project in order to assure financial viability of the project. Primary Developer is satisfied that the projected IRR in the Springsted 2016 Feasibility Report for this development is sufficient to make the project financially viable. If (a) within four (4) years of execution of the Development Agreement the Primary Developer sells a controlling portion of its fee simple interest in the Retail Project to a third party pursuant to an arms-length transaction and the Primary Developer or an affiliate of the Primary Developer no longer manages the Retail Project, or (b) at the time the Primary Developer’s and City’s obligations under the Development Agreement terminate, whichever comes first, and if the value of the Retail Project as part of said transaction results in an IRR calculation in which the Primary Developer’s IRR is more than 450 basis points above the original Springsted projection, the City shall have no further obligation to make payments for reimbursement of Eligible Developer Expenses as described herein. This provision shall not apply to any sale that occurs after expiration of such four (4) year period.

SECTION 14. PARTICIPATION IN ADDITIONAL EARNINGS OF RESIDENTIAL DEVELOPER

The purpose of providing tax incremental financing is to eliminate any funding gap related to construction of the Project which could not be repaid through anticipated revenues in the future. This amount is calculated by determining a projected IRR on equity invested in the Residential Project in order to assure financial viability of the project. Residential Developer is satisfied that the projected IRR in the Springsted 2016 Feasibility Report for this development is sufficient to make the project financially viable. If (a) within four (4) years of execution of the Development Agreement the Residential Developer sells a controlling portion of its fee simple interest in the Residential Project to a third party pursuant to an arms-length transaction and the Residential Developer or an affiliate of the Residential Developer no longer manages the Residential Project, or (b) at the time the Residential Developer’s and City’s obligations under the Development Agreement terminate, whichever comes first, and if the value of the Residential Project as part of said transaction results in an IRR calculation in which the Residential Developer’s IRR is more than 600 basis points above the original Springsted projection (with assistance) of 10.72%, the City shall have no further obligation to make payments for

reimbursement of Residential Developer Expenses as described herein, and the MRO shall be deemed paid in full. This provision shall not apply to any sale that occurs after expiration of such four (4) year period.

SECTION 15. TAX EXEMPT COVENANT

The Primary Developer and Residential Developer shall enter into a restrictive covenant in customary form requiring any owner of the Project (except any municipal buildings) to make payments in lieu of taxes, in an amount equal to the amount of property taxes which would otherwise be payable to all taxing jurisdictions, in the event that all or any portion of the Project site becomes tax exempt during the life of the TIF District. The covenant shall be recorded and shall run with the land.

SECTION 16. BIKE SHARE STATION

During construction of the Project, if a public bike-share system is created in the City of Wauwatosa which is designed to include one station located at Phase III Mixed-Use Buildings A&B, and any such station can be reasonably accommodated as an amendment to the approved Plans, the Residential Developer will permit the installation of said public bike-share station, which station must be consistent with the capacity, aesthetics, and other characteristics recommended or anticipated in the overall system design. The location of any such bike-share station shall be determined by the City and its agents, except that final location must be acceptable to the Residential Developer in its sole discretion. If such station is installed, the Residential Developer shall be responsible for 100% of the cost of such station, to a maximum of \$50,000, and up to a maximum of one (1) station within Phase III Mixed-Use Buildings A&B. If no other funding source is available to reimburse the Residential Developer for the cost of such installations, such expense shall then become a TIF eligible cost to be funded by TID No. 7. The City, or its agents, agree to maintain the bike-share station and related equipment in first class condition at no cost to the Residential Developer

SECTION 17. INCOME AND EXPENSE INFORMATION

During the life of the TIF, both the Primary Developer and the Residential Developer will provide annual income and expense information for the entities that own the Project as requested by the City Assessor as is customary for the purposes of property valuation, which information shall be maintained in confidence pursuant to laws and other rules generally applicable to such submissions.

SECTION 18. REPRESENTATIONS, WARRANTIES

- a. Primary Developer hereby represents and warrants to the City that:
 - i. Primary Developer is an Illinois corporation duly formed and validly existing and in good standing, and is qualified to do business 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;

- ii. The execution, delivery and performance of this Development Agreement and the consummation of the transactions contemplated hereby have been duly authorized and approved by all necessary limited liability company action of Primary Developer and constitute the valid and binding obligations of Primary Developer enforceable in accordance with their respective terms, subject only to applicable bankruptcy, insolvency, reorganization, moratorium, general principles of equity and other similar laws of general application affecting the enforceability of creditors' rights generally; and
- iii. The execution, delivery, and performance of Primary Developer's obligations pursuant to this Development Agreement will not violate or conflict with Primary Developer's articles of organization or operating agreement or any indenture, instrument or agreement by which Primary Developer is bound, nor, to Primary Developer's knowledge, does it violate or conflict with any law applicable to Primary Developer or the Project.

b. Residential Developer hereby represents and warrants to the City that:

- i. Residential Developer is a Wisconsin corporation duly formed and validly existing and is qualified to do business in and 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;
- ii. The execution, delivery and performance of this Development Agreement and the consummation of the transactions contemplated hereby have been duly authorized and approved by all necessary limited liability company action of Residential Developer and constitute the valid and binding obligations of Residential Developer enforceable in accordance with their respective terms, subject only to applicable bankruptcy, insolvency, reorganization, moratorium, general principles of equity and other similar laws of general application affecting the enforceability of creditors' rights generally; and
- iii. The execution, delivery, and performance of Developer's obligations pursuant to this Development Agreement will not violate or conflict with Residential Developer's articles of organization or operating agreement or any indenture, instrument or agreement by which Residential Developer is bound, nor, to

Residential Developer's knowledge, does it violate or conflict with any law applicable to Residential Developer or the Project.

- c. The City hereby warrants and represents to the Developer that:
- i. The City approved the final plans for a Planned Unit Development on September 20, 2016 in Common Council Resolution R-16-170, thereby approving the Project and the Plans.
 - ii. The execution, delivery, and performance of this Development Agreement and the consummation of the transactions contemplated hereby have been duly authorized and approved by the City, and no other or further acts or proceedings of the City or its officials are necessary to authorize and approve the execution, delivery, and performance of this Development Agreement, and the matters contemplated hereby, except the annual appropriation by the Common Council, but only with respect to the MRO and the obligations of the City thereunder;
 - iii. This Development Agreement, the exhibits, documents, and instruments associated herewith and made a part hereof, have, if applicable, been duly executed and delivered by the City and constitute the legal, valid, and binding agreement and obligation of the City, enforceable against the City in accordance with their respective terms.

SECTION 19. MAINTENANCE OF PROPERTY

The Development shall be maintained in accordance with the City's Property Maintenance Code. Trash and refuse shall be deposited in sealed containers dedicated to trash collection and shall be collected at a commercially reasonable frequency. Primary Developer and the Residential Developer shall eliminate, or cause to be eliminated, significant health hazards or property nuisances at the Development within thirty (30) days (or such other period of time as reasonably necessary or determined to be appropriate by the City's Building Inspector or Health Officer) from delivery of written notice by the City to the Primary Developer and the Residential Developer explaining such hazard or nuisances. In the event that the City determines that the Development is not in compliance with the terms of this Section, following written notice from the City to the Primary Developer and the Residential Developer and an adequate opportunity to cure as described in the notice, the City may take corrective action and assess the costs of such action as a special charge against the Project. Nothing herein shall be deemed in any way to limit enforcement action otherwise available to the City under the Wauwatosa Municipal Code or other applicable law.

SECTION 20. NOTICES

All communications or notices required or permitted under this Development Agreement shall be in writing and shall be deemed to have been given (i) upon delivery to the person or

entity entitled to such notice, if hand delivered, or (ii) two business days following deposit in the United States mail, postage prepaid, or with a nationally recognized overnight commercial carrier that will certify as to the date and time of delivery, airbill prepaid, (iii) upon transmission if by facsimile (with confirmation of accepted transmission), or (iv) by electronic mail or such other means of electronic communication as is agreed and acceptable to both parties, and each such communication or notice shall be addressed to the following individuals or their successors, unless and until any of such parties notifies the other in accordance with this paragraph of a change in contact name or address:

If as to the City: City of Wauwatosa
Wauwatosa City Hall
7725 West North Avenue
Wauwatosa, WI 53213
Facsimile No.: (414) 471-8414
ATTN: Development Director

With a copy to: City of Wauwatosa
Wauwatosa City Hall
7725 West North Avenue
Wauwatosa, WI 53213
Facsimile No.: (414) 471-8414
ATTN: City Attorney

If as to the Primary Developer: Mayfair Developer II, INC.
c/o HSA Commercial Real Estate
100 S. Wacker Dr., Ste. 950
Chicago, IL 60606
Facsimile No.: 312-683-7256
ATTN: Mr. Timothy Blum

With a copy to: Friebert, Finerty, & St. John, S.C.
330 East Kilbourn Avenue – Suite 1250
Milwaukee, WI 53202
Facsimile No.: (414) 272-8191
ATTN: Brian C. Randall, Esq.

If as to the Residential Developer: Fiduciary Real Estate Development, Inc.
789 N. Water Street, Suite 200
Milwaukee WI 53202
Facsimile No.: (414) 274-8219
ATTN: Mr. Craig Raddatz

With a copy to:

Davis & Kuelthau, S.C.
111 East Kilbourn Avenue, Suite 1400
Milwaukee, WI 53202
Facsimile No. 414-278-3671
ATTN: Joseph E. Tierney IV, Esq.

SECTION 21. WAIVER

No waiver of any provision of this Development Agreement shall be deemed to constitute a waiver of any other provision, nor shall it be deemed or constitute a continuing waiver unless expressly provided for by written amendments to this Development Agreement.

SECTION 22. MISCELLANEOUS

a. The provisions of this Development Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

b. No waiver, amendment, or variation in the terms of this Development Agreement shall be valid unless in writing and signed by the City and Primary Developer and the Residential Developer, and then only to the extent specifically set forth in writing.

c. All agreements, representations, warranties, covenants, liabilities and obligations made in this Development Agreement and in any document delivered pursuant to this Development Agreement shall survive the execution and delivery of this Development Agreement.

d. This Development Agreement and the documents executed pursuant to this Development Agreement contain the entire understanding of the parties with respect to the subject matter hereof. There are no restrictions, promises, warranties, covenants or undertakings other than those expressly set forth in this Development Agreement and the documents executed in connection with this Development Agreement. This Development Agreement and the documents executed in connection herewith supersede all prior negotiations, agreements and undertakings between the parties with respect to the subject matter hereof.

e. This Development Agreement is intended solely for the benefit of Primary Developer and the Residential Developer and the City and no third party (other than successors and assigns of the Primary Developer, Residential Developer, and City) shall have any rights or interest in any provisions of this Development Agreement, or as a result of any action or inaction of the City. City acknowledges that any assignee, subsidiary or affiliate of Primary Developer or Residential Developer is an appropriate beneficiary of this Development Agreement. Without limiting the foregoing, no approvals given pursuant to this Development Agreement by Primary Developer and the Residential Developer or the City or any person acting on behalf of any of them, shall be available for use by any contractor or other person in any dispute relating to construction of the Development.

f. This Development Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the State of Wisconsin applicable to contracts made and wholly performed within such state. Any dispute between the parties or other action regarding the Project or interpretation of this Development Agreement shall be venued in a tribunal having territorial jurisdiction over the City of Wauwatosa, Milwaukee County, Wisconsin.

g. This Development Agreement may be executed in several counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same agreement. Facsimile or "PDF" signatures shall be deemed original signatures for all purposes of this Development Agreement.

h. Any provision of this Development Agreement that is prohibited or unenforceable shall, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Development Agreement.

i. Time is of the essence of each and every obligation or agreement contained in this Development Agreement.

j. If any party is delayed or prevented from timely performing any act required under this Development Agreement, by reason of fire, earthquake, war, terrorist act, flood, riot, strikes, labor disputes or shortages, governmental restrictions, judicial order, public emergency, acts of God, or other causes beyond the reasonable control of the party obligated to perform, then performance of 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.

k. The headings in this Development Agreement are for reference only and are not intended to modify any of the terms and conditions of this Development Agreement.

l. Nothing contained in this Development Agreement is intended to or has the effect of releasing Primary Developer and the Residential Developer from compliance with all applicable laws, rules, regulations and ordinances in addition to compliance with all terms, conditions and covenants contained in this Development Agreement.

m. This Development Agreement is the product of negotiation among all of the parties hereto and no term, covenant or provision herein or the failure to include a term, covenant or provision shall be construed against any party hereto solely on the basis that one party or the other drafted this Development Agreement or any term, covenant or condition contained herein.

SECTION 23. TRANSFER OF PROPERTY AND ASSIGNMENT

a. Until a certificate of occupancy is issued for space within the Project, the Primary Developer or Residential Developer or their respective affiliates shall not, without the City's prior written consent, which shall not be unreasonably withheld, conditioned, or delayed, cause the Project to be sold, convey, or otherwise transfer the Property, except that the Primary

Developer or Residential Developer may at any time, with or without the City's consent: (i) enter into leases for all or portions of the Property; (ii) mortgage the Property as security for the Project's financing; (iii) convey some or all of the Property to a member of Primary Developer or Residential Developer or to an entity that the Primary Developer or Residential Developer is a partner or member in as long as such entity assumes all of the Primary Developer or Residential Developer's obligations under this Development Agreement; and (iv) convey some or all of the Property to an entity that develops or occupies an improvement consistent with the purposes of the Project and the Development Plan as long as such entity assumes all of the Primary Developer or Residential Developer's obligations under this Development Agreement. Except as otherwise expressly set forth in this Development Agreement, until a certificate of occupancy is issued for space within the Project, the Primary Developer or Residential Developer shall not, without the City's prior written consent, which shall not be unreasonably withheld, conditioned, or delayed, assign this Development Agreement or the MRO.

b. Upon the issuance of a certificate of occupancy for space within the Project, or at such earlier time as consented to in writing by the City, and notwithstanding anything to the contrary in this Development Agreement, Primary Developer or Residential Developer may freely (i) transfer, sell, exchange, mortgage, lease and convey the Property or the MRO, and (ii) assign this Development Agreement or the MRO, and, notwithstanding anything to the contrary set forth in this Development Agreement, in either such event, the Primary Developer or Residential Developer assignor shall not have any further obligation or liability under the Development Agreement. Notwithstanding anything to the contrary set forth herein, under no circumstances shall Primary Developer's or Residential Developer's lenders be bound by the terms and conditions regarding transferability or assignment of this Development Agreement as described in this section.

c. After the issuance of a certificate of occupancy for space within the Project, the Primary Developer and Residential Developer hereby agree that in the event the Primary Developer or Residential Developer intends to close on the transfer, sale, exchange, or conveyance of the Property and assignment of this Development Agreement as provided for in Section 23.b., above, to an unrelated third party, then, and in that event, the Primary Developer or Residential Developer shall provide the City with fifteen (15) days advance written notice of the Closing.

SECTION 24. FEDERAL, STATE & LOCAL LAWS

Primary Developer and Residential Developer shall construct and operate the Project in compliance with all applicable Federal, State and local laws, rules, regulations and ordinances.

SECTION 25. BUILDING PERMITS AND OCCUPANCY PERMITS

a. The Building and Safety Division of the City shall review building plans and provide the same to applicable governmental entities within five (5) days of receiving a completed building permit application and appropriate fees, and shall issue a building permit within five (5) days after plans have been approved, and appropriate approvals have been received from other agencies which are required to approve said plans.

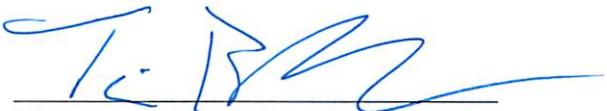
b. The City hereby agrees to issue occupancy permits for the Project on a floor-by-floor basis within building sections that are divided by code-compliant and approved fire separation walls (“Building Sections”), and for the entire Project. Upon the Primary Developer’s or Residential Developer’s Architect certifying that a particular floor within a particular Building Section is substantially complete, the City hereby agrees to cause its building inspector to perform the necessary occupancy permit inspection within five (5) business days of the City’s receipt of a copy of such substantial completion certificate. The City shall issue an occupancy permit for each floor within each Building Section of the Project immediately after its building inspector confirms that such floor within each Building Section complies with all applicable laws and building codes. Upon the Primary Developer’s or Residential Developer’s Architect certifying that the entire Project is substantially complete, the City hereby agrees to cause its building inspector to perform any remaining and necessary occupancy permit inspection within five (5) business days of the City’s receipt of a copy of such substantial completion certificate. The City shall issue an occupancy permit for the entire Project immediately after its building inspector confirms that the entire Project complies with all applicable laws and building codes.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have caused the Development Agreement to be signed and effective as of the date last written below.

PRIMARY DEVELOPER:

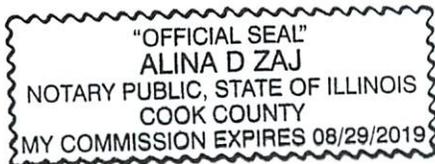
MAYFAIR DEVELOPER II, INC., an Illinois corporation

By: 
Timothy C. Blum, President

CORPORATE ACKNOWLEDGMENT

STATE OF ILLINOIS)
) ss.
COOK COUNTY)

BEFORE ME, the undersigned authority, on this 28th day of August, 2017, personally appeared Timothy C. Blum, known to me to be the person whose name is subscribed to the foregoing instrument, and known to me to be President of MAYFAIR DEVELOPER II, INC., and acknowledged to me that he executed said instrument for the purposes and considerations therein expressed, and as the act of said limited liability company.

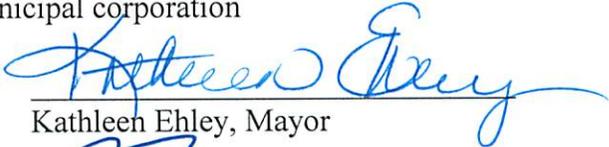



Notary Public, State of Illinois
My commission 8/29/2019

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK – SIGNATURES CONTINUE ON NEXT PAGE

CITY:

CITY OF WAUWATOSA, WISCONSIN,
a municipal corporation

By: 
Kathleen Ehley, Mayor

By: 
John Ruggini, Finance Director

ATTEST:

By: 
Carla A. Ledesma, City Clerk

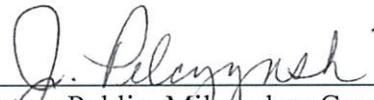
Approved as to form and execution
this 28 day of August, 2017.


Alan R. Kesner, City Attorney

MUNICIPAL ACKNOWLEDGMENT

STATE OF WISCONSIN)
) ss.
MILWAUKEE COUNTY)

On the 29th day of August, 2017, before me personally came Kathleen Ehley and Carla A. Ledesma, who being duly sworn, did depose and say that they are the Mayor and City Clerk of the City of Wauwatosa respectively, a Wisconsin municipal corporation; and that the seal affixed to said instrument is the corporate seal of said Wisconsin municipal corporation; and acknowledged that they executed the foregoing instrument as such officers as the deed of said municipal corporation by its authority, and pursuant to Resolution No. R-16-170 adopted by the Common Council on September 20, 2016, and approved by the Mayor on September 21, 2016, and Resolution R-16-152 adopted by the Common Council on August 2, 2016, and approved by the Mayor on August 2, 2016.


Notary Public, Milwaukee County, Wisconsin
My commission 2-15-19

This instrument was drafted by:
Brian C. Randall, Esq.
Friebert, Finerty & St. John, S.C.
330 East Kilbourn Avenue – Suite 1250
Milwaukee, WI 53202



EXHIBIT A

Legal Description of the Primary Developer's Property

Part of the Southwest 1/4 and Northwest 1/4 of the Southeast 1/4 of Section 7, Township 7 north, Range 21 East, in the City of Wauwatosa, Milwaukee County, Wisconsin, bounded and described as follows:

COMMENCING at the Southwest corner of said Southeast quarter section; thence North 87°25'44" East along the South line of said Southeast quarter section 1314.50 feet to a point; thence North 01°01'06" West 55.02 feet to the North line of West Burleigh Street and the point of beginning of the lands to be described; thence South 87°25'44" West along said North line 793.00 feet to a point; thence North 87°11'15" West along said North line 42.40 feet to a point; thence North 86°37'17" West along said North line 58.09 feet to a point; thence South 87°25'44" West along said North line 88.00 feet to a point; thence North 88°55'08" West along said North line 47.10 feet to a point; thence North 76°37'33" West along said North line 29.12 feet to a point; thence North 73°11'12" West along said North line 57.25 feet to a point; thence North 50°31'45" West along said north line 106.97 feet to a point on the East line of U.S.H. "45" (Zoo Freeway); thence North 05°59'44" West along said East line 334.26 feet to a point; thence North 05°38'18" West along said East line 595.94 feet to a point; thence North 01°01'06" West along said East line 810.77 feet to a point; thence North 10°17'30" East along said East line 152.97 feet to a point; thence North 17°40'50" East along said East line 343.11 feet to a point; thence North 28°02'11" East along said East line 205.91 feet to a point; thence North 07°26'42" East along said East line 134.11 feet to a point on the North line of said 1/4 Section; thence North 86°36'18" East along said North line 29.29 feet to a point on the Southerly line of the Union Pacific Railroad right-of-way line ; thence South 35°35'41" East along said Southerly line 2377.98 feet to a point; thence Southeasterly 710.07 feet along the arc of a curve whose center lies to the Southwest, whose radius is 2800.03 feet, and whose chord bears South 28°19'47" East 708.17 feet to a point on the North line of West Burleigh Street; thence South 87°25'44" West along said North line 694.67 feet to the point of beginning.

Excepting therefrom lands owned by others lying within the perimeter of this CSM and described as follows: Commencing at the Southwest corner of said Southeast quarter section; thence North 87°25'44" East along the South line of said Southeast quarter section 1314.50 feet to a point; thence North 01°01'06" West 55.02 feet to the North line of West Burleigh Street; thence North 01°01'06" West 278.71 feet to a point; thence North 87°25'44" East 2.21 feet to a point; thence North 01°01'06" West 140.00 feet to appoint; thence South 80°27'53" West 1.74 feet to a point; thence North 01°00'26" East 764.69 feet to a point on the Southerly line of the Union Pacific Railroad right-of-way line; thence North 35°35'41" West along said Southerly line 812.53 feet to a point; thence South 01°24'54" East 146.60 feet to the point of beginning of said lands to be described; thence South 01°00'53" East 783.34 feet to a point; thence South 88°59'34" West 375.45 feet to a point; thence North 01°01'05" West 773.02 feet to a point; thence North 87°25'04" East 375.64 feet to the point of beginning.

Said description contains 2,639,353 square feet or 60.5912 acres.

EXHIBIT B

Summary of the Project

Pursuant to Common Council Resolution R-16-170 adopted September 20, 2016, the City approved the final plans for the Planned Unit Development for the Project summarized as follows:

Fiduciary is the owner and developer of “Synergy at the District” Phase 1 (Buildings A and B), a mixed-use development in the form of a pair of separate, but coordinated 5+ story buildings (“Synergy Phase 1”).

Synergy Phase 1 will contain luxury apartments that are designed to meet the broad spectrum of demand that the market is dictating by offering 268 total units and 327 underground and interior access parking stalls (1.25 stalls/unit). Visitor vehicle and bicycle parking will be allowed throughout the site’s surface parking lots, multi-story parking structure and bike racks.

The floorplans will include studio units averaging approximately 445 square feet, to 1-bedrooms and 1-bedrooms with den averaging approximately 690 square feet, to 2-bedroom units averaging approximately 1,115 square feet. The overall unit average size will be 742 square feet.

Features and finishes will be comparable or above the newest apartment developments in the Wauwatosa area including designer fixtures, modern wood laminate flooring in kitchens, walkways and living areas, stainless steel appliances, granite kitchen countertops, in-unit washers and dryers, internet/cable access, and programmable climate controls.

A host of amenities are being programmed by Fiduciary including, but not limited to, ground level community gathering areas (with colored pavement, landscaped planters, benches and a signature sculpture), two elevated outdoor courtyard common areas (one at each building) with entertainment-grade food grilling equipment, fire pits and dog run with washing station, fitness studio with cross fit system, fitness center with tanning studio, Wi-Fi café, and clubroom with lounge.

An affiliate of HSA Commercial will own and operate the retail space to be known as “The Mayfair Collection Promenade at The District” (the “Retail Project”).

The Retail Project will be located on the ground level in each building will feature approximately 50,000 total square feet of available retail space in venues with dramatic, 26 foot high (two-story) ceiling heights within a contemporary urban streetscape.

An affiliate of HSA Commercial will develop, own and manage the retail space in order to maintain consistency and compatibility with The Mayfair Collection retail program.

EXHIBIT C-1

Budgeted Costs

Project Budget - Use of Funds	<u>Budgets</u>	<u>TID Provisions</u>	
Fiduciary (Synergy) Residential Development Costs			
FRED Land Cost	\$2,987,000		
FRED Direct Hard Costs:			
Residential Construction and General Conditions	\$33,018,746		
Residential Structured Parking	\$8,579,000	(\$4,987,800)	via MRO
Northern offsite road and detention improvements	\$625,000	(\$625,000)	direct
Ground level pedestrian area	\$1,217,000	(\$1,217,000)	direct
Environmental remediation	\$205,000		
Infrastructure costs	\$991,600		
FRED Direct Soft Costs	\$6,376,654		
Total Residential Project Budget	\$54,000,000		
HSA Retail Development Costs			
Retail Shell Costs	\$5,037,129		
Retail soft costs	\$260,500		
Total Retail Project Budget	\$5,297,629		
Total Residential and Retail Budget	\$59,297,629		
Other HSA budget and TIF related items			
HSA Demo and Reconstruction of Schoeneck Wall	\$389,000	(\$350,000)	direct
Unfunded Infrastructure Cost incurred by HSA on TID 2	\$2,320,000	(\$2,320,000)	direct
Total project cost	\$62,006,629	(\$9,499,800)	

EXHIBIT C-2

Eligible Project Costs

Of the \$62,006,629.00 Budgeted Costs for the Project, the Eligible Project Costs shall total \$9,499,800.00.

EXHIBIT D

Sample Municipal Revenue Obligation

[REMAINDER OF PAGE BLANK – SEE ATTACHED]

MUNICIPAL REVENUE OBLIGATION

REGISTERED

United States of America

No. _____

\$6,979,218

State of Wisconsin
County of Milwaukee
City of Wauwatosa
Municipal Development Revenue Obligation, Series 20__

Maturity
Date

Issue Date

September 1, 201__

September 1, 201__

REGISTERED OWNER: _____, _____

PRINCIPAL AMOUNT: SIX MILLION, NINE HUNDRED SEVENTY NINE THOUSAND TWO HUNDRED EIGHTEEN DOLLARS (\$6,979,218)

INTEREST RATE: 0%

THE CITY OF WAUWATOSA, WISCONSIN (the "Municipality"), for value received, hereby acknowledges and agrees that it owes, and hereby promises to pay on the installment Payment Dates, to the registered owner hereinabove identified, or registered assigns as hereinafter provided, the Principal Amount, which shall equal the Eligible Residential Expenses (as defined in the Development Agreement) in an amount equal to \$6,979,218.00, in the amounts hereinafter provided, but only in the manner, at the times, from the source of revenue, and to the extent hereinafter provided.

The Principal Amount evidenced by this Municipal Revenue Obligation shall be paid to _____ or its registered assigns, at such times, upon such conditions, and as further provided in the Development Agreement dated as of August ____, 2017 (the "Development Agreement"), by and between the Municipality and Fiduciary Real Estate Development, Inc. (the "Developer"). This Municipal Revenue Obligation is being issued in consideration of the agreements of the Developer in the Development Agreement.

This Municipal Revenue Obligation and the Municipality's obligation to repay all or any portion of this Municipal Revenue Obligation shall mature on the Maturity Date stated above; provided, however, that notwithstanding anything to the contrary set forth in the Municipal Revenue Obligation or the Development Agreement, the Municipality's obligation to repay all or any portion of this Municipal Revenue Obligation shall not terminate or expire until the earlier of the date that Principal Amount is paid in full to Developer or the TIF District Expiration Date (as defined and qualified in the Development Agreement). Payment of each installment of Principal shall be made on Payment Dates (as defined below) to the registered owner hereof (or its

registered assigns), whose name shall appear on the registration books of the Municipality maintained by the Treasurer of the Municipality, who serves as registrar and paying agent (the "Registrar"), by check or draft of the Registrar mailed to such registered owner at his address as it appears on such registration books or at such other address as may be furnished in writing by such registered owner to the Registrar.

This Municipal Revenue Obligation has been issued to evidence the obligation of the City to reimburse the Developer for the Eligible Residential Expenses (as defined in the Development Agreement), and is payable until the Principal Amount (which is equal to the Eligible Residential Expenses) is paid in full, only from Available Tax Increment herein described that is appropriated by the Common Council for that purpose. The City shall set aside the Available Tax Increment generated by the Property into a special fund the sole purpose of which is to hold the Available Tax Increment generated by the Property and is identified as the "Special Redemption Fund." This Municipal Revenue Obligation is issued pursuant to a resolution adopted on August 2, 2016, by the Common Council of the Municipality, and does not constitute an indebtedness of the Municipality within the meaning of any constitutional or statutory limitation or provision. Reference is hereby made to said resolution and to the Development Agreement for a more complete statement of the revenues from which and conditions under which this Municipal Revenue Obligation is payable and the general covenants and provisions pursuant to which this Municipal Revenue Obligation has been issued.

The City hereby covenants that, as long as any portion of the Six Million, Nine Hundred Seventy Nine Thousand, Two Hundred Eighteen Dollars (\$6,979,218.00) principal amount under the Municipal Revenue Obligation remains outstanding, then: (i) the City shall take no action to terminate or dissolve the TIF District prior to the TIF District Expiration Date; (ii) each year, the City shall include the payment of the entire Available Tax Increment in the applicable budget request recommendation for an upcoming year's budget; (iii) if the City's proposed annual budget does not in any year provide for the appropriation of Available Tax Increment sufficient to make the payment due on the Municipal Revenue Obligation in that year, the City shall notify Developer of that fact at least sixty (60) days prior to the date such budget is presented to the Common Council for final approval; (iv) funds in the special fund of the TIF District attributable to the Available Tax Increment generated by the Property shall not be used for any other purposes, including, without limitation, the payment of any other project costs of the TIF District until the City has paid in full and satisfied the Municipal Revenue Obligation; (v) immediately after the City becomes aware of the Available Tax Increment for a given year, the City shall provide such information to Developer and the City shall provide any and all supporting documentation and information related thereto and requested by the Developer within five (5) business days of such request

Any payments on this Municipal Revenue Obligation that are due on any Payment Date shall be payable only to the extent that the Municipality shall have received Available Tax Increment as of such Payment Date. For the purpose of this Municipal Revenue Obligation, "Available Tax Increment" shall have the definition contained in the Development Agreement.

For purposes of this Municipal Revenue Obligation, a "Payment Date" shall have the definition contained in the Development Agreement. On each of the Payment Dates, the Municipality shall pay to the holder of this Municipal Revenue Obligation, the Available Tax Increment that has been appropriated for such purpose. To the extent that on any Payment Date the Municipality is unable to make a payment due to an actual absence of Available Tax Increment, such failure shall not constitute a default under this Municipal Revenue Obligation provided the Municipality has acted in good faith. The amount of such deficiency shall continue to accrue and be deferred and shall be due together with the then current amount due on the next Payment Date on which the Municipality has Available Tax Increment, and if such deficiency has not been paid in full by the TIF District Expiration Date (as defined in the Development Agreement), then the Municipality shall have no obligation to pay such deficiency. In no case, however, shall the term of this Municipal Revenue Obligation and the Municipality's obligation to make payments hereunder, extend beyond the TIF District Expiration Date. Upon expiration of the TIF District, this Municipal Revenue Obligation shall expire and the Municipality's obligation to make any payments under this Municipal Revenue Obligation shall be discharged, and the Municipality shall have no obligation to make any payments hereunder after the expiration date of the TIF District.

THIS MUNICIPAL REVENUE OBLIGATION SHALL NOT BE PAYABLE FROM OR CONSTITUTE A CHARGE UPON ANY FUNDS OF THE MUNICIPALITY, AND THE MUNICIPALITY SHALL NOT BE SUBJECT TO ANY LIABILITY HEREON OR BE DEEMED TO HAVE OBLIGATED ITSELF TO PAY HEREON FROM ANY FUNDS EXCEPT THE AVAILABLE TAX INCREMENT, AND THEN ONLY TO THE EXTENT AND IN THE MANNER HEREIN SPECIFIED.

THE MUNICIPALITY MAKES NO REPRESENTATION OR COVENANT, EXPRESS OR IMPLIED THAT THE AVAILABLE TAX INCREMENT WILL BE SUFFICIENT TO PAY, IN WHOLE OR IN PART, THE AMOUNTS WHICH ARE OR MAY BECOME DUE AND PAYABLE HEREUNDER.

THE MUNICIPALITY'S PAYMENT OBLIGATIONS HEREUNDER ARE SUBJECT TO FUTURE ANNUAL APPROPRIATION BY THE COMMON COUNCIL OF AVAILABLE TAX INCREMENT TO MAKE PAYMENTS DUE ON THIS MUNICIPAL REVENUE OBLIGATION.

THE MUNICIPAL REVENUE OBLIGATION IS A SPECIAL LIMITED REVENUE OBLIGATION AND NOT A GENERAL OBLIGATION OF THE MUNICIPALITY, AND IS PAYABLE BY THE MUNICIPALITY ONLY FROM THE SOURCES, TO THE EXTENT, AND SUBJECT TO THE QUALIFICATIONS STATED OR REFERENCED HEREIN. THIS MUNICIPAL REVENUE OBLIGATION IS NOT A GENERAL OBLIGATION OF THE MUNICIPALITY, AND NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWERS OF THE MUNICIPALITY ARE PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF THIS MUNICIPAL REVENUE OBLIGATION, AND NO PROPERTY OR OTHER ASSET OF THIS MUNICIPALITY, EXCEPT THE ABOVE-REFERENCED

REVENUES ARE OR SHALL BE A SOURCE OF PAYMENT OF THE MUNICIPALITY'S OBLIGATIONS HEREUNDER.

This Municipal Revenue Obligation is subject to optional prepayment at the election of the Municipality, in whole or in part with written notice to the holder, at any time.

This Municipal Revenue Obligation is assignable or transferable by the registered owner hereof, but only with the consent of the Municipality as described in more detail in the Development Agreement, in person or by its attorney duly authorized in writing at the principal office of the Registrar in Wisconsin, but only in the manner, subject to the limitations and upon payment of the charges provided in the authorizing resolution, if any, and upon surrender and cancellation of this Municipal Revenue Obligation. Upon such assignment or transfer a new Municipal Revenue Obligation of the same installments and for the same aggregate Principal Amount will be issued to the assignee or transferee in exchange therefor. This Municipal Revenue Obligation is issuable in fully registered form only in an amount up to the Principal Amount stated herein.

The Municipality and the Registrar may deem and treat the registered owner as the absolute owner hereof for the purpose of receiving payment of or on account of Principal hereof, and for all other purposes and neither the Municipality nor the Registrar shall be affected by any notice to the contrary.

It is hereby certified, recited and declared that all acts, conditions and things required to be done, exist, happen and be performed prior to and in connection with the issuance of this Municipal Revenue Obligation have been done, have existed, have happened and have been performed in due time, form and manner as required by the constitution and statutes of the State of Wisconsin.

Capitalized terms not defined herein shall have the meaning given to them in the Development Agreement, if any. In the event of a conflict in any of the terms and provisions of this Municipal Revenue Obligation and the Development Agreement, the terms and conditions of the Development Agreement shall supersede and control.

IN WITNESS WHEREOF the City of Wauwatosa, Wisconsin, by its Common Council, has caused this Municipal Revenue Obligation to be executed with the duly authorized signature of its Mayor and with the duly authorized signature of its Clerk and its official seal to be impressed or reproduced hereon, as of the _____ day of _____, 2017.

CITY OF WAUWATOSA, WISCONSIN

[SEAL]

By: _____
_____, Mayor

By: _____
_____, City Clerk

EXHIBIT E

Tax Increment Projections

Projected Revenues

10

**TID No. 7 Project Plan Amendment: Table III
Tax Incremental District Revenues**

City of Wauwatosa, Wisconsin									
Amendment to Tax Incremental Financing District No. 7									
Updated Tax Increment Revenue Projections									
INCLUDES PHASE 2 AND ANTICIPATED PHASE 3 DEVELOPMENT ASSUMPTIONS									
Payable Year	Annual Increased Value of New Buildings	Cumulative Value of New Buildings & Improvements	Cumulative Value with Inflation	Value Due to Personal Property	Total Estimated Taxable Value	Base Value *	TID Value Increment	2015 Net Total Tax Rate	Annual Tax Increment Revenue /1000
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
12/31/2011		-	-	-	-	-	-	23.800	-
12/31/2012		-	-	-	-	-	-	23.800	-
12/31/2013		-	-	-	-	-	-	23.800	-
12/31/2014	5,656,200	5,656,200	5,656,200	-	5,656,200	5,656,200	-	23.800	-
12/31/2015	11,025,200	16,681,400	16,681,400	-	16,681,400	5,656,200	11,025,200	23.800	-
12/31/2016	26,810,624	43,492,024	43,492,024	-	43,492,024	5,656,200	37,835,824	23.800	262,400
12/31/2017	12,528,646	56,020,670	56,020,670	-	56,020,670	5,656,200	50,364,470	23.800	900,483
12/31/2018	41,255,209	97,275,879	97,275,879	-	97,275,879	5,656,200	91,619,679	23.800	1,198,674
12/31/2019	1,151,042	98,426,921	98,426,921	-	98,426,921	5,656,200	92,770,721	23.800	2,180,548
12/31/2020	31,250,000	129,676,921	129,676,921	-	129,676,921	5,656,200	124,020,721	23.800	2,207,943
12/31/2021	-	129,676,921	129,676,921	-	129,676,921	5,656,200	124,020,721	23.800	2,951,693
12/31/2022	-	129,676,921	129,676,921	-	129,676,921	5,656,200	124,020,721	23.800	2,951,693
12/31/2023	31,250,000	160,926,921	160,926,921	-	160,926,921	5,656,200	155,270,721	23.800	2,951,693
12/31/2024		160,926,921	160,926,921	-	160,926,921	5,656,200	155,270,721	23.800	3,695,443
12/31/2025		160,926,921	160,926,921	-	160,926,921	5,656,200	155,270,721	23.800	3,695,443
12/31/2026	37,500,000	198,426,921	198,426,921	-	198,426,921	5,656,200	192,770,721	23.800	3,695,443
12/31/2027		198,426,921	198,426,921	-	198,426,921	5,656,200	192,770,721	23.800	4,587,943
12/31/2028		198,426,921	198,426,921	-	198,426,921	5,656,200	192,770,721	23.800	4,587,943
12/31/2029		198,426,921	198,426,921	-	198,426,921	5,656,200	192,770,721	23.800	4,587,943
12/31/2030		198,426,921	198,426,921	-	198,426,921	5,656,200	192,770,721	23.800	4,587,943
12/31/2031		198,426,921	198,426,921	-	198,426,921	5,656,200	192,770,721	23.800	4,587,943
12/31/2032		198,426,921	198,426,921	-	198,426,921	5,656,200	192,770,721	23.800	4,587,943
12/31/2033		198,426,921	198,426,921	-	198,426,921	5,656,200	192,770,721	23.800	4,587,943
12/31/2034		198,426,921	198,426,921	-	198,426,921	5,656,200	192,770,721	23.800	4,587,943
12/31/2035		198,426,921	198,426,921	-	198,426,921	5,656,200	192,770,721	23.800	4,587,943
12/31/2036		198,426,921	198,426,921	-	198,426,921	5,656,200	192,770,721	23.800	4,587,943
12/31/2037		198,426,921	198,426,921	-	198,426,921	5,656,200	192,770,721	23.800	4,587,943
12/31/2038		198,426,921	198,426,921	-	198,426,921	5,656,200	192,770,721	23.800	4,587,943
12/31/2039		198,426,921	198,426,921	-	198,426,921	5,656,200	192,770,721	23.800	4,587,943
Totals:	\$ 198,426,921								\$ 66,334,728



Staff Report

File #: 23-565

Agenda Date: 2/28/2023

Agenda #: 7.

Approval of contract with Prism Technical for the creation and monitoring of a Procurement Equity Participation Plan for the MSP multi-unit residential proposal, in an amount not to exceed \$82,344

Submitted by:

John Ruggini

Department:

Finance Department

A. Issue

The Procurement Equity Policy requires Tax Increment Financing projects include required Disadvantaged Business Enterprise (DBE) and Distressed Zip Code hiring inclusion. A contract with Prism Technical for the creation and monitoring of a Participation Plan to facilitate meeting this policy for the MSP Real Estate multi-unit residential project at the Mayfair Collection is recommended for approval.

B. Background/Options

The City of Wauwatosa received an application from MSP Real Estate for financial assistance through Tax Increment Financing (TIF) to assist with financing a portion of the eligible costs related to the construction of an approximate 80-unit mixed income affordable housing project at the Mayfair Collection at 11500 West Burleigh Street. The project will include 1, 2 and 3-bedroom housing units within 2 buildings that are dedicated for both families and seniors within each respective building. The income levels of the units will be a mix of 30%, 50%, 60% and market rate levels.

Included in the proposed term sheet is the requirement that the Developer hire or sub-contract with firms registered as Disadvantaged Business Enterprises with Milwaukee County or the State of Wisconsin Department of Transportation to complete 25% of the construction and professional services work. In addition the, developer is required set a goal of hiring 25% of their additional construction work force from distressed zip codes within Milwaukee County. This is a requirement of the City's Procurement Equity policy.

City staff do not have capacity or technical knowledge to do this type of monitoring. In 2021, three firms with experience in southeast Wisconsin were solicited to provide proposals. Only Prism Technical submitted a proposal. The City is currently working with Prism on the Irgens project and River Parkway. A final report on these two projects is expected this Spring. Given the excellent work Prism has completed to date and the desire for continuity, staff asked Prism to submit a proposal for this project as well which is attached. Prism is the premier firm that does this type of work with an excellent track record of working collaboratively with developers, construction firms and labor unions to ensure a best effort to reach these goals since 1995. Prism has a lifetime achievement record exceeding workforce and business diversity goals/requirements of nearly 98% - on over 40 multi-million-dollar projects in WI, MI, PA, and TX. They have worked with numerous governments including the City of Milwaukee and Milwaukee Public School and on such high-profile projects as The Deer District and Northwestern Mutual downtown tower. They have also worked with many of the regions prominent developers and are themselves a DBE firm.

Prism brings the knowledge and networks to provide more than just monitoring services. They develop a “Participation and Inclusion Plan” with the developer based on their in depth knowledge of what DBE capacity is available in each of the trade disciplines required to complete the project. In addition, working with Prism on this TIF project will have the ancillary benefit of helping City staff identify DBE firms that could be utilized on non-TIF projects and help our continued procurement equity goals. In addition, Prism has excellent contacts within the workforce development community which will be especially helpful as this is a non-union project which makes meeting the workforce development goals more difficult.

As the contract exceeds \$50,000, it requires Common Council approval.

C. Fiscal Impact

The cost of the contract is \$82,344. This on a not-to-exceed basis and will be billed as time and materials. These costs will be funded by the increment generated by MSP project.

D. Recommendation

I recommend approval of the contract with Prism Technical. I also recommend a level three fund transfer to establish a budget for the contract to be paid for with TIF 7 funds.



WAUWATOSA Proposal



MSP Mayfair Collection

Project Inclusion Monitoring



February 9, 2023

Mr. John Ruggini, Finance Director

City of Wauwatosa

7725 West North Ave

Wauwatosa WI 53213

Subject: Proposal Response for Inclusion Plan and Monitoring Services

Reference: **MSP Real Estate, Inc / Mayfair Collection**

John:

Thank you for the opportunity to submit a proposal to provide Inclusion and monitoring services for the referenced project.

PROJECT UNDERSTANDING

1. Developer/General Contractor(D-GC)– MSP REAL ESTATE, Inc. (MSP) plans an affordable housing development in the Mayfair Collection starting as soon as possible. Their original plans called for starting in late 2022 and completing in early 2024. However, unlike River Parkway Phase II, they had not bid out the construction work before understanding the new Wauwatosa DEI initiatives. We are unaware of their Professional service inclusion plans or commitments.
2. As a result, we are estimating the construction phase to be 18 months and based on communications from Mark Hammond the estimated construction cost is under \$25 million - as it relates to the cost of the LCPtracker workforce tracking software we plan to utilize if awarded this work.
3. The D-GC was again awarded WHEDA Low-Income Housing Tax Credit (LIHTC) support and has requested TIF support from the City of Wauwatosa. We are therefore assuming both the WHEDA and TOSA inclusion programs will be active on this project.
4. The project does not have much if any demolition requirements, so construction would likely begin quickly this Spring.
5. We anticipate much greater compliance on this project for the workforce because of MSP's familiarity with the Tosa program initiatives.

ABOUT THIS PROPOSAL

- A. This proposal is an offer to provide consulting services to Wauwatosa to Monitor the business and Targeted new hire workforce in compliance with the Tosa plan and to assist MSP with meeting qualified and competitive Targeted businesses and sources for finding trained workers. As a result, we have specifically included both a workforce and business outreach event for the project, to be held in Wauwatosa¹ or in our MLK Drive office/Community Space to reduce the cost to all involved.
- B. We will make minor modifications to the MSP Project Inclusion Plan, but none for the LCPtracker software.
- C. While Prism will provide direction as requested, the D-GC, its contractors, and vendors are solely responsible for achieving the Tosa and WHEDA inclusion program requirements.
- D. Prism will collect contract and payment data monthly via email from MSP and its service providers, while workforce data will be collected via LCPtracker.

ASSUMPTION AND RECOMMENDATION

We suggest automatic inclusion of workers eligible for the WHEDA low-income hiring program to be included in the definition of allowed workers counted as being from Distressed Zip codes.

¹ If the Wauwatosa Library/City Hall has availability, this would be ideal.

PARTICIPATION PROGRAM

BUSINESS INCLUSION

- **Professional Services expenditures:** 25% with Certified Disadvantaged Business Enterprises (DBE) with this exception -allowing the substitution of the WHEDA EBE program for DBE.
- **Construction Service expenditures:** 25% with Certified Disadvantaged Business Enterprises (DBE) with this exception -allowing the substitution of the WHEDA EBE program for DBE.
- NOTE The WHEDA "EBE" is a collection of acceptable certifications which include the following: 8a, DBE, DVB, MBE, SBE, and/or WBE.

WORKFORCE INCLUSION

- **Wauwatosa:** 25% of all contractor's newly hired worker hours will be completed by workers from Distressed Zip Codes within the County or as otherwise defined by Tosa.
- **WHEDA:** Twelve different individuals, each serving in one each of the 12 different construction divisions of Labor are required to be hired for the project. The desired goal is one new hire per division by the project owners or their representatives. Workers must meet specific income limits defined by WHEDA. The worker hours from these "WHEDA" workers shall dually count towards the Tosa program goals.

SCOPE OF SERVICES & DELIVERABLES

Prism will make minor modifications to the River Parkway Inclusion Plan

1. Prism plans to host an EBE contractor meeting, in person or virtually, with the Developer to introduce local contractors to the MSP team.
2. Prism plans to connect the development team and its contractors with agencies that provide construction training and skilled labor such as WRTP/BIGSTEP, Employ Milwaukee, the Social Development Commission (SDC), and Northcott.
3. Prism will need two months to close out the project upon substantial completion to confirm contractor closeouts and write the final report.
4. Prism will conduct onsite interviews with the workforce and/or EBE firms to highlight in our mid-project and final reports.

METHODOLOGY

- Meet with the D-GC team to begin crafting any edits to the Project Inclusion Plan (PIP, as approved by the City of Tosa.
- Obtain project schedule containing key project milestones.
- Create the Modified PIP.
- Deploy LCPtracker to appropriately track worker hours from Distressed Zip codes or income-eligible workers regardless of zip codes.
- Prism to track contractor payments via email with the D-GC
- Alert local training agencies of the major project milestones and the need for workers.

NOT TO EXCEED FEE

Inclusion Program Development and Monitoring Fee..... \$74,144 net all
Estimated Cost for LCPtracker Application* (based on 2 years)..... \$ 8,200
Total not to exceed cost \$82, 344Net all

*LCPtracker is quoted without markup. We are still working on a multiple project price break.

Sincerely,

Prism Technical



Randy Crump

CEO