CITY OF STOUGHTON, 207 S. FORREST STREET, STOUGHTON, WISCONSIN

RESOLUTION OF THE COMMON COUNCIL

Authorizing and directing the proper City official(s) to enter into the proposed TIF Agreement between the City of Stoughton and Kettle Park West, LLC relating to the KPW-The Meadows Development.

Committee Action: Finance Committee recommended X-X on April 14, 2020

File Number:	R- - 2020	**Date Introduced:**	April 14, 2020

WHEREAS, Kettle Park West, LLC ("Developer") intends to undertake residential development on certain property located within Tax Increment Financing District No. 7 ("Property"); and

WHEREAS, Developer is unable to develop the Property without financial assistance in constructing certain on-site and off-site public improvements; and

WHEREAS, Developer has requested $3,000,000 plus interest in Tax Incremental Financing assistance to complete the required on-site public improvements and $3,800,000 in potential off-site public improvements; and

WHEREAS, The City of Stoughton Common Council accepted the KPW-The Meadows Development Tax Incremental Financing Assistance application on November 26, 2019 and directed City official(s) to commence work on an Agreement to Undertake Development and associated TIF Agreement; and

WHEREAS, the City finds and determines that unless the City provides Tax Incremental Financing assistance, the Property will not be developed; and

WHEREAS, The City finds that the development of the Property and the fulfillment of the terms and conditions of the Agreement are in the vital and best interests of the City and its residents, by expanding the tax base and creating additional housing stock, thereby serving public purposes in accordance with state and local law; and

WHEREAS, in order to make the development financially feasible, the City finds it appropriate to enter into this TIF Agreement to set forth certain obligations and understandings; and

WHEREAS, The City of Stoughton Finance Committee recommended to enter into the TIF Agreement between the City of Stoughton and Kettle Park West, LLC relating to the KPW-The Meadows Development on April 14, 2020; and

BE IT RESOLVED by the Common Council of the City of Stoughton authorizes and directs proper City official(s) to enter into the proposed TIF Agreement between the City of Stoughton and Kettle Park West, LLC relating to the KPW-The Meadows Development.

Council Action: ☐ **Adopted** ☐ **Failed** **Vote** _____

Mayoral Action: ☐ **Accept** ☐ **Veto**

_____

Mayor Tim Swadley Date

Council Action: _____ ☐ **Override** **Vote** _____

TIF AGREEMENT

Kettle Park West

THIS TIF AGREEMENT (this "Agreement") is entered into as of the ____ day of _____, 2020, by and between the City of Stoughton, a Wisconsin municipal corporation (the "City"), and Kettle Park West, LLC, a Wisconsin limited liability company (the "Developer").

RECITALS

A. The City has established Tax Incremental District No. 7 (the "District") pursuant to Wis. Stat. § 66.1105 for the purpose of facilitating mixed-use development of property within the District, consistent with plans adopted by the City.

B. On June 9, 2015, the City and the Developer entered into that certain Second Amended and Restated Agreement to Undertake Development (the "Commercial Phase Development Agreement"), pursuant to which Developer began development of the first phase of the master-planned development known as "Kettle Park West." The first phase of development to occur was the commercial development known as "Kettle Park West Commercial Center," which is located within the District.

C. Pursuant to the Commercial Phase Development Agreement, the City (i) issued debt to finance the construction of certain public improvements associated with the Kettle Park West Commercial Center (such debt, as subsequently refinanced from time to time by the City, is hereinafter referred to as the "Commercial Phase TIF Borrowing") and (ii) issued a municipal revenue obligation to the Developer to offset the cost of certain grading work that was necessary to prepare the Kettle Park West Commercial Center for development (the "Commercial Phase MRO").

D. The Developer now intends to proceed with the second phase of the Kettle Park West development by acquiring the property described on Exhibit A (the "Property"), which is also located within the District.

E. On February 11, 2020, the City approved Planned Development District zoning of certain property pursuant to Ordinance No. O-1-2020. On January 14, 2020, the City approved a Certified Survey Map (the "CSM") part of the Property. On June 25, 2019, the City approved a final plat known as "Kettle Park West – The Meadows Addition" (the "Meadows Addition Plat). On _____, 2020, the City approved a final plat know as "The Meadows at Kettle Park West" (the "Meadows Plat"). The City's approval of zoning, the CSM, the Meadows Addition Plat and the Meadows Plat will allow for the property to be developed with a mixture of residential uses (the "KPW Meadows Development").

F. To facilitate the proposed KPW Meadows Development, the Developer must complete certain public improvements (the "Improvements") pursuant to that certain Master Development Agreement approved by the City pursuant to Resolution No. R-__-2020 (the "Master Development Agreement").

G. As contemplated by the Master Development Agreement, Developer intends to develop the Property in phases (each a "Phase" and collectively the "Phases").

H. Without the provision of tax incremental financing from the City as set forth herein, the Developer would be unable to develop the Property in accordance with this Agreement.

I. The development of the Property pursuant to this Agreement will benefit the City and the public for a number of reasons, including but not limited to, an increase in the City's tax base, which will promote the general welfare of the citizens of the City.

J. The City is willing to provide assistance as set forth herein in exchange for certain guarantees and obligations by the Developer in this Agreement and has determined that this Agreement is in the public interest.

AGREEMENT

NOW, THEREFORE, in consideration of the Recitals, and the mutual promises, obligations and benefits provided hereunder, the receipt and adequacy of which are hereby acknowledged, Developer and the City agree as follows:

1. Representations by the City. The City makes the following representations as the basis for the undertaking on its part herein contained:

a. The City is a public body corporate and politic duly organized and existing under the laws of the State of Wisconsin.

b. The City proposes to provide assistance to the Developer in accordance with the provisions of the Agreement.

c. The activities of the City are undertaken for the purposes defined in Section 66.1105 of the Wisconsin Statutes (the "Act").

d. To finance the costs of the activities contemplated by this Agreement, the City proposes to use the Tax Increment (as that term is defined in Wis. Stat. § 66.1105 (2) (i)) generated within the District, to the extent Tax Increment is available and subject to the further conditions set forth in this Agreement. Eligible Project Costs (as that term is defined in Wis. Stat. § 66.1105 (2) (f)) include the payments to be made under this Agreement in accordance with Wis. Stat. § 66.1105 (2) (f) 2. d.

e. The parties signing below on behalf of the City have been fully authorized to execute this Agreement on behalf of the City.

2. Representations by the Developer. The Developer represents and warrants that:

a. The Developer has the full power and authority to enter into this Agreement and perform the obligations herein, controls the development of the Property, is a limited liability company authorized under the laws of the State of Wisconsin to conduct

business in Wisconsin, and is in good standing with the Wisconsin Department of Financial Institutions.

b. The individual signing below for the Developer has full power and authority to execute this Agreement on behalf of the Developer, and to bind the Developer to the Agreement.

c. The Developer shall, upon its acquisition of the Property, become the fee simple owner of the Property; upon such acquisition, no other person or party shall have an interest of record in the Property (other than the Developer's mortgagee); and the Developer has full right and authority to make the agreements, warranties, consents and waivers in this Agreement. Upon its acquisition of the Property, the Developer shall provide the City with title evidence acceptable to the City showing that the Developer has title as warranted above.

d. The Developer shall cause the Property to be developed in accordance with the terms of this Agreement, the Master Development Agreement and all applicable local, state and federal laws, ordinances and regulations. The Developer shall obtain any and all permits, licenses or other approvals as may be required in order to develop the Property in a timely manner.

e. The proposed development of the Property would not occur but for the tax increment financing assistance being provided by the City hereunder, and the amount of tax increment financing provided is necessary for the development of the Property to proceed based on cost estimates.

f. Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement are prevented, limited by or conflicts with or results in the breach of the terms, conditions or provision of any contractual restriction, evidence of indebtedness, agreement or instrument of whatever nature to which the Developer is now a party or by which it is bound, or constitutes a default under any of the foregoing.

g. The Developer understands and agrees that the municipal revenue obligation of the City hereunder shall be payable, subject to annual appropriation by the Common Council, only from Available Tax Increment (defined in Section 6. iii below) generated from the Tax Increment funds created under the Act, and shall never represent or constitute general obligation debt or bonded indebtedness of the City, the State of Wisconsin or any political subdivision.

3. Definitions.

a. *Actual Tax Increment*. The Tax Increment actually received by the City pursuant to Wis. Stat. § 66.1105 from taxes levied on all property in the District.

b. *Administrative Costs*. $5,000 per year to reimburse the City for staff time associated with administering the District, plus all outside consultant costs incurred by the City and not reimbursed by Developer, including but not limited to engineering, legal, planning, financial consulting and auditing costs, relating to forming the District or amending the project

plan for the District; negotiating and preparing this Agreement and other agreements relating to the District, and administering the District, this Agreement or other agreements relating to the District.

c. *District*. City of Stoughton Tax Increment District No. 7.

d. *Available Tax Increment*. Available Tax Increment has the meaning given in Section 6. iv of this Agreement.

4. Developer Obligations.

a. The Developer shall acquire the Property and shall provide the City with title evidence acceptable to the City showing title as warranted above.

b. The Developer shall comply with all of the terms and conditions of the Master Development Agreement and each of the Subdivision Improvements Agreements.

c. The Developer shall cause Junction 138, LLC, the owner of Parcel No. 052/0510-121-8031-0, consisting of approximately 1.337 acres situated immediately to the south of Kettle Park West (the "Junction 138 Parcel"), to convey to the City, at no cost to the City, all right, title and interest in the Junction 138 Parcel, free and clear of liens and encumbrances other than utility easements and municipal zoning and other regulations.

d. The Developer shall pay all amounts due and owing from Developer to the City and Stoughton Utilities, which total $14,803.96 to the City and $9,563.99 to Stoughton Utilities as of April 1, 2020.

5. City Obligation: Issuance of Residential Phase Municipal Revenue Obligations.

a. Concurrent with the execution of the first Subdivision Improvements Agreement, as contemplated in Article I, Section A. 1 of the Master Development Agreement, and subject to the conditions in Section 5. k., below, the City agrees to issue a Municipal Revenue Obligation pursuant to Wis. Stat. § 66.0621, under the terms contained herein and in the form attached hereto as Exhibit B, in the principal amount of Three Million U.S. Dollars ($3,000,000.00).

b. The Municipal Revenue Obligation shall bear interest at an annual rate of the lesser of (1) six (6%) percent, or (2) the interest rate Developer is actually required to pay its lender to borrow the funds needed to construct the Improvements in the applicable Residential Phase. Interest shall begin to accrue on the Municipal Revenue Obligation on the date on which the Municipal Revenue Obligation is issued.

c. Any payment on the Municipal Revenue Obligation which is due on any Payment Date shall be payable only from Available Tax Increment that has been appropriated by the Common Council to payment of the Municipal Revenue Obligation.

d. For purposes of the Municipal Revenue Obligation, a "Payment Date" shall mean each of the Scheduled Payment Dates set forth on a schedule to be prepared by the City and attached to the Municipal Revenue Obligation when issued. The scheduled payment dates shall be prepared such that the payments on the Municipal Revenue Obligation are amortized over the remaining number of years that tax increment generated by the District may lawfully be allocated to make payments on the Municipal Revenue Obligation. On each of the Payment Dates, the City shall make a payment on the Municipal Revenue Obligation, up to the Scheduled Payment Amount shown on the schedule attached to the Municipal Revenue Obligation, but not in excess of the Available Tax Increment, together with such additional amounts, if any, deferred from prior years as may be payable on the Payment Date as provided under the terms of the Municipal Revenue Obligation, and that has been appropriated for that purpose by the Common Council in accordance with the requirements for revenue obligations.

e. The City covenants and agrees that Available Tax Increment held by the City as of a given Payment Date shall not be appropriated for any other use, if not appropriated for the Municipal Revenue Obligation due as of such Payment Date, until the City has paid the Municipal Revenue Obligation payment or payments due on the Payment Date in that year (including the Scheduled Payment Amount or Amounts plus any additional amounts deferred from prior years and payable on that Payment Date), or until said Municipal Revenue Obligations have been paid. The District shall not be terminated until the Municipal Revenue Obligations have been paid in full, or until the District must be terminated by law, whichever first occurs.

f. Developer may assign the Municipal Revenue Obligations to any lender providing financing to the KPW Meadows Development, or to a successor owner of the Project, and upon notice of such assignment, the City shall pay directly to such lender or successor the Scheduled Payment Amounts due on account on the Municipal Revenue Obligation.

g. The City shall have no obligation to make payments on the Residential Phase MROs at any time that the Developer is delinquent in payment of the Developer's property taxes with respect to any portion of the Property then owned by Developer.

h. The Residential Phase MROs shall not be payable from or constitute a charge upon any funds of the City, and the City shall not be subject to any liability thereon or be deemed to have obligated itself to pay thereon from any funds except the Available Tax Increment, and then only to the extent and in the manner herein specified.

i. The Residential Phase MROs are a special, limited revenue obligation and not a general obligation of the City and is payable by the City only from the source and subject to the qualifications stated or referenced herein. Neither the full faith and credit nor the taxing powers of the City are pledged to the payment of the principal of the Residential Phase MROs and no property or other asset of the City, except the above-referenced revenues, is or shall be a source of payment of the City's obligations hereunder and thereunder.

j. The City shall have the right to prepay the outstanding principal balance of the Residential Phase MROs at any time, at par and without penalty.

k. The City's obligation to issue a MRO is conditioned upon satisfaction of the following conditions: (1) the Project Plan for the District must be amended to authorize the provision of $3,000,000 in tax increment funding to Developer pursuant to this Agreement, and to authorize tax increment funding of the construction of a force main in Jackson Street, a water main extension along STH 138, the construction of Oak Opening Drive and Deer Point Drive in the Town of Rutland, and the intersection of Oak Opening Drive and STH 138; and (2) the requirements of Sections 4. a through 4. d. of this Agreement must be satisfied.

6. Allocation of Actual Tax Increment. Beginning in 2020 and continuing through 2035, the City, subject to annual appropriations and pursuant to the terms contained in this Agreement, shall, annually, distribute Actual Tax Increment as follows:

i) First, to the City for the payment of Administrative Costs.

ii) Second, for the payment of the Commercial Phase TIF Borrowing.

iii) Third, to pay any City borrowing incurred to finance the construction of improvements to Oak Opening Drive and Deer Point Drive in the Town of Rutland.

iv) Fourth, Actual Tax Increment that remains after paying (i), (ii) and (iii) above shall be made available for payment of the Residential Phase MROs (in the order of issuance). For purposes of this Agreement, Actual Tax Increment that remains after paying (i), (ii) and (iii) above shall be referred to as "Available Tax Increment."

v) Fifth, Actual Tax Increment that remains after paying (i), (ii), (iii) and (iv) above shall be allocated to the City to pay for the construction of the Jackson Street force main and the extension of a water main along S.T.H. 138.

vi) Sixth, Actual Tax Increment that remains after paying (i), (ii), (iii), (iv) and (v) above shall be made available for payment of the Commercial Phase MRO.

vii) Finally, after the payments are made pursuant to subsections i. through vi. immediately above, any remaining Actual Tax Increment shall be used by the City at its discretion, including to pay the cost of constructing the intersection of S.T.H. 138 and Oak Opening Drive.

This section of this Agreement amends Section D. 3 of the Commercial Phase Development Agreement.

7. Look Back. Attached hereto as Exhibit C is a financial pro forma, (the "Original Development Pro Forma"), which shows the *estimated* expenses, revenues and internal rate of return ("IRR") associated with the development of the KPW Meadows Development. Based on the Original Development Pro Forma, the KPW Meadows Development is expected to generate an IRR that will not exceed fifteen percent (15%) (the "Target IRR"). Within sixty (60) days following the fifth (5th) anniversary of the City's acceptance of the Improvements constructed within the final phase of development of the KPW Meadows Development (such 5th anniversary, the "Lookback Date"), the Developer shall submit to the City an updated statement, in the same form and containing the same items of expenses and revenues used in the Original Development

Pro Forma, but certifying the *actual* expenses, revenues and IRR generated by the KPW Meadows Development, as of the Lookback Date (the "Updated Development Pro Forma"). If the Updated Development Pro Forma shows that the actual IRR, as of the Lookback Date, is greater than the Target IRR, the Developer shall pay to the City an amount necessary to reduce the actual IRR to the Target IRR (the "Lookback Payment"). If the MRO has not yet been paid in full, then the Lookback Payment shall be deducted from the next installment(s) due to Developer under the MRO until the Lookback Payment has been paid in full. If the Lookback Payment is greater than the next installment(s) due to Developer under the MRO, then Developer shall be required to pay the difference between the Lookback Payment and the next installment(s) due under the MRO directly to the City. If the Updated Development Pro Forma shows that the actual IRR, as of the Lookback Date, is less than the Target IRR, the lookback provision set forth in this paragraph shall be deemed satisfied and no further action shall be required.

8. Binding Effect. This Agreement is binding upon the successors and assigns of the City and the Developer; however, this provision shall not constitute an authorization of the Developer to assign or transfer its rights and obligations under this Agreement. This Agreement shall not be assignable by the Developer without the prior written consent of the City, which consent shall not be unnecessarily withheld. The City may condition its consent upon the transferee expressly assuming all of the obligations of the Developer as contained in this Agreement. Notwithstanding the foregoing, the Developer is expressly authorized to make a collateral assignment of this Agreement to Developer's lender, subject to all of the other terms and conditions of this Agreement.

9. Events of Default. Failure of the Developer to observe or perform any covenant, condition, obligation, or agreement on its part to be observed or performed under this Agreement, within thirty (30) days after receipt of written notice of default from the City, specifying such default, shall be an "Event of Default" under this Agreement, provided, however, that if the nature of the default is such that it cannot reasonably be cured within such thirty (30) -day cure period, then, as long as Developer has promptly commenced and is diligently pursuing a cure, the City shall grant an extension of time to cure the default.

10. Remedies on Default. Whenever an Event of Default occurs, the City may suspend making payments to the Developer hereunder, until such time as the Event of Default has been cured.

11. General Provisions.

a. This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin governing agreements made and fully performed in Wisconsin. This Agreement sets forth the entire understanding between the City and the Developer with respect to its subject matter, there being no terms, conditions, warranties, or representations with respect to its subject matter other than that contained herein.

b. This Agreement may not be changed orally, but only by agreement in writing and signed by the parties hereto.

c. This Agreement specifically does not create any partnership or joint venture between the parties hereto or render any party liable for any of the debts or obligations of any other party.

d. The headings set forth in this Agreement are for convenience and reference only, and in no way define or limit the scope or content of this Agreement or in any way affect its provisions.

e. Both parties participated in negotiating the terms of this Agreement. Neither party shall benefit from not having drafted this Agreement. If any term, section or other portion of this Agreement is reviewed by an administrative agency, court, mediator, arbitrator or other judicial or quasi-judicial entity, such entity shall treat this Agreement as having been jointly drafted by the parties.

f. Except as provided by law, or as expressly provided in this Agreement, no vested rights shall inure to the Developer by virtue of this Agreement. Nor does the City warrant that the Developer is entitled to any other approvals required for private development solely as a result of this Agreement.

g. No waiver of any provision of this Agreement shall be deemed or constitute a waiver of any other provision, nor shall it be deemed or constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement signed by the City and the Developer. Nor shall the waiver of any default under this Agreement be deemed a waiver of any subsequent default or defaults. The City's failure to exercise any right under this Agreement shall not constitute the approval of any wrongful act by the Developer.

h. If the City is required to resort to litigation, arbitration, or mediation to enforce the terms of this Agreement, and (i) if the City prevails in the litigation, arbitration, or mediation, the Developer shall pay all City costs, including reasonable attorneys' fees and expert witness fees; and (ii) if the Developer prevails in the litigation, arbitration, or mediation, the City shall pay all Developer costs, including reasonable attorneys' fees and expert witness fees. If the court, arbitrator, or mediator awards relief to both parties, each will bear its own costs.

i. Nothing contained in this Agreement constitutes a waiver of the City's sovereign immunity under applicable law.

j. Any notice required or permitted by this Agreement shall be deemed effective when personally delivered in writing, or three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified, and return receipt requested, and addressed as follows:

To the Developer:

Kettle Park West, LLC
161 Horizon Dr., Ste. 101A
Verona, WI 53593-1249

To the City:

City Clerk
City of Stoughton
207 South Forrest Street,
Stoughton, WI, 53589

k. The parties agree that neither this Agreement, nor a memorandum thereof, shall be recorded in the Dane County Register of Deeds Office.

l. Personal jurisdiction and venue for any civil action commenced by any party arising out of this Agreement shall be deemed to be proper only if such action is commenced in circuit court for Dane County unless it is determined that such court lacks jurisdiction. The Developer hereby consents to personal jurisdiction in Dane County. The Developer also expressly waives the right to bring such action in, or to remove such action to, any other court whether state or federal, unless it is determined that the circuit court for Dane County lacks jurisdiction.

m. The Developer hereby approves and ratifies all actions taken to date by the City, its officers, employees and agents in connection with the District, including without limitation, all work performed by the City, its officers, employees and agents to date.

n. This Agreement may be executed in one or more counterparts and upon execution and delivery by each of the parties hereto shall constitute one and the same enforceable agreement.

o. If any part of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, the rest of the Agreement shall remain in effect.

12. Effective Date; Term. This Agreement shall be effective as of the date and year it has been fully executed by all parties. This Agreement shall automatically terminate and be of no further force of effect upon the earlier to occur of: (i) full payment of the Residential Phase MROs; or (ii) termination of the District.[Signature pages follow.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the year and date first set forth above, and by so signing this Agreement, certify that they have been duly authorized by their respective entities to execute this Agreement on their behalf.

CITY:
CITY OF STOUGHTON
Dane County, Wisconsin

By: _____
Tim Swadley, Mayor

ATTEST:

_____
Holly Licht, City Clerk

COUNTERSIGNED:

Provision has been made to pay the liability that will accrue under this Agreement.

_____
Jamin Friedl, Finance Director

Approved as to Form:

_____
Matthew P. Dregne, City Attorney

DEVELOPER:
KETTLE PARK WEST, LLC
By: Forward Development Group, LLC, its manager

By: _____
David Jenkins, Manager

Exhibits:

A - Legal Description of the Residential Phase Property
B - Form of Residential Phase Municipal Revenue Obligation
C –Original Development Pro Forma

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

[to be inserted]

EXHIBIT B

FORM OF RESIDENTIAL PHASE MUNICIPAL REVENUE OBLIGATION

CITY OF STOUGHTON

MUNICIPAL REVENUE OBLIGATION SERIES 20___

$_____

THIS MUNICIPAL REVENUE OBLIGATION (the "Obligation") is issued pursuant to Wis. Stat. § 66.0621 this _____ day of _____, 20___ by the City of Stoughton, Dane County, Wisconsin (the "City") to Kettle Park West LLC, its successors and assigns ("Developer").

WITNESSETH:

A. The City and Developer have entered into a TIF Agreement dated _____, 2020 (the "TIF Agreement").

B. This Obligation is issued by the City pursuant to the TIF Agreement.

C. Terms that are capitalized in this Obligation that are not defined in this Obligation and that are defined in the TIF Agreement shall have the meanings assigned to such terms by the TIF Agreement.

1. *Promise to Pay*. The City shall pay to Developer the principal amount of Three Million U.S. Dollars ($3,000,000.00), together with interest thereon at a rate of _____ percent (__%) per annum, solely from Available Tax Increment. Interest shall accrue beginning on the date this MRO is issued. Beginning on November 1 in the first calendar year after the year this MRO is issued, and on each subsequent November 1, the City shall pay Scheduled Payments in accordance with Schedule 1 attached hereto and made a part hereof, provided however that the amount of any Scheduled Payment installment shall not be in excess of the amount of the Available Tax Increment. Any payments due on the Municipal Revenue Obligation, which are due on any Payment Date, shall be payable only to the extent the City has received the Available Tax Increment. To the extent that on any Payment Date the amount of Available Tax Increment received by the City is less than the Scheduled Payment due on such date, such failure shall not constitute a default under this Obligation, and the amount of any deficiency in the Scheduled Payment shall be deferred and shall be paid with interest at a rate equal to _____ percent (___%) per annum, on the next Payment Date to the extent that it does not exceed the Available Tax Increment received by the City. In no case, however, shall the term of this Obligation and the City's obligation to make payments hereunder, extend beyond the termination date of the District, (as defined in the Tax Increment Law). Nor shall the City be obligated to pay any amount not appropriated for such purpose by the Common Council. This Obligation shall terminate and the City's obligation to make any payments under this Obligation shall be discharged, and the City shall have no obligation and incur no liability to make any payments hereunder, after the termination date of the District.

2. *Limited Obligation of City*. This Obligation shall be payable solely from Available Tax Increment and shall not constitute a charge against the City's general credit or taxing power. The City shall not be subject to any liability hereunder or be deemed to have obligated itself to pay Developer any amounts from any funds, except the Available Tax Increment, and then only to the extent and in the manner herein specified.

3. *Subject to Annual Appropriations*. Each payment under this Obligation shall be subject to annual appropriation by the City Council in accordance with the requirements for revenue obligations and in a manner approved by the City's bond counsel.

4. *Prepayment Option.* To satisfy in full the City's obligations under this Obligation, the City shall have the right to prepay all or a portion of the outstanding principal balance of this Obligation at any time, at par and without penalty.

5. *Miscellaneous.* This Obligation is subject to the Tax Increment Law and to the TIF Agreement.

[Signature page follows.]

Dated this _____ day of _____, _____.

CITY OF STOUGHTON

By: _____
Tim Swadley, Mayor

ATTEST:

_____
Holly Licht, City Clerk

COUNTERSIGNED:

Provision has been made to pay the liability that will accrue under this Agreement.

_____
Jamin Friedl, Finance Director

Approved as to Form:

_____
Matthew P. Dregne, City Attorney

Attachment – Schedule 1

Schedule 1 to Municipal Revenue Obligation to TIF Agreement

(The Meadows at Kettle Park West – Phase __)

[to be inserted]

EXHIBIT C

ORIGINAL DEVELOPMENT PRO FORMA

City of Stoughton
Kettle Park West Phase II
Tax Increment District # 7
Project Cash Flows

CATEGORY		1 2019	2 2020	3 2021	4 2022	5 2023	6 2024	7 2025	8 2026	9 2027	10 2028	TOTALS
RECEIPTS												
Gross Lot Sales		0	2,705,000	1,915,800	1,909,620	2,864,777	2,509,640	1,791,078	0	0	0	13,695,916
Less Brokerage	8.0%	0	(216,400)	(153,264)	(152,770)	(229,182)	(200,771)	(143,286)	0	0	0	(1,095,673)
TIF Receipts (monetized principal)		1,500,000	750,000	750,000								3,000,000
Net Receipts		1,500,000	3,238,600	2,512,536	1,756,850	2,635,595	2,308,869	1,647,792	0	0	0	15,600,242
PROJECT DISBURSEMENTS												
Land Purchase (per acre)		2,370,000	0	98,100	0	0	0	0	0	0	0	2,468,100
Planning & Design		975,000	0	110,000	0	0	0	0	0	0	0	1,085,000
Permits & Fees		518,633	90,744	271,601	58,675	0	0	0	0	0	0	939,652
General Requirements		37,500	10,000	15,000	0	0	0	0	0	0	0	62,500
Construction Hard Cost		2,722,326	907,442	2,692,886	585,347	0	0	0	0	0	0	6,908,000
Testing & Inspection		102,500	20,000	102,500	30,000	0	0	0	0	0	0	255,000
Financing Costs		912,223	222,580	326,740	276,377	184,047	86,703	20,624	0	0	0	2,029,295
Owner Contingency		183,341	42,880	130,281	28,012	0	0	0	0	0	0	384,514
Other Project Costs		227,567	43,806	65,044	26,283	0	0	0	0	0	0	362,700
TOTAL PROJECT COSTS		**8,049,090**	**1,337,453**	**3,812,151**	**1,004,694**	**184,047**	**86,703**	**20,624**	**0**	**0**	**0**	14,494,761
Loan Draws		5,000,000	0	4,000,000	0	0	0	0	0	0	0	(9,000,000)
Loan Payments (% release)	75%	0	(1,866,450)	(1,321,902)	(1,317,638)	(1,976,696)	(1,731,652)	(785,662)	0	0	0	0
Equity Contributions		1,700,000	0	0	0	0	0	0	0	0	0	(785,662)
Equity Distributions				(750,000)		(600,000)	(400,000)	(1,035,532)				(2,785,532)
Equity Cashflows; IRR	**12.5%**	**(1,700,000)**	**0**	**750,000**	**0**	**600,000**	**400,000**	**1,035,532**	**0**	**0**	**0**	