CITY OF STOUGHTON, 207 S FORREST ST, STOUGHTON, WISCONSIN

RESOLUTION OF THE COMMON COUNCIL		
First Amendment to Agreement to Undertake Development with RHD Properties, LLC for 51 West Development Committee Action: Fiscal Impact: Zero		
File Number:	R-106-2022	**Date** 5/10/2022

The City of Stoughton, Wisconsin, Common Council does proclaim as follows:

RECITALS:

WHEREAS, the Common Council approved the developer's agreement with RHD Properties, LLC for 51 West Development under Resolution R-79-2022 on April 12, 2022; and,

WHEREAS, the developer's agreement should be amended regarding Professional Liability Coverage as per the attached First Amendment to Agreement to Undertake Development for 51 West Development; and,

WHEREAS, the attached First Amendment to Agreement to Undertake Development for 51 West Development has been reviewed as to form by the City Attorney;

NOW THEREFORE BE IT RESOLVED, that the Common Council authorizes the Mayor and City Clerk to sign the First Amendment to Agreement to Undertake Development for 51 West Development on behalf of the City of Stoughton.

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

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

_____

Mayor Tim Swadley Date

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

FIRST AMENDMENT TO
AGREEMENT TO UNDERTAKE DEVELOPMENT

(51 West Development)

THIS FIRST AMENDMENT TO AGREEMENT TO UNDERTAKE DEVELOPMENT entered into as of the _____ day of_____, 2022 (the "First Amendment"), by and between the City of Stoughton, a Wisconsin municipal corporation (the "City"), and RHD Properties, LLC, a Wisconsin limited liability corporation (the "Developer").

RECITALS

1. The City and Developer entered an Agreement to Undertake Development (51 West Development) dated as of _____, 2022 (the "Development Agreement").

2. The City and Developer wish to amend certain parts of the Development Agreement relating to insurance requirements.

AGREEMENT

In consideration of the Recitals, and the mutual promises, obligations and benefits provided under the Development Agreement and hereunder, the receipt and adequacy of which are hereby acknowledged, Developer and the City agree as follows:

A. Section F. 10 (a) of the Development Agreement is amended to provide as follows:

(a) *General requirements*. Except as expressly provided otherwise below, Developer and Developer's engineering consultants and contractors designing or performing any work on the Public Improvements shall, at no cost to the City, maintain in effect at all times during the construction of the Public Improvements insurance coverage of the types and with limits not less than those set forth in this Section F. 10. A start date for construction shall not be approved until a list of Developer's contractors and proof of insurance have been provided to the Planning Director. Proof of insurance shall include a certificate of insurance (Acord Form or equivalent for all coverages) signed by the insurer's representative evidencing the coverage required by this Agreement. The Commercial General Liability coverage must include the coverages described in form CG 20 10 07 04 for ongoing work exposure and form CG 20 37 07 04 for products-completed operations exposure or their equivalent. In addition, Developer shall provide endorsements acceptable to the City demonstrating that the requirements of Section F. 10. (e), relating to naming additional insureds, have been satisfied.

B. Section F. 10 (i) (5) of the Development Agreement is amended to provide as follows:

(5) Professional Liability Coverage. Developer and Developer's engineering consultants engaged in designing the Public

Improvements, but not Developer's construction contractors, shall maintain professional liability insurance coverage as follows:

a. Limits
   i. $1,000,000 each claim
   ii. $1,000,000 annual aggregate
b. Must comply with claims-made requirements in Section F. (10) (g), above.

C. Except as expressly modified in this First Amendment, Development Agreement shall remain in full force and effect.

D. Each party participated fully in the drafting of each and every part of this First Amendment. This First Amendment shall not be construed strictly in favor of or against either party. It shall be construed simply and fairly to each party.

E. This First Amendment shall be effective as of the date and year first written above.

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:

_____
Candee Christen, City Clerk

DEVELOPER:
RHD PROPERTIES LLC

By_____
Robert H. Dvorak, Managing Member