REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT (this "Agreement") is entered into between Curt Vaughn Brink LLC, a Wisconsin limited liability company ("Buyer") and the City of Stoughton Redevelopment Authority, a body corporate and politic (the "RDA") and the City of Stoughton, a Wisconsin municipal corporation (the "City") (the RDA and the City, collectively, the "Seller"), dated effective as of the date of the last of the parties' signatures hereto (the "Effective Date").

RECITALS:

A. Seller owns fee simple title to an approximately 10.9-acre tract of real estate located in the City of Stoughton, Wisconsin, bounded on the west by Fourth Street, on the east by Seventh Street, on the north by South Street and on the south by the Yahara River, which Seller has marketed for redevelopment (the "Riverfront Site").

B. Buyer desires to purchase a portion of the Riverfront Site from Seller and Seller desires to sell to Buyer such property in accordance with the terms and conditions set forth herein.

AGREEMENT:

1. Agreement to Purchase. Subject to the terms and conditions of this Agreement, Seller shall sell to Buyer, and Buyer shall purchase from Seller that certain portion of the Riverfront Site, together with all other rights and interests appurtenant thereto, depicted and described as Lot 1 (the "Phase 1 Land") on the draft certified survey map attached hereto as Exhibit A (the "CSM").

2. Purchase Price. The purchase price (the "Purchase Price") for the Phase 1 Land shall be Four Hundred Thousand and 00/100 Dollars ($400,000.00). The Purchase Price, subject to the adjustments and prorations set forth in Section 6 below, shall be paid by Buyer on the Closing Date by certified or cashier's check or federal wire transfer.

3. Contingencies.

(a) *Approvals*. Each party's respective obligation to consummate the purchase and sale transaction contemplated by this Agreement is contingent upon satisfaction of all of the following (collectively, the "Contingencies") no later than June 1, 2021 (the "Contingency Deadline"):

(i) approval by the City of Stoughton Common Council of a certified survey map in substantially the form attached hereto as Exhibit A, subject to any modifications that may be mutually acceptable to Buyer and Seller;

(ii) approval by the City of Stoughton Common Council of a Planned Development Zoning designation and a General Development Plan ("GDP") for the Riverfront Site, and a Specific Implementation Plan ("SIP") for the Phase 1 Land, sufficient to allow for

Buyer's intended development of an approximately 80-unit multifamily building on the Phase 1 Land, as generally depicted on the attached Exhibit B (the "Phase 1 Development"). Buyer shall prepare the GDP and SIP, in consultation with the RDA and the City. The City and the RDA shall be the applicant for Planned Development Zoning and for approval of a GDP, but no Planned Development Zoning Application and no GDP shall be submitted to the City for approval unless acceptable to Buyer and Seller. Buyer shall be the applicant for approval of an SIP for the Phase 1 Land. The City of Stoughton Common Council shall have the right, in its sole discretion, to approve or disapprove the GDP and the SIP;

(iii) approval by the City of Stoughton Common Council and the RDA of a development agreement (the "TIF Development Agreement") attached as Exhibit C, and delivery to the City of the surety required by Section B.1(l)(1) of the TIF Development Agreement.

(iv) approval by the City of Stoughton Common Council (and the Joint Review Board, where required) of any resolutions, boundary amendments, project plans or other items necessary for the TIF Development Agreement to be implemented

(v) The Wisconsin Economic Development Corporation ("WEDC") must award the Brownfield Grant (defined below) in an amount not less than $_____, and the Wisconsin Department of Natural Resources must approve the Materials Management Plan and the Remedial Action Plans described in the TIF Development Agreement.

(b) *Council Approval Required*. Notwithstanding anything to the contrary set forth herein, the City's execution of this Agreement shall not be construed as a commitment by the City of Stoughton Common Council to approve the CSM, the GDP, the SIP, or the TIF Development Agreement (each, a "City Approval"). The parties to this Agreement acknowledge that each City Approval is an independent action that may be taken by the City of Stoughton Common Council, in the proper exercise of its governmental authority, and the City's entry into this Agreement in no way obligates or commits the City of Stoughton Common Council to grant any City Approval.

(c) *Termination*. If all of the Contingencies are not satisfied by the Contingency Deadline, this Agreement shall terminate and neither party shall have any further obligation hereunder.

4. Buyer's Condition Precedent. In addition to satisfaction of all of the Contingencies set forth in Section 3 above, Buyer's obligation to consummate the purchase and sale transaction contemplated by this Agreement is conditioned upon Buyer's receipt of a commitment from a lender to provide the necessary construction financing for the Phase 1 Development, acceptable to Buyer in the exercise of Buyer's sole discretion. In the event Buyer is unable to secure such commitment, Buyer may terminate this Agreement by written notice to Seller at any time prior to the Contingency Deadline.

5. Title Insurance. Within fifteen (15) days following the Effective Date of this Agreement, Seller shall deliver to Buyer a commitment ("Commitment") prepared by the

Madison, Wisconsin officer of First American Title Insurance Company NCS (the "Title Company") to issue a standard form ALTA owners' policy of title insurance, including gap coverage, for the Phase 1 Land in the amount of the Purchase Price naming Buyer as the proposed insured, showing all liens, encumbrances and other matters of record. The Commitment shall be delivered to Buyer together with legible copies of all documents that appear as exceptions to title. Within thirty (30) days of Buyer's receipt of the Title Commitment, Buyer shall notify Seller, in writing ("Buyer's Title Notice"), of any objections to the Title Commitment. Seller shall use diligent good faith efforts to remove any objections Buyer has with respect to the Title Commitment. If one or more of such objections cannot be removed, Seller shall notify Buyer in writing ("Seller's Notice"), within fifteen (15) days after Seller's receipt of Buyer's Title Notice, of which objections cannot be removed. Buyer shall elect, in writing within ten (10) days thereafter, either to: (i) terminate and cancel the Agreement, in which case all Deposit shall be returned to Buyer and, except as set forth in this Agreement, neither party shall have further obligations hereunder; or (ii) waive the title objections and proceed to Closing. If Seller fails to deliver Seller's Notice within such fifteen- (15) day period, Seller shall be deemed to have agreed to cure all of Buyer's objections. Notwithstanding anything to the contrary contained herein, Seller shall be obligated to remove all monetary encumbrances from title at or before Closing. Exceptions to title approved by Buyer hereunder shall be deemed to be "Permitted Exceptions."

6. Closing.

(a) *Closing Date*. Following the satisfaction of all Contingencies and any other conditions precedent set forth herein, the "Closing" shall occur at the offices of the Title Company on a date mutually acceptable to the parties no later than July 1, 2021 (such date, the "Closing Date").

(b) *Closing Documents*. On or prior to the Closing Date, the parties shall execute the following documents: (i) Seller will execute and record the CSM; (ii) Seller will execute and deliver to Buyer a general warranty deed (the "Deed") conveying the Phase 1 Land to Buyer subject only to the Permitted Exceptions; (iii) Buyer and Seller will complete a Wisconsin Real Estate Transfer Return in the form that is required by state statute in order to record the Deed; (iii) Buyer and Seller will execute and deliver a closing statement setting forth the Purchase Price and any adjustments thereto as provided for in this Agreement; (iv) Seller will execute and deliver to Buyer a Non-Foreign Person Affidavit confirming that Seller is not a foreign person subject to certain federal withholding requirements; (v) the City and the Buyer will execute the TIF Development Agreement; and (vi) Buyer and Seller will execute and deliver any other documents that are necessary to consummate the transaction contemplated by this Agreement, including such documents as are necessary to cause title to be conveyed to Buyer in the form approved by Buyer pursuant to the terms of this Agreement.

(c) *Costs and Expenses*. Seller shall be responsible for paying the Wisconsin real estate transfer fee, the cost of providing title insurance to Buyer and any recording fees related to satisfying any existing mortgages against the Phase 1 Land. Buyer will pay any recording fees related to recording the Deed and to record any mortgages it grants on the Phase 1

Land. The parties shall evenly share any cost of the Title Company to act as the closing agent. Each party will be solely responsible for paying its respective attorney's fees.

(d) *Prorations and Adjustments*. The following items shall be prorated and adjusted between Buyer and Seller as of 12:01 a.m. on the date of Closing as follows:

(i) All utility charges, including, but not limited to, electricity, gas, water, sewer, steam and telephone shall be determined by actual meter readings, if available; otherwise they shall be estimated on the basis of the last billing available from the respective utilities. Any utility deposits, standby charges or other prepayments, if assignable, shall be assigned to Buyer, who shall reimburse Seller therefor.

(ii) General real estate taxes levied against the Phase 1 Land. The proration shall be based on the net general real estate taxes for the year of Closing, if known, otherwise on the net general real estate taxes for the year prior to Closing.

(iii) Assessments, either general or special, for improvements completed prior to Closing, whether matured or unmatured, shall be paid in full by Seller (including all principal and interest). All other assessments shall be paid by Buyer.

(iv) As between Seller and Buyer, Seller shall be responsible for all operating expenses for the Phase 1 Land allocable to the period prior to the date of Closing, and shall pay all such expenses when due; and Buyer shall be responsible for all operating expenses for the Project allocable to the period on and after the date of Closing.

(v) Such other items as are required to be prorated pursuant to the terms hereof, or as are customarily prorated upon the transfer of ownership and possession of commercial rental real estate in Dane County.

The parties agree to make such post-closing adjustments and readjustments as may be required due to errors and omissions in the closing adjustments. If information is not available or if the parties agree that it is impracticable to make a particular adjustment on the date of Closing, that adjustment shall be made as soon as practicable after such information is available.

7. Environmental Remediation.

(a) Buyer and Seller acknowledge that, as of the Effective Date of this Agreement, various environmental contaminants exist on the Riverfront Site, including, without limitation, the contaminants described in the open DNR files identified as BRRTS number 02-13-583169, 02-13-554724, and 02-13-585835; closed DNR files identified as BRRTS number 02-13-579312, 02-13-258425; and general property DNR file identified as BRRTS number 07-13-563581 (the "Existing Contamination").

(b) Promptly following the Effective Date of this Agreement, Buyer shall prepare and submit an application to WEDC's Brownfields Grant Program seeking a grant ("Brownfield Grant") to address some of the costs that will be incurred in remediating the Existing Contamination on the Phase I Land. Buyer and Seller shall cooperate with one another

in pursuing the Brownfield Grant application and in seeking out and maximizing any other potential grant opportunities to address the Existing Contamination on the Phase I Land.

(c) If Buyer proceeds with the transaction contemplated by this Agreement, Buyer shall be responsible for the remediation of the Existing Contamination on the Phase I Land through case closure with the Wisconsin Department of Natural Resources ("DNR"), subject to determinations from the DNR and any other applicable federal or state regulatory agency or authority pursuant to applicable requirements, including, but not limited to, Chapter NR 700, et seq., Wisconsin Administrative Code ("Case Closure"). Buyer's obligations with respect to pursuit of Case Closure shall be more fully set forth in the TIF Development Agreement to be negotiated by the parties prior to the Contingency Deadline.

(d) To the extent not covered by the Brownfield Grant or any other grants that may be awarded for remediation of the Existing Contamination, Seller shall be responsible for all costs reasonably incurred by Buyer in the pursuit of Case Closure. Seller shall promptly reimburse Buyer for any such costs within thirty (30) days of presentation of a reimbursement request from Buyer, together with reasonable supporting documentation.

8. Development of Future Phases.

(a) *Buyer's Right of First Opportunity*. Buyer was selected by Seller to pursue the acquisition and redevelopment of the Riverfront Site following a public evaluation process. Buyer's proposal (which is to be reflected in the GDP, subject to Common Council approval), involves a phased approach to development, beginning with the Phase 1 Land. To allow the possibility for the overall redevelopment plan envisioned in Buyer's initial submission to Seller to be realized, Seller hereby grants Buyer a right of first opportunity to acquire and develop the future phases of the Riverfront Site, according to the procedures set forth in this Section 7 (the "Right of First Opportunity").

(b) *Term*. The Right of First Opportunity shall be in effect for a period of five (5) years following the Closing of Buyer's acquisition of the Phase 1 Land (the "Term"), unless sooner terminated according to the procedures set forth herein.

(c) *Purchase Price*. During the Term, the purchase price to be paid by Buyer for each future phase of the Riverfront Site shall be an amount equal to Five Thousand and no/100 Dollars ($5,000) multiplied by the total number of dwelling units proposed to be developed by Buyer in each such phase of development.

(d) *Exclusivity*. Throughout the Term, provided Buyer is not in default of any of Buyer's obligations under the TIF Development Agreement for the Phase 1 Land, Seller will not enter into any other agreements concerning the development of the Riverfront Site without first complying with the provisions set forth in this Section 7.

(e) *Buyer's Right to Submit Proposals to Seller*. At any time during the Term, Buyer may initiate negotiations with Seller for development of future phases of the Riverfront Site upon written notice to Seller. If, within six (6) months following Buyer's notice to Seller,

such negotiations do not lead to a mutually acceptable and legally binding agreement between Buyer and Seller for the next phase of development, the Right of First Opportunity shall terminate and be of no further force or effect.

(f) *Seller's Right to Solicit Proposals from Buyer*. At any time during the Term, after an occupancy permit has been issued for any building within the Phase 1 Land, Seller may initiate negotiations with Buyer for development of future phases of the Riverfront Site upon written notice to Seller. If, within eight (8) months following Seller's notice to Buyer, such negotiations do not lead to a mutually acceptable and legally binding agreement between Buyer and Seller for the next phase of development, the Right of First Opportunity shall terminate and be of no further force or effect.

(g) *Termination for Cause*. If Buyer is in default of any material obligation under the TIF Development Agreement for the Phase 1 Land beyond applicable notice and cure periods, Seller may terminate the Right of First Opportunity upon written notice to Buyer.

(h) *Survival*. The terms of this Section 7 shall survive the Closing of Buyer's acquisition of the Phase 1 Land.

9. Seller's Representations and Warranties. In order to induce Buyer to enter into this Agreement, Seller hereby makes the following representations and warranties to Buyer, each of which shall be deemed to be independently material and relied upon by Buyer, regardless of any investigation made by, or information known to, Buyer, and upon which Buyer has relied and without which Buyer would not have submitted this Agreement. Seller covenants and agrees that each of the representations are true and correct on the date hereof and, as a condition precedent to Buyer's obligation to close, Seller shall affirm that each of these representations continue to be true and correct on the date of Closing, and that such representations and warranties shall survive Closing:

(a) *Authority*. The sale of the Phase 1 Land pursuant to this Agreement is not in violation of any provision of any agreement to which Seller is bound. Seller has complete power and authority to enter into and perform the transaction contemplated by this Agreement according to its terms, and the execution and delivery of this Agreement and the consummation thereof have been duly authorized by all required action.

(b) *Litigation, Court Orders*. There are no legal actions, condemnation proceedings, suits or other legal administrative proceedings, pending, or to the knowledge of Seller, threatened, against the Phase 1 Land, and there are no governmental agency or court orders requiring repairs, alterations or corrections of any existing conditions on the Phase 1 Land.

10. Seller's Covenants.

(a) *Access*. Following the Effective Date and up to and including the date of Closing, Seller shall grant Buyer access to the Phase 1 Land at reasonable times and upon reasonable notice for the purpose of making such investigations, studies, assessments and the like that Buyer deems necessary or desirable, consistent with good commercial practice.

(b) *Continued Operation*. Following the Effective Date and up to and including the date of Closing, Seller shall maintain the Phase 1 Land in good condition and repair, reasonable wear and tear excepted and shall continue to operate the Phase 1 Land in its ordinary and normal course of business.

11. Buyer's Representations and Warranties. Buyer covenants and agrees that the Buyer is a limited liability company duly organized, validly existing and in current status under the laws of the State of Wisconsin. The purchase of the Phase 1 Land pursuant to this Agreement is not in violation of any provision of Buyer's articles of organization, operating agreement or any other agreement to which Buyer is bound. Buyer has complete power and authority to enter into and perform the transaction contemplated by this Agreement according to its terms, and the execution and delivery of this Agreement and the consummation thereof have been duly authorized by all required company action. The person (or those persons) signing below on behalf of Buyer personally warrant that they have the authority to act as Buyer's agent or agents in the sale, transfer and conveyance of the Phase 1 Land from Seller.

12. Notices. All notices or directions desired or required to be given under this Agreement shall be in writing and personally delivered, sent by commercial overnight courier or delivered via email, directed as follows:

If to Buyer: Curt Vaughn Brink LLC
701 E. Washington Ave., Ste. 105
Attention: Curt Brink
Telephone: 608.575.4845
Email: curtbrink@hotmail.com

with a copy to: Carlson Black O'Callaghan & Battenberg LLP
222 W. Washington Ave. Ste. 705
Madison, WI 53703
Attn: Daniel A. O'Callaghan
Telephone: 608.888.1685
Email: dan.ocallaghan@carlsonblack.com

If to Seller: City of Stoughton
207 S. Forrest St.
Stoughton, WI 53589
Attn: Finance Director
Telephone: 608.873.6677
Email: jfreidl@city.stoughton.wi.us

and: City of Stoughton Redevelopment Authority
207 S. Forrest St.
Stoughton, WI 53589
Attn: Executive Director
Telephone: 608.873.6677
Email: jfreidl@city.stoughton.wi.us

with a copy to: Stafford Rosenbaum LLP
222 West Washington Avenue, Suite 900
Madison, Wisconsin 53701-1784
Attn: Matthew P. Dregne
Telephone: 608.259.2618
Email: MDregne@staffordlaw.com

Notices personally delivered shall be deemed received when given. Notices sent by email shall be deemed received when given, if prior to 5 PM, recipient's local time, on a business day, otherwise on the next occurring business day. Notices or demands sent by commercial overnight courier shall be deemed received on the next business day following deposit.

13. Brokers. Buyer and Seller represent and warrant that neither Buyer nor Seller have retained the services of any real estate broker or agent in connection with the purchase and sale under this Agreement and each agrees to indemnify and hold the other harmless from and against any and all liability or damages, including costs and attorney's fees, resulting from any claim brought by any other real estate broker or agent for any real estate commission or finder's fee due, or alleged to be due, as the result of the actions of such person.

14. Adequacy of Consideration. Buyer and Seller acknowledge that Buyer will expend material sums of money in reliance on Seller's obligations under this Agreement, in connection with negotiating and executing this Agreement, conducting the due diligence activities contemplated by this Agreement and preparing for Closing, and that Buyer would not have executed the Agreement without the availability of the contingencies for due diligence activities described herein. Buyer and Seller, therefore agree that adequate consideration exists to support each of the party's obligations under this Agreement, and Seller and Buyer each waive any and all rights to challenge the enforceability of this Agreement on the basis that any of the conditions or contingencies set forth herein are at Seller's or Buyer's sole discretion or that any of the agreements contained herein are illusory.

15. Miscellaneous.

(a) *Dates and Deadlines*. Unless otherwise specifically provided herein, in the computation of any period of time which shall be required or permitted hereunder or under any law for any notice or other communication or for the performance of any term, condition, covenant or obligation, the day from which such period runs shall be excluded and the last day of such period shall be included unless it is a Saturday, Sunday or legal holiday, in which case the period shall be deemed to run until the end of the next day which is not a Saturday, Sunday or legal holiday.

(b) *Assignment*. Buyer may assign its rights and obligation under this Agreement at any time to an entity that is related to, and/or controlled by, Buyer. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their permitted successors and assigns.

(c) *Modifications*. This Agreement may only be modified in writing signed by both Seller and Buyer.

(d) *Further Assurances*. The parties each agree to do, execute, acknowledge and deliver all such further acts, instruments and assurances and to take all such further action before or after the Closing as shall be necessary or desirable to fully carry out the terms of this Agreement and to fully consummate the transaction contemplated hereby.

(e) *Captions*. The captions at the beginning of the several paragraphs and subparagraphs, respectively, are for convenience in locating the context only, and are not part of the text.

(f) *Governing Law*. This Agreement shall be interpreted in accordance with the laws of the State of Wisconsin without giving effect to principles of conflicts of law thereof.

(g) *Severability*. In the event any term or provision of this Agreement shall be held illegal, invalid or unenforceable, or inoperative as a matter of law, the remaining terms and provisions of this Agreement shall not be affected thereby but each such term and provision shall be valid and shall remain in full force and effect.

(h) *Attorney's Fees*. If either party commences an action to enforce the terms of, or to resolve a dispute concerning, this Agreement, the substantially prevailing party in any such action shall be entitled to recover from the substantially non-prevailing party all costs and expenses incurred in connection with such action, including, but not limited to, reasonable attorney's fees and court costs.

(i) *Counterparts; Facsimile*. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all such counterparts together shall constitute one original instrument. Signatures transmitted by facsimile or PDF by email shall be deemed to be original signatures for all purposes.

[Signature page follows.]

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

BUYER:
CURT VAUGHN BRINK LLP

By:_____ Date: _____
Curt Brink, Manager

SELLER:
CITY OF STOUGHTON

By:_____ Date: _____
Mayor Timothy Swadley

CITY OF STOUGHTON REDEVELOPMENT AUTHORITY

By:_____ Date: _____
Dale Reeves, Chair

ATTEST:

_____
Holly Licht, City Clerk

Approved as to form:
STAFFORD ROSENBAUM LLP

_____
By: Mathew Dregne, City Attorney

EXHIBIT A

DRAFT CSM

[attached]

EXHIBIT B

PHASE 1 CONCEPT PLANS

[attached]