

*****ATTACHMENTS*****

CITY OF SHEBOYGAN

REQUEST FOR FINANCE AND PERSONNEL COMMITTEE CONSIDERATION

ITEM DESCRIPTION: Res. No. 110-18-19 by Alderpersons Rindfleisch and Bohren. A resolution providing for the sale of approximately \$5,800,000 General Obligation Refunding Bonds.

REPORT PREPARED BY: Marty Halverson, Finance Director

REPORT DATE: October 18, 2018

MEETING DATE: November 05, 2018

FISCAL SUMMARY:

Budget Line Item: N/A
Budget Summary: N/A
Budgeted Expenditure: N/A
Budgeted Revenue: N/A

STATUTORY REFERENCE:

Wisconsin Statutes: N/A
Municipal Code: N/A

BACKGROUND / ANALYSIS:

The City of Sheboygan is preparing for the sale of general obligation refunding bonds for the public purpose of refunding certain outstanding obligations of the City, to wit: a portion of the Taxable Note Anticipation Notes, dated July 2, 2018; and the Common Council deems it to be necessary, desirable and in the best interest of the City to refund the Refunded Obligations on their maturity date for the purpose of providing permanent financing for the projects financed by the Refunded Obligations. The General Obligation Refunding Bonds are scheduled to be offered for public sale on November 5, 2018 with an issue date of December 5, 2018.

STAFF COMMENTS

Staff members have been in discussions with Carol Wirth of Wisconsin Public Finance Professional LLC to coordinate the refunding of these Taxable Note Anticipation Notes, dated July 2, 2018.

ACTION REQUESTED

Motion to recommend the Common Council approve Res. No. 110-18-19 by Alderpersons Rindfleisch and Bohren.

ATTACHMENTS:

- I. Res. No. 110-18-19

III

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Res. No. 110 - 18 - 19. By Alderperson Rindfleisch. October 15, 2018.

RESOLUTION AWARDING THE SALE OF \$5,100,000 GENERAL OBLIGATION REFUNDING BONDS.

WHEREAS, on October 1, 2018, the Common Council of the City of Sheboygan, Sheboygan County, Wisconsin (the "City") adopted a resolution (the "Set Sale Resolution"), providing for the sale of general obligation refunding bonds for the public purpose of refunding certain outstanding obligations of the City, to wit: a portion of the Taxable Note Anticipation Notes, dated July 2, 2018 (the "Refunded Obligations") (hereinafter the refinancing of the Refunded Obligations shall be referred to as the "Refunding");

WHEREAS, the Common Council deems it to be necessary, desirable and in the best interest of the City to refund the Refunded Obligations on their maturity date for the purpose of providing permanent financing for the projects financed by the Refunded Obligations;

WHEREAS, pursuant to the Set Sale Resolution, the City has directed Wisconsin Public Finance Professionals, LLC ("WFPF") to take the steps necessary to sell general obligation refunding bonds designated "General Obligation Refunding Bonds" (the "Bonds") to pay the cost of the Refunding;

WHEREAS, WFPF, in consultation with the officials of the City, prepared an Official Notice of Sale (a copy of which is attached hereto as Exhibit A and incorporated herein by this reference) setting forth the details of and the bid requirements for the Bonds and indicating that the Bonds would be offered for public sale on November 5, 2018;

WHEREAS, the City Clerk (in consultation with WFPF) caused a form of notice of the sale to be published and/or announced and caused the Official Notice of Sale to be distributed to potential bidders offering the Bonds for public sale on November 5, 2018;

WHEREAS, the City has duly received bids for the Bonds as described on the Bid Tabulation attached hereto as Exhibit B and incorporated herein by this reference (the "Bid Tabulation"); and

WHEREAS, it has been determined that the bid proposal (the "Proposal") submitted by the financial institution listed first on the Bid Tabulation fully complies with the bid requirements set forth in the Official Notice of Sale and is deemed to be the most advantageous to the

* Preliminary, subject to change.

Finance
Personnel

QB\54385768.1

City. WFPF has recommended that the City accept the Proposal. A copy of said Proposal submitted by such institution (the "Purchaser") is attached hereto as Exhibit C and incorporated herein by this reference.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City that:

Section 1. Ratification of the Official Notice of Sale and Offering Materials. The Common Council hereby ratifies and approves the details of the Bonds set forth in Exhibit A attached hereto as and for the details of the Bonds. The Official Notice of Sale and any other offering materials prepared and circulated by WFPF are hereby ratified and approved in all respects. All actions taken by officers of the City and WFPF in connection with the preparation and distribution of the Official Notice of Sale, and any other offering materials are hereby ratified and approved in all respects.

Section 1A. Authorization and Award of the Bonds. For the purpose of paying the cost of the Refunding, there shall be borrowed pursuant to Section 67.04, Wisconsin Statutes, the principal sum of FIVE MILLION ONE HUNDRED THOUSAND DOLLARS (\$5,100,000) from the Purchaser in accordance with the terms and conditions of the Proposal. The Proposal of the Purchaser offering to purchase the Bonds for the sum set forth on the Proposal, plus accrued interest to the date of delivery, resulting in a true interest cost as set forth on the Proposal, is hereby accepted. The Mayor and City Clerk or other appropriate officers of the City are authorized and directed to execute an acceptance of the Proposal on behalf of the City. The good faith deposit of the Purchaser shall be retained by the City Treasurer and applied in accordance with the Official Notice of Sale, and any good faith deposits submitted by unsuccessful bidders shall be promptly returned. The Bonds shall bear interest at the rates set forth on the Proposal.

Section 2. Terms of the Bonds. The Bonds shall be designated "General Obligation Refunding Bonds"; shall be issued in the aggregate principal amount of \$5,100,000; shall be dated December 5, 2018; shall be in the denomination of \$5,000 or any integral multiple thereof; shall be numbered R-1 and upward; and shall bear interest at the rates per annum and mature on December 1 of each year, in the years and principal amounts as set forth on the Pricing Summary attached hereto as Exhibit D-1 and incorporated herein by this reference. Interest shall be payable semi-annually on June 1 and December 1 of each year commencing on June 1, 2019. Interest shall be computed upon the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The schedule of principal and interest

*Preliminary, subject to change.

payments due on the Bonds is set forth on the Debt Service Schedule attached hereto as Exhibit D-2 and incorporated herein by this reference (the "Schedule").

Section 3. Redemption Provisions. The Bonds maturing on December 1, 2029 and thereafter are subject to redemption prior to maturity, at the option of the City, on December 1, 2028 or on any date thereafter. Said Bonds are redeemable as a whole or in part, and if in part, from maturities selected by the City, and within each maturity by lot, at the principal amount thereof, plus accrued interest to the date of redemption.

Section 4. Form of the Bonds. The Bonds shall be issued in registered form and shall be executed and delivered in substantially the form attached hereto as Exhibit E and incorporated herein by this reference.

Section 5. Tax Provisions.

(A) Direct Annual Irrepealable Tax Levy. For the purpose of paying the principal of and interest on the Bonds as the same becomes due, the full faith, credit and resources of the City are hereby irrevocably pledged, and there is hereby levied upon all of the taxable property of the City a direct annual irrepealable tax in the years 2018 through 2037 for payments due in the years 2019 through 2038 in the amounts set forth on the Schedule.

(B) Tax Collection. So long as any part of the principal of or interest on the Bonds remains unpaid, the City shall be and continue without power to repeal such levy or obstruct the collection of said tax until all such payments have been made or provided for. After the issuance of the Bonds, said tax shall be, from year to year, carried onto the tax roll of the City and collected in addition to all other taxes and in the same manner and at the same time as other taxes of the City for said years are collected, except that the amount of tax carried onto the tax roll may be reduced in any year by the amount of any surplus money in the Debt Service Fund Account created below.

(C) Additional Funds. If at any time there shall be on hand insufficient funds from the aforesaid tax levy to meet principal and/or interest payments on said Bonds when due, the requisite amounts shall be paid from other funds of the City then available, which sums shall be replaced upon the collection of the taxes herein levied.

Section 6. Segregated Debt Service Fund Account.

(A) Creation and Deposits. There be and there hereby is established in the treasury of the City, if one has not already been created, a debt service fund, separate and distinct from every other fund, which shall be maintained in accordance with generally accepted accounting principles. Debt service or sinking funds established for obligations previously issued by the City may be considered as separate and distinct accounts within the debt service fund.

Within the debt service fund, there hereby is established a separate and distinct account designated as the "Debt Service Fund Account for General Obligation Refunding Bonds, dated December 5, 2018" (the "Debt Service Fund Account") and such account shall be maintained until the indebtedness evidenced by the Bonds is fully paid or otherwise extinguished. There shall be deposited into the Debt Service Fund Account (i) all accrued interest received by the City at the time of delivery of and payment for the Bonds; (ii) any premium not used for the Refunding which may be received by the City above the par value of the Bonds and accrued interest thereon; (iii) all money raised by the taxes herein levied and any amounts appropriated for the specific purpose of meeting principal of and interest on the Bonds when due; (iv) such other sums as may be necessary at any time to pay principal of and interest on the Bonds when due; (v) surplus monies in the Borrowed Money Fund as specified below; and (vi) such further deposits as may be required by Section 67.11, Wisconsin Statutes.

(B) Use and Investment. No money shall be withdrawn from the Debt Service Fund Account and appropriated for any purpose other than the payment of principal of and interest on the Bonds until all such principal and interest has been paid in full and the Bonds canceled; provided (i) the funds to provide for each payment of principal of and interest on the Bonds prior to the scheduled receipt of taxes from the next succeeding tax collection may be invested in direct obligations of the United States of America maturing in time to make such payments when they are due or in other investments permitted by law; and (ii) any funds over and above the amount of such principal and interest payments on the Bonds may be used to reduce the next succeeding tax levy, or may, at the option of the City, be invested by purchasing the Bonds as permitted by and subject to Section 67.11(2)(a), Wisconsin Statutes, or in permitted municipal investments under the pertinent provisions of the Wisconsin Statutes ("Permitted Investments"), which investments shall continue to be a part of the Debt Service Fund Account. Any investment of the Debt Service Fund Account shall at all times conform with the provisions of the Internal Revenue Code of 1986, as amended (the "Code") and any applicable Treasury Regulations (the "Regulations").

(C) Remaining Monies. When all of the Bonds have been paid in full and canceled, and all Permitted Investments disposed of, any money remaining in the Debt Service Fund Account shall be transferred and deposited in the general fund of the City, unless the Common Council directs otherwise.

Section 7. Proceeds of the Bonds; Segregated Borrowed Money Fund. The proceeds of the Bonds (the "Bond Proceeds") (other than any premium not used for the Refunding and accrued interest which must be paid at the time of the delivery of the Bonds into the Debt Service Fund Account created above) shall be deposited into a special fund separate and distinct from all other funds of the City and disbursed solely for the purpose or purposes for which borrowed or for the payment of the principal of and the interest on the Bonds. Monies in the Borrowed Money Fund may be temporarily invested in Permitted Investments. Any monies, including any income from Permitted Investments, remaining in the Borrowed Money Fund after the purpose or purposes for which the Bonds have been issued have been accomplished, and, at any time, any monies as are not needed and which obviously thereafter cannot be needed for such purpose(s) shall be deposited in the Debt Service Fund Account.

Section 8. No Arbitrage. All investments made pursuant to this Resolution shall be Permitted Investments, but no such investment shall be made in such a manner as would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code or the Regulations and an officer of the City, charged with the responsibility for issuing the Bonds, shall certify as to facts, estimates, circumstances and reasonable expectations in existence on the date of delivery of the Bonds to the Purchaser which will permit the conclusion that the Bonds are not "arbitrage bonds," within the meaning of the Code or Regulations.

Section 9. Compliance with Federal Tax Laws. (a) The City represents and covenants that the projects financed by the Bonds and by the Refunded Obligations and the ownership, management and use of the projects will not cause the Bonds or the Refunded Obligations to be "private activity bonds" within the meaning of Section 141 of the Code. The City further covenants that it shall comply with the provisions of the Code to the extent necessary to maintain the tax-exempt status of the interest on the Bonds including, if applicable, the rebate requirements of Section 148(f) of the Code. The City further covenants that it will not take any action, omit to take any action or permit the taking or omission of any action within its control (including, without limitation, making or permitting any use of the proceeds of the Bonds) if taking, permitting or omitting to take such action would cause any of the Bonds to be an arbitrage bond or a private activity bond within the meaning of the Code or would otherwise cause interest on the Bonds to be included in the gross

income of the recipients thereof for federal income tax purposes. The City Clerk or other officer of the City charged with the responsibility of issuing the Bonds shall provide an appropriate certificate of the City certifying that the City can and covenanting that it will comply with the provisions of the Code and Regulations.

(b) The City also covenants to use its best efforts to meet the requirements and restrictions of any different or additional federal legislation which may be made applicable to the Bonds provided that in meeting such requirements the City will do so only to the extent consistent with the proceedings authorizing the Bonds and the laws of the State of Wisconsin and to the extent that there is a reasonable period of time in which to comply.

Section 10. Execution of the Bonds; Closing; Professional Services.

The Bonds shall be issued in printed form, executed on behalf of the City by the manual or facsimile signatures of the Mayor and City Clerk, authenticated, if required, by the Fiscal Agent (defined below), sealed with its official or corporate seal, if any, or a facsimile thereof, and delivered to the Purchaser upon payment to the City of the purchase price thereof, plus accrued interest to the date of delivery (the "Closing"). The facsimile signature of either of the officers executing the Bonds may be imprinted on the Bonds in lieu of the manual signature of the officer but, unless the City has contracted with a fiscal agent to authenticate the Bonds, at least one of the signatures appearing on each Bond shall be a manual signature. In the event that either of the officers whose signatures appear on the Bonds shall cease to be such officers before the Closing, such signatures shall, nevertheless, be valid and sufficient for all purposes to the same extent as if they had remained in office until the Closing. The aforesaid officers are hereby authorized and directed to do all acts and execute and deliver the Bonds and all such documents, certificates and acknowledgements as may be necessary and convenient to effectuate the Closing. The City hereby authorizes the officers and agents of the City to enter into, on its behalf, agreements and contracts in conjunction with the Bonds, including but not limited to agreements and contracts for legal, trust, fiscal agency, disclosure and continuing disclosure, and rebate calculation services. Any such contract heretofore entered into in conjunction with the issuance of the Bonds is hereby ratified and approved in all respects.

Section 11. Payment of the Bonds; Fiscal Agent. The principal of and interest on the Bonds shall be paid by the City Clerk or the City Treasurer (the "Fiscal Agent").

Section 12. Persons Treated as Owners; Transfer of Bonds. The City shall cause books for the registration and for the transfer of the Bonds to be kept by the Fiscal Agent. The person in whose name any Bond shall

be registered shall be deemed and regarded as the absolute owner thereof for all purposes and payment of either principal or interest on any Bond shall be made only to the registered owner thereof. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

Any Bond may be transferred by the registered owner thereof by surrender of the Bond at the office of the Fiscal Agent, duly endorsed for the transfer or accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing. Upon such transfer, the Mayor and City Clerk shall execute and deliver in the name of the transferee or transferees a new Bond or Bonds of a like aggregate principal amount, series and maturity and the Fiscal Agent shall record the name of each transferee in the registration book. No registration shall be made to bearer. The Fiscal Agent shall cancel any Bond surrendered for transfer.

The City shall cooperate in any such transfer, and the Mayor and City Clerk are authorized to execute any new Bond or Bonds necessary to effect any such transfer.

Section 13. Record Date. The 15th day of the calendar month next preceding each interest payment date shall be the record date for the Bonds (the "Record Date"). Payment of interest on the Bonds on any interest payment date shall be made to the registered owners of the Bonds as they appear on the registration book of the City at the close of business on the Record Date.

Section 14. Utilization of The Depository Trust Company Book-Entry-Only System. In order to make the Bonds eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City agrees to the applicable provisions set forth in the Blanket Issuer Letter of Representations, which the City Clerk or other authorized representative of the City is authorized and directed to execute and deliver to DTC on behalf of the City to the extent an effective Blanket Issuer Letter of Representations is not presently on file in the City Clerk's office.

Section 15. Official Statement. The Common Council hereby approves the Preliminary Official Statement with respect to the Bonds and deems the Preliminary Official Statement as "final" as of its date for purposes of SEC Rule 15c2-12 promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934 (the "Rule"). All actions taken by officers of the City in connection with the preparation of such Preliminary Official Statement and any addenda to it or final Official Statement are hereby ratified and approved. In connection with the Closing, the appropriate City official shall certify the Preliminary Official Statement and any addenda or final Official Statement. The City

Clerk shall cause copies of the Preliminary Official Statement and any addenda or final Official Statement to be distributed to the Purchaser.

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Section 16. Undertaking to Provide Continuing Disclosure. The City hereby covenants and agrees, for the benefit of the owners of the Bonds, to enter into a written undertaking (the "Undertaking") if required by the Rule to provide continuing disclosure of certain financial information and operating data and timely notices of the occurrence of certain events in accordance with the Rule. The Undertaking shall be enforceable by the owners of the Bonds or by the Purchaser on behalf of such owners (provided that the rights of the owners and the Purchaser to enforce the Undertaking shall be limited to a right to obtain specific performance of the obligations thereunder and any failure by the City to comply with the provisions of the Undertaking shall not be an event of default with respect to the Bonds).

To the extent required under the Rule, the Mayor and City Clerk, or other officer of the City charged with the responsibility for issuing the Bonds, shall provide a Continuing Disclosure Certificate for inclusion in the transcript of proceedings, setting forth the details and terms of the City's Undertaking.

Section 17. Record Book. The City Clerk shall provide and keep the transcript of proceedings as a separate record book (the "Record Book") and shall record a full and correct statement of every step or proceeding had or taken in the course of authorizing and issuing the Bonds in the Record Book.

Section 18. Bond Insurance. If the Purchaser determines to obtain municipal bond insurance with respect to the Bonds, the officers of the City are authorized to take all actions necessary to obtain such municipal bond insurance. The Mayor and City Clerk are authorized to agree to such additional provisions as the bond insurer may reasonably request and which are acceptable to the Mayor and City Clerk including provisions regarding restrictions on investment of Bond proceeds, the payment procedure under the municipal bond insurance policy, the rights of the bond insurer in the event of default and payment of the Bonds by the bond insurer and notices to be given to the bond insurer. In addition, any reference required by the bond insurer to the municipal bond insurance policy shall be made in the form of Bond provided herein.

Section 19. Conflicting Resolutions; Severability; Effective Date.

All prior resolutions, rules or other actions of the Common Council or any parts thereof in conflict with the provisions hereof shall be, and the same are, hereby rescinded insofar as the same may so conflict. In the event that any one or more provisions hereof shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions hereof. The foregoing shall take effect immediately upon adoption and approval in the manner provided by law.

Paul Profiler

I HEREBY CERTIFY that the foregoing Resolution was duly passed by the Common Council of the City of Sheboygan, Wisconsin, on the ____ day of _____, 2018.

Dated _____, 20____, _____, City Clerk

Approved _____, 20____, _____, Mayor

EXHIBIT A

Official Notice of Sale

To be provided by Wisconsin Public Finance Professionals, LLC and incorporated into the Resolution.

(See Attached)

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EXHIBIT B

Bid Tabulation

To be provided by Wisconsin Public Finance Professionals, LLC and
incorporated into the Resolution.

(See Attached)

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EXHIBIT C

Winning Bid

To be provided by Wisconsin Public Finance Professionals, LLC and
incorporated into the Resolution.

(See Attached)

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EXHIBIT D-1

Pricing Summary

To be provided by Wisconsin Public Finance Professionals, LLC and
incorporated into the Resolution.

(See Attached)

EXHIBIT D-2

Debt Service Schedule and Irrepealable Tax Levies

To be provided by Wisconsin Public Finance Professionals, LLC and incorporated into the Resolution.

(See Attached)

RESERVED

EXHIBIT E

(Form of Bond)

REGISTERED UNITED STATES OF AMERICA DOLLARS
STATE OF WISCONSIN
SHEBOYGAN COUNTY
NO. R- _____ CITY OF SHEBOYGAN \$ _____
GENERAL OBLIGATION REFUNDING BOND

MATURITY DATE: ORIGINAL DATE OF INTEREST RATE: CUSIP:
ISSUE:
December 1, _____ December 5, 2018 _____% _____

DEPOSITORY OR ITS NOMINEE NAME: CEDE & CO.

PRINCIPAL AMOUNT: _____ THOUSAND DOLLARS
(\$ _____)

FOR VALUE RECEIVED, the City of Sheboygan, Sheboygan County, Wisconsin (the "City"), hereby acknowledges itself to owe and promises to pay to the Depository or its Nominee Name (the "Depository") identified above (or to registered assigns), on the maturity date identified above, the principal amount identified above, and to pay interest thereon at the rate of interest per annum identified above, all subject to the provisions set forth herein regarding redemption prior to maturity. Interest shall be payable semi-annually on June 1 and December 1 of each year commencing on June 1, 2019 until the aforesaid principal amount is paid in full. Both the principal of and interest on this Bond are payable to the registered owner in lawful money of the United States. Interest payable on any interest payment date shall be paid by wire transfer to the Depository in whose name this Bond is registered on the Bond Register maintained by the City Clerk or City Treasurer (the "Fiscal Agent") or any successor thereto at the close of business on the 15th day of the calendar month next preceding each interest payment date (the "Record Date"). This Bond is payable as to principal upon presentation and surrender hereof at the office of the Fiscal Agent.

For the prompt payment of this Bond together with interest hereon as aforesaid and for the levy of taxes sufficient for that purpose, the full faith, credit and resources of the City are hereby irrevocably pledged.

This Bond is one of an issue of Bonds aggregating the principal amount of \$5,100,000, all of which are of like tenor, except as to denomination, interest rate, maturity date and redemption provision, issued by the City pursuant to the provisions of Section 67.04, Wisconsin Statutes, for the public purpose of refunding certain obligations of the City, as authorized by a resolution adopted on November 5, 2018. Said resolution is recorded in the official minutes of the Common Council for said date.

The Bonds maturing on December 1, 2029 and thereafter are subject to redemption prior to maturity, at the option of the City, on December 1, 2028 or on any date thereafter. Said Bonds are redeemable as a whole or in part, and if in part, from maturities selected by the City, and within each maturity by lot (as selected by the Depository), at the principal amount thereof, plus accrued interest to the date of redemption.

In the event the Bonds are redeemed prior to maturity, as long as the Bonds are in book-entry-only form, official notice of the redemption will be given by mailing a notice by registered or certified mail, overnight express delivery, facsimile transmission, electronic transmission or in any other manner required by the Depository, to the Depository not less than thirty (30) days nor more than sixty (60) days prior to the redemption date. If less than all of the Bonds of a maturity are to be called for redemption, the Bonds of such maturity to be redeemed will be selected by lot. Such notice will include but not be limited to the following: the designation, date and maturities of the Bonds called for redemption, CUSIP numbers, and the date of redemption. Any notice provided as described herein shall be conclusively presumed to have been duly given, whether or not the registered owner receives the notice. The Bonds shall cease to bear interest on the specified redemption date provided that federal or other immediately available funds sufficient for such redemption are on deposit at the office of the Depository at that time. Upon such deposit of funds for redemption the Bonds shall no longer be deemed to be outstanding.

It is hereby certified and recited that all conditions, things and acts required by law to exist or to be done prior to and in connection with the issuance of this Bond have been done, have existed and have been performed in due form and time; that the aggregate indebtedness of the City, including this Bond and others issued simultaneously herewith, does not exceed any limitation imposed by law or the Constitution of the State of Wisconsin; and that a direct annual irrevocable tax has been levied sufficient to pay this Bond, together with the interest thereon, when and as payable.

This Bond is transferable only upon the books of the City kept for that purpose at the office of the Fiscal Agent, only in the event that the Depository does not continue to act as depository for the Bonds, and the City appoints another depository, upon surrender of the Bond to the Fiscal Agent, by the registered owner in person or his duly authorized attorney, together with a written instrument of transfer (which may be endorsed hereon) satisfactory to the Fiscal Agent duly executed by the registered owner or his duly authorized attorney. Thereupon a new fully registered Bond in the same aggregate principal amount shall be issued to the new depository in exchange therefor and upon the payment of a charge sufficient to reimburse the City for any tax, fee or other governmental charge required to be paid with respect to such registration. The Fiscal Agent shall not be obliged to make any transfer of the Bonds (i) after the Record Date, (ii) during the fifteen (15) calendar days preceding the date of any publication of notice of any proposed redemption of the Bonds, or (iii) with respect to any particular Bond, after such Bond has been called for redemption. The Fiscal Agent and City may treat and consider the Depository in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes whatsoever. The Bonds are issuable solely as negotiable, fully-registered Bonds without coupons in the denomination of \$5,000 or any integral multiple thereof.

No delay or omission on the part of the owner hereof to exercise any right hereunder shall impair such right or be considered as a waiver thereof or as a waiver of or acquiescence in any default hereunder.

IN WITNESS WHEREOF, the City of Sheboygan, Sheboygan County, Wisconsin, by its governing body, has caused this Bond to be executed for it and in its name by the manual or facsimile signatures of its duly qualified Mayor and City Clerk; and to be sealed with its official or corporate seal, if any, all as of the original date of issue specified above.

CITY OF SHEBOYGAN
SHEBOYGAN COUNTY, WISCONSIN

By: _____
Michael J. Vandersteen
Mayor

(SEAL)

By: _____
Meredith DeBruin
City Clerk

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

(Name and Address of Assignee)

(Social Security or other Identifying Number of Assignee)

the within Bond and all rights thereunder and hereby irrevocably constitutes and appoints _____, Legal Representative, to transfer said Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

(e.g. Bank, Trust Company or Securities Firm)

(Depository or Nominee Name)

NOTICE: This signature must correspond with the name of the Depository or Nominee Name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

(Authorized Officer)

CITY OF SHEBOYGAN

REQUEST FOR FINANCE AND PERSONNEL COMMITTEE CONSIDERATION

ITEM DESCRIPTION: Res. No. 109-18-19 by Alderpersons Rindfleisch and Bohren. A resolution providing for the sale of approximately \$3,100,000 Taxable General Obligation Refunding Bonds.

REPORT PREPARED BY: Marty Halverson, Finance Director

REPORT DATE: October 18, 2018

MEETING DATE: November 05, 2018

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Budget Line Item: N/A
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Budgeted Revenue: N/A

STATUTORY REFERENCE:

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STAFF COMMENTS

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ACTION REQUESTED

Motion to recommend the Common Council approve Res. No. 109-18-19 by Alderpersons Rindfleisch and Bohren.

ATTACHMENTS:

- I. Res. No. 109-18-19

WHEREAS, it has been determined that the bid proposal (the "Proposal") submitted by the financial institution listed first on the Bid Tabulation fully complies with the bid requirements set forth in the Official Notice of Sale and is deemed to be the most advantageous to the City. WFPF has recommended that the City accept the Proposal. A copy of said Proposal submitted by such institution (the "Purchaser") is attached hereto as Exhibit C and incorporated herein by this reference.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City that:

Section 1. Ratification of the Official Notice of Sale and Offering Materials. The Common Council hereby ratifies and approves the details of the Bonds set forth in Exhibit A attached hereto as and for the details of the Bonds. The Official Notice of Sale and any other offering materials prepared and circulated by WFPF are hereby ratified and approved in all respects. All actions taken by officers of the City and WFPF in connection with the preparation and distribution of the Official Notice of Sale, and any other offering materials are hereby ratified and approved in all respects.

Section 1A. Authorization and Award of the Bonds. For the purpose of paying the cost of the Refunding, there shall be borrowed pursuant to Section 67.04, Wisconsin Statutes, the principal sum of THREE MILLION EIGHT HUNDRED THOUSAND DOLLARS (\$3,800,000) from the Purchaser in accordance with the terms and conditions of the Proposal. The Proposal of the Purchaser offering to purchase the Bonds for the sum set forth on the Proposal, plus accrued interest to the date of delivery, resulting in a true interest cost as set forth on the Proposal, is hereby accepted. The Mayor and City Clerk or other appropriate officers of the City are authorized and directed to execute an acceptance of the Proposal on behalf of the City. The good faith deposit of the Purchaser shall be retained by the City Treasurer and applied in accordance with the Official Notice of Sale, and any good faith deposits submitted by unsuccessful bidders shall be promptly returned. The Bonds shall bear interest at the rates set forth on the Proposal.

Section 2. Terms of the Bonds. The Bonds shall be designated "Taxable General Obligation Refunding Bonds"; shall be issued in the aggregate principal amount of \$3,800,000; shall be dated December 5, 2018; shall be in the denomination of \$5,000 or any integral multiple thereof; shall be numbered R-1 and upward; and shall bear interest at the rates per

*Preliminary, subject to change.

*Preliminary, subject to change.

annum and mature on December 1 of each year, in the years and principal amounts as set forth on the Pricing Summary attached hereto as Exhibit D-1 and incorporated herein by this reference. Interest shall be payable semi-annually on June 1 and December 1 of each year commencing on June 1, 2019. Interest shall be computed upon the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The schedule of principal and interest payments due on the Bonds is set forth on the Debt Service Schedule attached hereto as Exhibit D-2 and incorporated herein by this reference (the "Schedule").

Section 3. Redemption Provisions. The Bonds maturing on December 1, 2029 and thereafter are subject to redemption prior to maturity, at the option of the City, on December 1, 2028 or on any date thereafter. Said Bonds are redeemable as a whole or in part, and if in part, from maturities selected by the City, and within each maturity by lot, at the principal amount thereof, plus accrued interest to the date of redemption.

Section 4. Form of the Bonds. The Bonds shall be issued in registered form and shall be executed and delivered in substantially the form attached hereto as Exhibit E and incorporated herein by this reference.

Section 5. Tax Provisions.

(A) Direct Annual Irrepealable Tax Levy. For the purpose of paying the principal of and interest on the Bonds as the same becomes due, the full faith, credit and resources of the City are hereby irrevocably pledged, and there is hereby levied upon all of the taxable property of the City a direct annual irrepealable tax in the years 2018 through 2037 for payments due in the years 2019 through 2038 in the amounts set forth on the Schedule.

(B) Tax Collection. So long as any part of the principal of or interest on the Bonds remains unpaid, the City shall be and continue without power to repeal such levy or obstruct the collection of said tax until all such payments have been made or provided for. After the issuance of the Bonds, said tax shall be, from year to year, carried onto the tax roll of the City and collected in addition to all other taxes and in the same manner and at the same time as other taxes of the City for said years are collected, except that the amount of tax carried onto the tax roll may be reduced in any year by the amount of any surplus money in the Debt Service Fund Account created below.

(C) Additional Funds. If at any time there shall be on hand insufficient funds from the aforesaid tax levy to meet principal and/or interest payments on said Bonds when due, the requisite amounts shall be

paid from other funds of the City then available, which sums shall be replaced upon the collection of the taxes herein levied.

Section 6. Segregated Debt Service Fund Account.

(A) Creation and Deposits. There be and there hereby is established in the treasury of the City, if one has not already been created, a debt service fund, separate and distinct from every other fund, which shall be maintained in accordance with generally accepted accounting principles. Debt service or sinking funds established for obligations previously issued by the City may be considered as separate and distinct accounts within the debt service fund.

Within the debt service fund, there hereby is established a separate and distinct account designated as the "Debt Service Fund Account for Taxable General Obligation Refunding Bonds, dated December 5, 2018" (the "Debt Service Fund Account") and such account shall be maintained until the indebtedness evidenced by the Bonds is fully paid or otherwise extinguished. There shall be deposited into the Debt Service Fund Account (i) all accrued interest received by the City at the time of delivery of and payment for the Bonds; (ii) any premium not used for the Refunding which may be received by the City above the par value of the Bonds and accrued interest thereon; (iii) all money raised by the taxes herein levied and any amounts appropriated for the specific purpose of meeting principal of and interest on the Bonds when due; (iv) such other sums as may be necessary at any time to pay principal of and interest on the Bonds when due; (v) surplus monies in the Borrowed Money Fund as specified below; and (vi) such further deposits as may be required by Section 67.11, Wisconsin Statutes.

(B) Use and Investment. No money shall be withdrawn from the Debt Service Fund Account and appropriated for any purpose other than the payment of principal of and interest on the Bonds until all such principal and interest has been paid in full and the Bonds canceled; provided (i) the funds to provide for each payment of principal of and interest on the Bonds prior to the scheduled receipt of taxes from the next succeeding tax collection may be invested in direct obligations of the United States of America maturing in time to make such payments when they are due or in other investments permitted by law; and (ii) any funds over and above the amount of such principal and interest payments on the Bonds may be used to reduce the next succeeding tax levy, or may, at the option of the City, be invested by purchasing the Bonds as permitted by and subject to Section 67.11(2)(a), Wisconsin Statutes, or in permitted municipal investments under the pertinent provisions of the Wisconsin Statutes ("Permitted Investments"), which investments shall continue to be a part of the Debt Service Fund Account.

(C) Remaining Monies. When all of the Bonds have been paid in full and canceled, and all Permitted Investments disposed of, any money remaining in the Debt Service Fund Account shall be transferred and deposited in the general fund of the City, unless the Common Council directs otherwise.

Section 7. Proceeds of the Bonds; Segregated Borrowed Money Fund. The proceeds of the Bonds (the "Bond Proceeds") (other than any premium not used for the Refunding and accrued interest which must be paid at the time of the delivery of the Bonds into the Debt Service Fund Account created above) shall be deposited into a special fund separate and distinct from all other funds of the City and disbursed solely for the purpose or purposes for which borrowed or for the payment of the principal of and the interest on the Bonds. Monies in the Borrowed Money Fund may be temporarily invested in Permitted Investments. Any monies, including any income from Permitted Investments, remaining in the Borrowed Money Fund after the purpose or purposes for which the Bonds have been issued have been accomplished, and, at any time, any monies as are not needed and which obviously thereafter cannot be needed for such purpose(s) shall be deposited in the Debt Service Fund Account.

Section 8. Execution of the Bonds; Closing; Professional Services. The Bonds shall be issued in printed form, executed on behalf of the City by the manual or facsimile signatures of the Mayor and City Clerk, authenticated, if required, by the Fiscal Agent (defined below), sealed with its official or corporate seal, if any, or a facsimile thereof, and delivered to the Purchaser upon payment to the City of the purchase price thereof, plus accrued interest to the date of delivery (the "Closing"). The facsimile signature of either of the officers executing the Bonds may be imprinted on the Bonds in lieu of the manual signature of the officer but, unless the City has contracted with a fiscal agent to authenticate the Bonds, at least one of the signatures appearing on each Bond shall be a manual signature. In the event that either of the officers whose signatures appear on the Bonds shall cease to be such officers before the Closing, such signatures shall, nevertheless, be valid and sufficient for all purposes to the same extent as if they had remained in office until the Closing. The aforesaid officers are hereby authorized and directed to do all acts and execute and deliver the Bonds and all such documents, certificates and acknowledgements as may be necessary and convenient to effectuate the Closing. The City hereby authorizes the officers and agents of the City to enter into, on its behalf, agreements and contracts in conjunction with the Bonds, including but not limited to agreements and contracts for legal, trust, fiscal agency, disclosure and continuing disclosure, and rebate calculation services. Any such contract heretofore entered into in conjunction with the issuance of the Bonds is hereby ratified and approved in all respects.

Section 9. Payment of the Bonds; Fiscal Agent. The principal of and interest on the Bonds shall be paid by the City Clerk or the City Treasurer (the "Fiscal Agent").

Section 10. Persons Treated as Owners; Transfer of Bonds. The City shall cause books for the registration and for the transfer of the Bonds to be kept by the Fiscal Agent. The person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and payment of either principal or interest on any Bond shall be made only to the registered owner thereof. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

Any Bond may be transferred by the registered owner thereof by surrender of the Bond at the office of the Fiscal Agent, duly endorsed for the transfer or accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing. Upon such transfer, the Mayor and City Clerk shall execute and deliver in the name of the transferee or transferees a new Bond or Bonds of a like aggregate principal amount, series and maturity and the Fiscal Agent shall record the name of each transferee in the registration book. No registration shall be made to bearer. The Fiscal Agent shall cancel any Bond surrendered for transfer.

The City shall cooperate in any such transfer, and the Mayor and City Clerk are authorized to execute any new Bond or Bonds necessary to effect any such transfer.

Section 11. Record Date. The 15th day of the calendar month next preceding each interest payment date shall be the record date for the Bonds (the "Record Date"). Payment of interest on the Bonds on any interest payment date shall be made to the registered owners of the Bonds as they appear on the registration book of the City at the close of business on the Record Date.

Section 12. Utilization of The Depository Trust Company Book-Entry-Only System. In order to make the Bonds eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City agrees to the applicable provisions set forth in the Blanket Issuer Letter of Representations, which the City Clerk or other authorized representative of the City is authorized and directed to execute and deliver to DTC on behalf of the City to the extent an effective Blanket Issuer Letter of Representations is not presently on file in the City Clerk's office.

Section 13. Official Statement. The Common Council hereby approves the Preliminary Official Statement with respect to the Bonds and deems the Preliminary Official Statement as "final" as of its date for purposes of SEC Rule 15c2-12 promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934 (the "Rule"). All actions taken by officers of the City in connection with the preparation of such Preliminary Official Statement and any addenda to it or final Official Statement are hereby ratified and approved. In connection with the Closing, the appropriate City official shall certify the Preliminary Official Statement and any addenda or final Official Statement. The City Clerk shall cause copies of the Preliminary Official Statement and any addenda or final Official Statement to be distributed to the Purchaser.

Section 14. Undertaking to Provide Continuing Disclosure. The City hereby covenants and agrees, for the benefit of the owners of the Bonds, to enter into a written undertaking (the "Undertaking") if required by the Rule to provide continuing disclosure of certain financial information and operating data and timely notices of the occurrence of certain events in accordance with the Rule. The Undertaking shall be enforceable by the owners of the Bonds or by the Purchaser on behalf of such owners (provided that the rights of the owners and the Purchaser to enforce the Undertaking shall be limited to a right to obtain specific performance of the obligations thereunder and any failure by the City to comply with the provisions of the Undertaking shall not be an event of default with respect to the Bonds).

To the extent required under the Rule, the Mayor and City Clerk, or other officer of the City charged with the responsibility for issuing the Bonds, shall provide a Continuing Disclosure Certificate for inclusion in the transcript of proceedings, setting forth the details and terms of the City's Undertaking.

Section 15. Record Book. The City Clerk shall provide and keep the transcript of proceedings as a separate record book (the "Record Book") and shall record a full and correct statement of every step or proceeding had or taken in the course of authorizing and issuing the Bonds in the Record Book.

Section 16. Bond Insurance. If the Purchaser determines to obtain municipal bond insurance with respect to the Bonds, the officers of the City are authorized to take all actions necessary to obtain such municipal bond insurance. The Mayor and City Clerk are authorized to agree to such additional provisions as the bond insurer may reasonably request and which are acceptable to the Mayor and City Clerk including provisions regarding restrictions on investment of Bond proceeds, the payment procedure under the municipal bond insurance policy, the rights of the bond insurer in the

event of default and payment of the Bonds by the bond insurer and notices to be given to the bond insurer. In addition, any reference required by the bond insurer to the municipal bond insurance policy shall be made in the form of Bond provided herein.

Section 17. Conflicting Resolutions; Severability; Effective Date.

All prior resolutions, rules or other actions of the Common Council or any parts thereof in conflict with the provisions hereof shall be, and the same are, hereby rescinded insofar as the same may so conflict. In the event that any one or more provisions hereof shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions hereof. The foregoing shall take effect immediately upon adoption and approval in the manner provided by law.

Renew Resolution

I HEREBY CERTIFY that the foregoing Resolution was duly passed by the Common Council of the City of Sheboygan, Wisconsin, on the ____ day of _____, 2018.

Dated _____, 20____, _____, City Clerk

Approved _____, 20____, _____, Mayor

EXHIBIT A

Official Notice of Sale

To be provided by Wisconsin Public Finance Professionals, LLC
and incorporated into the Resolution.

(See Attached)

DRAFT

EXHIBIT B

Bid Tabulation

To be provided by Wisconsin Public Finance Professionals, LLC
and incorporated into the Resolution.

(See Attached)

DRAFT

EXHIBIT C

Winning Bid

To be provided by Wisconsin Public Finance Professionals, LLC
and incorporated into the Resolution.

(See Attached)

EXHIBIT D-1

Pricing Summary

To be provided by Wisconsin Public Finance Professionals, LLC
and incorporated into the Resolution.

(See Attached)

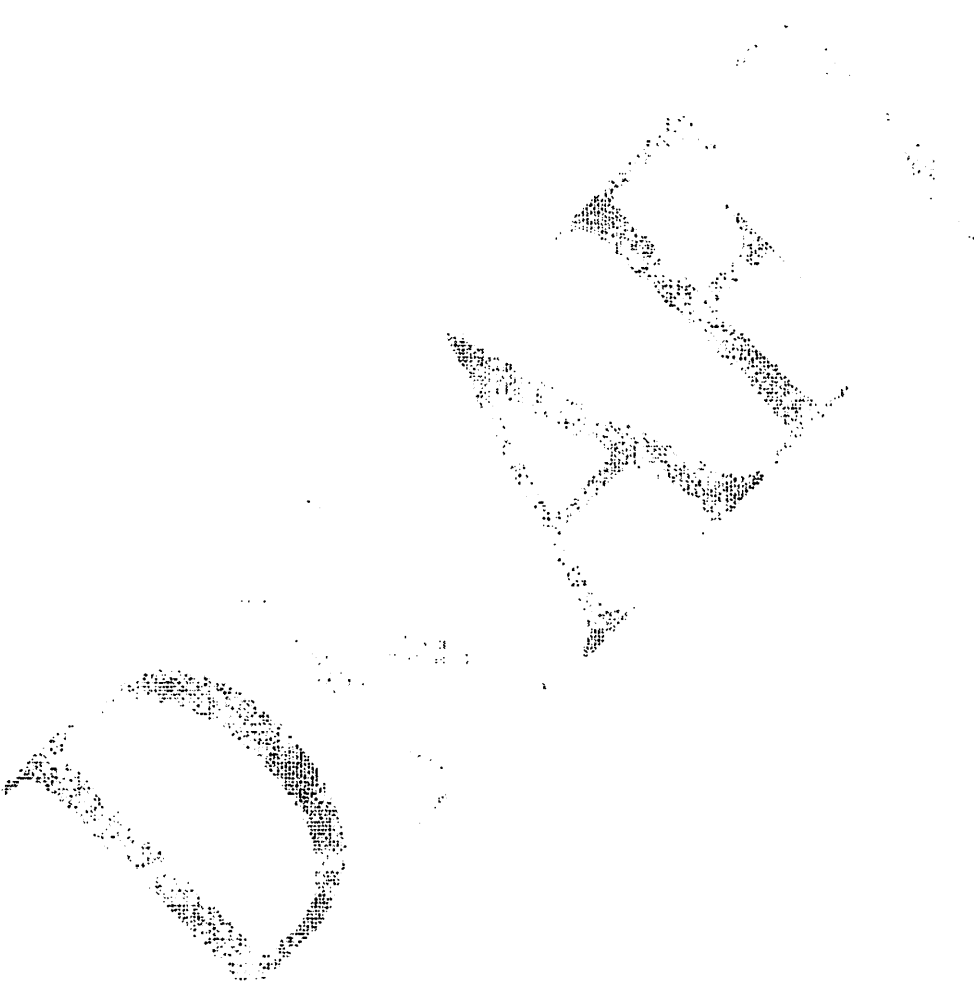


EXHIBIT D-2

Debt Service Schedule and Irrepealable Tax Levies

To be provided by Wisconsin Public Finance Professionals, LLC
and incorporated into the Resolution.

(See Attached)

EXHIBIT E

(Form of Bond)

REGISTERED UNITED STATES OF AMERICA DOLLARS
STATE OF WISCONSIN
SHEBOYGAN COUNTY
NO. R- _____ CITY OF SHEBOYGAN \$ _____
TAXABLE GENERAL OBLIGATION REFUNDING BOND

MATURITY DATE: ORIGINAL DATE OF INTEREST RATE: CUSIP:
ISSUE:

December 1, _____ December 5, 2018 _____ % _____

DEPOSITORY OR ITS NOMINEE NAME: CEDE & CO.

PRINCIPAL AMOUNT: _____ THOUSAND DOLLARS
(\$ _____)

FOR VALUE RECEIVED, the City of Sheboygan, Sheboygan County, Wisconsin (the "City"), hereby acknowledges itself to owe and promises to pay to the Depository or its Nominee Name (the "Depository") identified above (or to registered assigns), on the maturity date identified above, the principal amount identified above, and to pay interest thereon at the rate of interest per annum identified above, all subject to the provisions set forth herein regarding redemption prior to maturity. Interest shall be payable semi-annually on June 1 and December 1 of each year commencing on June 1, 2019 until the aforesaid principal amount is paid in full. Both the principal of and interest on this Bond are payable to the registered owner in lawful money of the United States. Interest payable on any interest payment date shall be paid by wire transfer to the Depository in whose name this Bond is registered on the Bond Register maintained by the City Clerk or City Treasurer (the "Fiscal Agent") or any successor thereto at the close of business on the 15th day of the calendar month next preceding each interest payment date (the "Record Date"). This Bond is payable as to principal upon presentation and surrender hereof at the office of the Fiscal Agent.

For the prompt payment of this Bond together with interest hereon as aforesaid and for the levy of taxes sufficient for that purpose, the full faith, credit and resources of the City are hereby irrevocably pledged.

This Bond is one of an issue of Bonds aggregating the principal amount of \$3,800,000, all of which are of like tenor, except as to denomination, interest rate, maturity date and redemption provision, issued by the City pursuant to the provisions of Section 67.04, Wisconsin Statutes, for the public purpose of refunding certain obligations of the City, as authorized by a resolution adopted on November 5, 2018. Said resolution is recorded in the official minutes of the Common Council for said date.

The Bonds maturing on December 1, 2029 and thereafter are subject to redemption prior to maturity, at the option of the City, on December 1, 2028 or on any date thereafter. Said Bonds are redeemable as a whole or in part, and if in part, from maturities selected by the City, and within each maturity by lot (as selected by the Depository), at the principal amount thereof, plus accrued interest to the date of redemption.

In the event the Bonds are redeemed prior to maturity, as long as the Bonds are in book-entry-only form, official notice of the redemption will be given by mailing a notice by registered or certified mail, overnight express delivery, facsimile transmission, electronic transmission or in any other manner required by the Depository, to the Depository not less than thirty (30) days nor more than sixty (60) days prior to the redemption date. If less than all of the Bonds of a maturity are to be called for redemption, the Bonds of such maturity to be redeemed will be selected by lot. Such notice will include but not be limited to the following: the designation, date and maturities of the Bonds called for redemption, CUSIP numbers, and the date of redemption. Any notice provided as described herein shall be conclusively presumed to have been duly given, whether or not the registered owner receives the notice. The Bonds shall cease to bear interest on the specified redemption date provided that federal or other immediately available funds sufficient for such redemption are on deposit at the office of the Depository at that time. Upon such deposit of funds for redemption the Bonds shall no longer be deemed to be outstanding.

It is hereby certified and recited that all conditions, things and acts required by law to exist or to be done prior to and in connection with the issuance of this Bond have been done, have existed and have been performed in due form and time; that the aggregate indebtedness of the City, including this Bond and others issued simultaneously herewith, does not exceed any limitation imposed by law or the Constitution of the State of

Wisconsin; and that a direct annual irrevocable tax has been levied sufficient to pay this Bond, together with the interest thereon, when and as payable.

This Bond is transferable only upon the books of the City kept for that purpose at the office of the Fiscal Agent, only in the event that the Depository does not continue to act as depository for the Bonds, and the City appoints another depository, upon surrender of the Bond to the Fiscal Agent, by the registered owner in person or his duly authorized attorney, together with a written instrument of transfer (which may be endorsed hereon) satisfactory to the Fiscal Agent duly executed by the registered owner or his duly authorized attorney. Thereupon a new fully registered Bond in the same aggregate principal amount shall be issued to the new depository in exchange therefor and upon the payment of a charge sufficient to reimburse the City for any tax, fee or other governmental charge required to be paid with respect to such registration. The Fiscal Agent shall not be obliged to make any transfer of the Bonds (i) after the Record Date, (ii) during the fifteen (15) calendar days preceding the date of any publication of notice of any proposed redemption of the Bonds, or (iii) with respect to any particular Bond, after such Bond has been called for redemption. The Fiscal Agent and City may treat and consider the Depository in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes whatsoever. The Bonds are issuable solely as negotiable, fully-registered Bonds without coupons in the denomination of \$5,000 or any integral multiple thereof.

No delay or omission on the part of the owner hereof to exercise any right hereunder shall impair such right or be considered as a waiver thereof or as a waiver of or acquiescence in any default hereunder.

IN WITNESS WHEREOF, the City of Sheboygan, Sheboygan County, Wisconsin, by its governing body, has caused this Bond to be executed for it and in its name by the manual or facsimile signatures of its duly qualified Mayor and City Clerk; and to be sealed with its official or corporate seal, if any, all as of the original date of issue specified above.

CITY OF SHEBOYGAN
SHEBOYGAN COUNTY, WISCONSIN

By: _____
Michael J. Vandersteen
Mayor

(SEAL)

By: _____
Meredith DeBruin
City Clerk

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

(Name and Address of Assignee)

(Social Security or other Identifying Number of Assignee)

the within Bond and all rights thereunder and hereby irrevocably constitutes and appoints _____, Legal Representative, to transfer said Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

(e.g. Bank, Trust Company or Securities Firm)

(Depository or Nominee Name)

NOTICE: This signature must correspond with the name of the Depository or Nominee Name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

(Authorized Officer)

CITY OF SHEBOYGAN

REQUEST FOR FINANCE AND PERSONNEL COMMITTEE CONSIDERATION

ITEM DESCRIPTION: DIRECT REFERRAL: Res. No. 112-18-19, A Resolution authorizing entering into a development agreement with Badger State Lofts, Limited Partnership

REPORT PREPARED BY: Chad Pelishek, Director of Planning and Development

REPORT DATE: October 31, 2018

MEETING DATE: November 05, 2018

FISCAL SUMMARY:

Budget Line Item: N/A
Budget Summary: N/A
Budgeted Expenditure: N/A
Budgeted Revenue: N/A

STATUTORY REFERENCE:

Wisconsin Statutes: N/A
Municipal Code: N/A

BACKGROUND / ANALYSIS:

Badger State Lofts, LLP is the developer that is renovating the former Badger State Tannery (also known as Coakley Storage) into 118 workforce housing units and 8,700 square feet of the commercial space. This is the first project to happen in the new TID 17 created earlier this year. The developer has agreed to a minimum investment of the \$21,100,000 for related improvements to construct the apartment units, in-building parking and commercial space. Under the development agreement, the City is agreeing to provide developer funded incentives totaling \$750,000 with a yearly payment of \$62,500 over 12 years.

STAFF COMMENTS:

This project is instrumental in the redevelopment of the Indiana Avenue corridor and the future establishment of the Innovation District. Additionally, providing new affordable workforce housing apartment units in the downtown meets the City's master plan and strategy to add more housing units for mixed incomes. This property has been underutilized and blighted for a number of years and redevelopment of the property is a great step in advancing the redevelopment of the Indiana Avenue corridor.

ACTION REQUESTED:

Motion to recommend the Common Council approve Res. No. 112-18-19 authorizing entering into a development agreement with Badger State Lofts, Limited Partnership.

ATTACHMENTS:

- I. Res. No. 112-18-19

III

DIRECT REFERRAL TO FINANCE AND PERSONNEL COMMITTEE

Res. No. 112 - 18 - 19. By Alderpersons Rindfleisch and Bohren.
November 5, 2018.

A RESOLUTION authorizing entering into a Development Agreement with Badger State Lofts, Limited Partnership.

RESOLVED: That the Mayor and City Clerk are hereby authorized to execute the Development Agreement with Badger State Lofts, Limited Partnership regarding a proposed mixed use building comprised of commercial space and residential apartments in Sheboygan, in form substantially similar to the attached agreement.

*Finance
Personnel*

I HEREBY CERTIFY that the foregoing Resolution was duly passed by the Common Council of the City of Sheboygan, Wisconsin, on the _____ day of _____, 20____.

Dated _____ 20____. _____, City Clerk

Approved _____ 20____. _____, Mayor

**DEVELOPMENT AGREEMENT
BY AND BETWEEN**

**BADGER STATE LOFTS, LIMITED PARTNERSHIP
AND THE CITY OF SHEBOYGAN**

THIS DEVELOPMENT AGREEMENT ("Agreement"), is made this ____ day of _____, 2018, by and between the City of Sheboygan, Wisconsin, a municipal corporation of the State of Wisconsin (which, together with any successor public body or officer hereafter designated by or pursuant to law, is hereinafter called "City"), having its principal offices at 828 Center Avenue in the City of Sheboygan, Wisconsin, and Badger State Lofts, LP., a Wisconsin limited partnership (hereinafter called "Developer"), having an office for the transaction of business at 9333 N. Meridan Street, Suite 230, Indianapolis, IN 46260.

RECITALS

The City is in the process of establishing a Tax Incremental District ("TID #17"), in accordance with §66.1105, Wis. Stats. ("the Tax Increment Law"), in order to provide a viable method of financing eligible project costs within the district for appropriate private development, which will contribute to the overall development of the City.

The City is authorized by the Tax Increment Law to pay Project Costs, as defined in §66.105(2)(f), Wis. Stats., from the special fund of TID #17 or from the proceeds of municipal obligations issued pursuant to statute.

The City is authorized by the Tax Increment Law to enter into any contract or agreement necessary or convenient to implement the provisions and effectuate the purposes of a Project Plan, as defined in §66.1105(2)(g), Wis. Stats.

The Project Plan for TID #17 includes development incentive payments as eligible project costs for purposes of carrying out the Project Plan.

The City proposes to enter into this Development Agreement with the Developer to achieve the objectives of TID #17 and to facilitate the implementation of TID #17's Project Plan. The City is prepared to provide financial assistance to the Developer through development incentives in order to bring about the continued development in accordance with this Agreement.

The Project Plan to be undertaken by the Developer is of particular importance to the City and provides special benefits to the City because of its prominent location within the Indiana Avenue corridor in the City.

The City believes that the development of the Property through construction of the Project pursuant to this Agreement and the fulfillment generally of this Agreement are in the vital and best interests of the City and of the health, safety and welfare of its residents.

AGREEMENT

NOW, THEREFORE, it is in the mutual interest of all parties to proceed with development of the Project, and in return for the benefits to be derived therefrom, the City is

prepared to provide financial assistance to the Developer through development incentives in order to bring about the development and thereby promote the sound redevelopment of the City's Indiana Avenue corridor.

**ARTICLE I.
OVERVIEW OF THE PROJECT**

Section 101. The project consists of a mixed use building comprised of commercial space and affordable residential apartments including one, two and three bedroom units, internal parking and commercial space with a ground floor footprint of up to 8,800 square feet.

**ARTICLE II.
DEFINITIONS**

Section 201. All capitalized terms used herein and not otherwise defined herein shall have the following meanings unless a different meaning clearly appears from the context:

"Agreement" or "Development Agreement" means this Agreement, as the same may be from time to time modified, amended, or supplemented.

"Developer" means Badger State Lofts, LP. and its permitted successors and assigns.

"Plans and Specifications" means the plans and specifications for the Project prepared from time to time by the Developer which are approved by the City in accordance with all procedures and requirements of the City for such approvals.

"Project" means the development proposed by Developer, which is anticipated to include approximately 118 units of workforce housing and 8,700 square feet of commercial space.

"Tax Increment Revenue" means the Tax Increment (as defined in §66.1105(2)(i), Wis. Stats.) generated by the property upon which the Project is situated.

"TID Project Plan" means the Project Plan for the TID #17 of the City of Sheboygan, Wisconsin.

**ARTICLE III.
CONSTRUCTION SCHEDULE**

Section 301. It is anticipated that the construction schedule for the Project will be carried out as follows:

City Plan Approvals	November 30, 2018
Creation of TID	October 15, 2018
Issuance of Building Permits	February 1, 2019
Start Construction	February 28, 2019
Substantial Completion	August 1, 2020

**ARTICLE IV.
SPECIAL PROVISIONS**

Section 401. *Minimum Investment.* Developer shall utilize the Property by constructing the Project and all related improvements, at a minimum investment of Twenty-One Million, One Hundred Thousand and 00/100 Dollars (\$21,100,000.00), and a scope as described in Section 201. ("Minimum Investment"). Minimum Investment includes all hard costs for construction of all buildings and other improvements on the Property and leasehold improvements, excluding all soft costs, made or incurred by Developer, its successors or assigns, in connection with the Project, on or before the completion date of construction of the Project on the Property as required by this Agreement, or such later date as the parties may hereafter agree. Hard costs includes costs incurred for the following: demolition; site work; remediation; utilities serving the new project (including relocation of existing utilities); all labor and materials required for new construction including contractor general conditions and customary allowance for contingency; offsite improvements required to service the new project; storm water facilities (both offsite and onsite); geotechnical and other testing; construction completion and payment and performance bonds. Such costs include any and all costs (remediation costs or otherwise) Developer may incur with respect to any environmental contamination, hazardous materials, conditions or substances, recognized environmental conditions or any other environmental condition, which may exist on, in or with respect to the Property. Developer shall provide evidence reasonably satisfactory to the City at least 90 days prior to the date of the first incentive payment in 2021 that Developer has expended not less than \$21,100,000 in hard costs. To the extent the anticipated costs of construction change from what was otherwise projected as of the date of this Agreement, and should be less than \$21,100,000, the City agrees to work cooperatively with the Developer to provide the Development Incentives, as noted in Section 402.

Section 402. *Development Incentives.* After satisfaction of Section 401 of this Agreement, the City agrees to provide to the Developer each year for a maximum period of twelve (12) years, an annual incentive payment based on financial performance of the Development Project, in a total principal sum over the twelve years not to exceed \$750,000 (the "Incentive Principal Amount") as an inducement to Developer for the development of the Project. The annual incentive payments shall be calculated and provided to the Developer as follows: Each year for a maximum period of twelve (12) years, commencing in 2022 and ending in 2033, the City will pay the Developer a development performance incentive payment in an amount equal to one half of the Tax Increment Revenue received by the City with respect to the real property upon which the Project is situated in that year, but in no event shall the total aggregate sum of the annual development performance incentive payments to the Developer exceed \$750,000. The terminology "real Property upon which the Project is situated" is used in this Section to make it clear that personal property shall not be included in determining Tax Increment Revenue. The City shall make the payment due to the developer, if any, under this Section no later than September 30 of each year, commencing in 2022. Payment by the City of the annual incentive will only be made if the Developer has paid current year property taxes (real and personal) to the City in full. The incentive payments made under this Agreement are provided to the Developer by the City as part of a negotiated, lawful contract with Developer in exchange for consideration, including requirements to develop property within the TID in a manner that inures to the benefit of the general public, including those residing, owning property, or engaged in employment within the City. Said payments are in no way tied to future

property tax payments and do not provide any future tax break, nor do they refund already paid taxes.

**ARTICLE V.
TID CONTINGENCY**

Section 501. Developer's and the City's obligations hereunder are contingent upon the City creating and obtaining Joint Review Board approval of a Tax Incremental District encompassing, at a minimum, the Property, as contemplated herein, on or before September 30, 2018, and having the base year certified by the Wisconsin Department of Revenue as 2018.

If the contingency set forth in this Article is not timely satisfied, amended or waived, then this Agreement shall terminate and the parties shall be relieved of all liability to one another under this Agreement.

**ARTICLE VI.
CONSTRUCTIONS PLANS; CONSTRUCTION OF IMPROVEMENTS;
CERTIFICATE OF COMPLETION**

Section 601. Plans for Construction of Improvements. Plans and specifications with respect to the development of the Property and the construction of Improvements thereon shall be in material conformity with this Agreement, and all applicable federal, state and local laws and regulations. As promptly as possible after the date of execution of this Agreement, but no sooner than sixty (60) days of execution of this Agreement, the Developer shall submit to the City, for approval by the City, plans, drawings, specifications and related documents, and the proposed construction schedule (which plans, drawings, specifications, related documents and progress schedule, together with any and all changes therein that may thereafter be made and submitted to the City as herein provided are, except as otherwise clearly indicated by the context, hereinafter collectively called "Construction Plans"), with respect to the Improvements to be constructed by the Developer on the Property, in sufficient completeness and detail to show that such Improvements and construction thereof will be materially in accordance with the provisions of this Agreement.

Notwithstanding the forgoing, the Developer agrees that it will not challenge any property tax assessment for the Property that is less than \$5,290,000 for the twelve (12) year term that the Property generates Tax Increment Revenue. The twelve year term shall be extended for as long as any debt remains outstanding for the costs of public infrastructure constructed or upgraded related to the Project. Following such twelve (12) year period, or such period as it may be extended pursuant to this paragraph, the Developer may challenge any property tax assessments on the Property.

The City shall, if the Construction Plans originally submitted materially conform to the provisions of this Agreement, approve in writing such Construction Plans and no further filing by the Developer or approval by the City thereof shall be required, except with respect to any material change. Such Construction Plans shall, in any event, be deemed approved unless rejection thereof in writing by the City, in whole or in part, setting forth in detail the reasons therefor, shall be made within thirty (30) days after the date of their receipt by the City.

If the City, in its reasonable discretion, so rejects the Construction Plans in whole or in part as not being in material conformity with this Agreement, the Developer shall submit new or

corrected Construction Plans which are in material conformity with this Agreement within thirty (30) days after written notification to the Developer of the rejection. The provisions of this Section relating to approval, rejection and resubmission of corrected Construction Plans hereinabove provided with respect to the original Construction Plans shall continue to apply until the Construction Plans have been approved by the City, which approval shall not be unreasonably withheld or delayed, provided, that in any event the Developer shall submit Construction Plans which are in material conformity with the requirements of this Agreement, as determined by the City, no later than ninety (90) days after the date the Developer receives written notice from the City of the City's first rejection of the original Construction Plans submitted to it by the Developer.

All work with respect to the improvements to be constructed or provided by the Developer on the Property shall be in material conformity with the Construction Plans as approved by the City. The term "Improvements," as used in this Agreement, shall be deemed to have reference to the Improvements as provided and specified in the Construction Plans as approved.

Developer, as an inducement to the City to proceed with establishment of a Tax Incremental District and to provide development incentive payments as provided herein to Developer for the development of the Project, hereby represents that the contemplated Project will be fully subject to real estate and personal property taxes under state law. Developer further represents and agrees for itself, its successors and assigns, that it shall take no action(s) or advocate any position or change in state law which would jeopardize or call into question the taxability of the Project.

Notwithstanding the above, in the event that the Project, or the Property, or any part thereof, is determined at any time to be exempt from real and/or personal property taxation under state law, Developer, for itself, its successors and assigns, agrees to make payments in lieu of taxes to the City, County, school district, and any other property taxing jurisdictions in the amounts and within the time periods that would otherwise be required as if the property were fully taxable, in recognition of the valuable governmental services and benefits available and/or provided to the Project and the Property.

Section 602. Changes in Construction Plans. If the Developer desires to make any material change in the Construction Plans after their approval by the City, the Developer shall submit the proposed change to the City for its approval. If the Construction Plans, as modified by the proposed change, materially conform to the requirements of Section 701 hereof with respect to such previously approved Construction Plans, the City shall approve the proposed change and notify the Developer in writing of its approval, which approval shall not be unreasonably withheld or delayed. Such change in the Construction Plans shall, in any event, be deemed approved by the City unless rejection thereof, in whole or in part, by written notice thereof by the City to the Developer, setting forth in detail the reasons therefor, shall be made within thirty (30) days after the date of the City's receipt of notice of such change.

ARTICLE VII. RESTRICTIONS UPON USE OF PROPERTY

Section 701. Restrictions on Use. The Developer agrees for itself, and its successors and assigns, and every successor in interest to the Property, or any part thereof,

and the Deed shall contain covenants on the part of the Developer for itself, and such successors and assigns, that the Developer, and such successors and assigns, shall:

- (a) devote the Property to, and only to and in accordance with, the uses specified in this Agreement for a period of not less than twenty-seven (27) years from date of completion of the Project;
- (b) not discriminate upon the basis of race, color, creed, sex, religion, ancestry, disability, sexual orientation, marital status, family status, lawful source of income, age or national origin in the sale, lease or rental or in the use or occupancy of the Property or any improvements erected or to be erected thereon, or any part thereof; and
- (c) agree not to take any action that will change the taxability of the property, except as provided in Section 601 above.

ARTICLE VIII. REMEDIES

Section 801. *In General.* Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement, or any of its terms or conditions, by either party hereto, or any successor to such party, such party (or successor) shall, upon written notice from the other, proceed immediately to cure or remedy such default or breach and, in any event, within seventy-five (75) days after receipt of such notice. In case such action is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within a reasonable time after the initial seventy-five (75) days, the aggrieved party may take such action as set forth under this Agreement or allowed by law as may be necessary or desirable in its opinion to cure and remedy such default or breach including, but not limited to, proceedings to compel specific performance by the party in default or breach of its obligations. Each such investor, lender, or holder shall have the right, at its option, to cure or remedy such breach or default, and the City agrees to accept such cure as if made by the Developer.

Section 802. *Termination by Developer.* In the event that:

- (a) the Developer shall, after preparation of Construction Plans satisfactory to the City, furnish evidence reasonably satisfactory to the City that Developer has been unable, after and despite diligent effort for a period of one hundred twenty (120) days after approval by the City of the Construction Plans, to obtain mortgage financing for the construction of the Project on a basis and on terms that are satisfactory to Developer; or,
- (b) the Developer is unable to satisfy (and otherwise has not waived), any of the conditions precedent contained in this Agreement;

then this Agreement shall, at the option of the Developer, be terminated by written notice thereof to the City and neither the City nor the Developer shall have any further rights against or liability to the other under this Agreement.

Section 803. *Termination by City.* In the event that the Developer does not submit Construction Plans within the permitted time period, as required by this Agreement or evidence that it has the necessary equity capital and mortgage financing in reasonably satisfactory forms

and in the manner and by the dates respectively provided in this Agreement therefor; then this Agreement, and any rights of the Developer, or any assignee or transferee, in this Agreement, or arising therefrom with respect to the City or the Property shall, at the option of the City, be terminated by the City seventy-five (75) days after written notice thereof to the Developer, in which event, neither the Developer (or assignee or transferee) nor the City shall have any further rights against or liability to the other under this Agreement.

Section 804. Other Rights and Remedies of City; No Waiver by Delay. The City shall have the right to institute such actions or proceedings as it may deem desirable for effectuating the purposes of this Article, including also the right to execute and record or file among the public land records in the office in which the Deed is recorded a written declaration of the termination of all the right, title and interest of the Developer and its successors in interest and assigns in the Property, and the revesting of title thereto in the City. Provided, that any delay by the City in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this shall not operate as a waiver of such rights or to deprive it of or limit such rights in any way (it being the intent of this provision that the City should not be constrained (so as to avoid the risk of being deprived of or limited in the exercise of the remedy provided in this section because of concepts of waiver, laches or otherwise) to exercise such remedy at a time when it may still hope otherwise to resolve the problems created by the default involved); nor shall any waiver in fact made by the City with respect to any specific default by the Developer under this section be considered or treated as a waiver of the rights of the City with respect to any other defaults by the Developer under this section or with respect to the particular default except to the extent specifically waived in writing.

Section 805. Rights and Remedies Cumulative. The rights and remedies of the parties to this Agreement, whether provided by law or by this Agreement, shall be cumulative, and the exercise by either party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for the same default or breach or any of its remedies for any other default or breach by the other party. No waiver made by either such party with respect to the performance, or manner or time thereof, or any obligation of the other party or any condition to its own obligation under this Agreement shall be considered a waiver of any rights of the party making the waiver with respect to the particular obligation of the other party or condition to its own obligation beyond those expressly waived in writing and to the extent thereof, or a waiver in any respect in regard to any other rights of the party making the waiver or any other obligations of the other party.

Section 806. Indemnification.

- (a) Developer releases from and covenants and agrees that the City, the governing body members, officers, agents, including the independent contractors, consultants and legal counsel, servants and employees thereof (hereinafter, for purposes of this Section, collectively the "City Indemnified Parties") shall not be liable for and agrees to indemnify and hold harmless the City Indemnified Parties against any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the Project, provided that the foregoing indemnification shall not be effective for any actions of the City Indemnified Parties that are not contemplated by this Agreement or which result from negligent acts or willful misconduct of the City Indemnified Parties in fulfilling the obligations of the City or their agents as set forth under this Agreement.
- (b) Except for any negligent acts or any willful misrepresentation of the City

Indemnified Parties, Developer agrees to protect and defend the City Indemnified Parties, now and forever, and further agrees to hold the aforesaid harmless from any claim, demand, suit, action or other proceeding whatsoever by any person or entity whatsoever arising or purportedly arising from the actions or inactions of Developer (or other persons acting on its behalf or under its direction or control) with respect to the Project work to be performed by Developer under this Agreement.

- (c) The City agrees to protect and defend Developer, including the independent contractors, consultants and legal counsel, servants and employees thereof (hereinafter, for purposes of this Section, collectively the "Developer Indemnified Parties"), and further agrees to hold Developer Indemnified Parties harmless from any claim, demand, suit, action or other proceeding whatsoever by any person or entity whatsoever arising or purportedly arising from the negligence, willful misrepresentation of the City (or other persons acting under their direction or control) under this Agreement, or the transactions contemplated hereby. All covenants, stipulations, promises, agreements and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the City and not of any governing body member, officer, agent, servant or employee of the City, as the case may be.

ARTICLE IX. MISCELLANEOUS

Section 901. Conflict of Interests; City Representatives Not Individually Liable. No member, official or employee of the City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his personal interests or the interests of any corporation, partnership or association in which he is, directly or indirectly, interested. No member, official or employee of the City shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Developer or successor or on any obligations under the terms of this Agreement.

Section 902. Equal Employment Opportunity. The Developer, for itself and its successors and assigns, agrees that during the construction of the Project provided for in this Agreement:

- (a) The Developer will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, disability, marital status, arrest record, conviction record, membership in the national guard, state defense force or any reserve component of the military forces of the United States or this state or use or nonuse of lawful products off the employer's premises during nonworking hours. The Developer will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Developer agrees to post in conspicuous places, available to employees and applicants for employment,

notices to be provided by the City setting forth the provisions of this nondiscrimination clause.

- (b) The Developer will, in all solicitations or advertisements for employees placed by or on behalf of the Developer, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin, ancestry, disability, marital status, arrest record, conviction record, membership in the national guard, state defense force or any reserve component of the military forces of the United States or this state or use or nonuse of lawful products off the employer's premises during nonworking hours.
- (c) The Developer will furnish all information and reports required by law and any and all applicable federal, state and local rules, regulations and orders, and will permit access to the Developer's books, records and accounts by the City, or appropriate governmental entity, for purposes of investigation to ascertain compliance with such laws, rules, regulations and orders.
- (d) In the event of the Developer's noncompliance with the nondiscrimination clauses of this section, or with any of the said rules, regulations or orders, this Agreement may be canceled, terminated or suspended in whole or in part, and such other sanctions may be imposed and remedies invoked as provided by such law, rule, regulation or order, or as otherwise provided by law.
- (e) The Developer will include the provisions of Paragraphs (a) through (d) of this section in every contract or purchase order, and will use its best efforts to require the inclusion of these provisions in every subcontract entered into by any of its contractors, unless exempted by such rules, regulations or orders, so that such provisions will be binding upon each such contractor, subcontractor or vendor, as the case may be. The Developer will take such action with respect to any construction contract, subcontract or purchase order as the City may direct as a means of enforcing such provisions, including sanctions for noncompliance. For the purpose of including such provisions in any construction contract, subcontract or purchase order, as required hereby, the first three lines of this section shall be changed to read "During the performance of this Contract, the Contractor agrees as follows:" and the term "Developer" shall be changed to "Contractor."

Section 903. Titles of Articles and Sections. Any titles of the several parts, articles and sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 904. Successors and Assigns. This Agreement shall be binding upon the respective successors and assigns of the parties. Notwithstanding anything contained in this Agreement to the contrary, Developer may assign this Agreement by one or more successive assignments at any time prior to closing to any related entity or affiliate of Developer. Upon any such assignment, the assignee shall have the rights and obligations of Developer hereunder and Developer shall thereupon, automatically and without execution of further instruments or documents, be relieved and released from any obligations under this Agreement, without any further action or approval of the parties.

Section 905. Notices and Demands. A notice, demand or other communication under this Agreement by either party to the other shall be sufficiently given or delivered if it is

dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, and

- (a) in the case of the Developer, is addressed to or delivered personally to the Developer at 9333 N. Meridan Street, Suite 230, Indianapolis, IN 46260, Attention: Matt Gilhooly;

with a copy to: Winthrop & Weinstine, P.A. at 225 South Sixth Street, Suite 3500, Minneapolis, MN 55402, Attention: John D. Nolde

with a copy to: Alliant Asset Management Company LLC at 21600 Oxnard Street, Suite 1200, Woodland Hills, California 91367, Attention: General Counsel

- (b) in the case of the City, is addressed to or delivered personally to the City, Attention: City Clerk, at 828 Center Avenue, Sheboygan, Wisconsin 53081;

or at such other address with respect to either such party as that party may, from time to time, designate in writing and forward to the other as provided in this section. If delivered by registered or certified mail, such notice, demand or other communication shall be deemed delivered and received upon deposit in the U.S. Mail.

Section 906. Governing Law. This Agreement shall be construed in accordance with the laws of the State of Wisconsin.

Section 907. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument. Signatures delivered by facsimile, email (in pdf.) or similar electronic methods shall be deemed to be original signatures for all purposes.

Section 908. Recording. This agreement or a memorandum of this Agreement shall be recorded in the Office of Sheboygan County Register of Deeds against the Property at the cost of the Developer.

(Signature Page Follows)

IN WITNESS WHEREOF, the City has caused this Agreement to be duly executed in its name and behalf by its Mayor and its seal to be hereunto duly affixed and attested by its City Clerk, and the Developer has caused this Agreement to be duly executed in its name and behalf by its members, on or as of the day first above written.

CITY OF SHEBOYGAN, WISCONSIN

BADGER STATE LOFTS, LP,
a Wisconsin limited partnership

BY: _____
Michael J. Vandersteen, Mayor

BY: _____
KCG Badger State Lofts GP, LLC
Its: General Partner

ATTEST: _____
Meredith DeBruin, City Clerk

BY: _____
KCG Holdings, LLC
Its: Manager

BY: _____
R.J. Pasquesi, President

ACKNOWLEDGMENTS

STATE OF WISCONSIN)
) ss
SHEBOYGAN COUNTY)

Personally came before me this ____ day of _____, 2018, the above-named Michael J. Vandersteen, Mayor, and Meredith DeBruin, City Clerk, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

Notary Public, State of Wisconsin
My Commission _____

STATE OF _____)
) ss
_____ COUNTY)

Personally came before me this ____ day of _____, 2018, the above-named R.J. Pasquesi, as President of KCG Holdings, LLC, a Florida limited liability company, the manager of KCG Badger State Lofts GP, LLC, a Wisconsin limited liability company, as the general partner of Badger State Lofts, LP, a Wisconsin limited partnership, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public, State of Wisconsin
My Commission _____

EXHIBIT "A"
Description of Property

City Proposed Changes 10.24.2018

16040619v3

EXHIBIT "A"
Description of Property

Redevelopment of the former Coakley Building at 1031 Maryland Avenue into 118 units of affordable/workforce housing and approximately 8,700 sf of commercial/retail space.

