

A quorum of the Administration Committee, Board of Public Works, Park Board, and/or Common Council may attend this meeting; (Although it is not expected than any official action of any of those bodies will be taken).

**CITY OF MENASHA  
REDEVELOPMENT AUTHORITY**

**Menasha City Center  
100 Main Street, Menasha  
Second Floor, Room 207**

**December 18, 2017**

**5:00 PM**

**AGENDA**

- A. CALL TO ORDER
- B. ROLL CALL/EXCUSED ABSENCES
- C. MINUTES TO APPROVE
  - 1. Minutes of the November 16, 2017 Redevelopment Authority Meeting
- D. PUBLIC COMMENTS ON ANY MATTER OF CONCERN ON THIS AGENDA  
(five (5) minute time limit for each person)
- E. DISCUSSION / ACTION ITEMS
  - 1. Letter of Intent, Lot 90
  - 2. Reconsideration of the Second Amendment to the Development Agreement Between the Redevelopment Authority of the City of Menasha and Van's Realty and Construction
- F. COMMUNICATIONS
  - 1. Lot 70 Sale Status
- G. ADJOURNMENT

**Please take elevator to second floor, the conference room is located across from the stairwell**

If you have questions, please call the Community Development Department at  
(920) 967-3650 between 8:00 AM – 4:00 PM, Monday through Friday.

**CITY OF MENASHA  
Redevelopment Authority  
100 Main Street – Room 133  
November 16, 2017  
DRAFT MINUTES**

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**A. CALL TO ORDER**

The meeting was called to order at 5:00 pm by Chairmen Kim Vanderhyden.

**B. ROLL CALL/EXCUSED ABSENCES**

REDEVELOPMENT AUTHORITY MEMBERS PRESENT: Kim Vanderhyden, Ald. Rebecca Nichols, Gail Propp, Matt Vanderlinden, and Bob Stevens.

REDEVELOPMENT AUTHORITY MEMBERS EXCUSED: Linda Kennedy and Kip Golden

OTHERS PRESENT: CDD Buck, PP Schroeder, ASD Jacobs, CA Pam Captain, Ald. Collier, and Ald. Taylor

**C. MINUTES TO APPROVE**

**1. Minutes of the September 25, 2017 Redevelopment Authority Meeting**

Motion to approve the September 25, 2017 Redevelopment Authority meeting minutes as presented made by Vanderlinden, seconded by Ald. Nichols. Motion carried.

**D. PUBLIC COMMENT ON ANY ITEM OF CONCERN ON THIS AGENDA**

No Public Comment Made

**E. DISCUSSION/ACTION ITEMS**

**1. Second Amendment to the Development Agreement Between the Redevelopment Authority of the City of Menasha and Van's Realty and Construction**

CD Buck explained that in August the RDA approved an amendment to the Land Purchase and Development Agreement between the RDA and Van's Realty and Construction to extend the builder's credit to December 31, 2018 giving Van's an additional year to construct the first 5 homes as written in the original agreement. Although Van's requested to extend the builders credit, they failed to also request an extension of the promissory note to pay for the first 5 lots by November 15, 2017. Per the agreement, Van's shall be required to pay the outstanding balance of each promissory note in full for each lot sold or transferred, prior to or at the time of each closing between Van's and its immediate successor in interest to the Lot using first proceeds for said payment or 1 year from the date of execution of the Promissory Note, November 15, 2017, whichever is less. As of November 16, 2017, per the agreement Vans was required to pay back the noted \$35,000 for each of the 5 lots for a total of \$175,000 plus the 5% annum interest back to the date of execution.

CD Buck noted that Van's has constructed the first 2 of the 5 lots, with the intent to construct the other 3 lots in the summer of 2018. In addition to these first 5 lots, the Van's also has an option to purchase an additional 4 lots.

*Gail Propp arrived at 5:05*

The Authority ensued on a general conversation of the options in front of them. These options included dialog of holding true to the development making Van's pay the \$175,000 with interest, waiving the interest, granting the request and meeting in the middle. Ultimately the Authority thought it was in the best interest to look long term granting the requested extension for the 3 vacant lots, but making Van's pay for the 2 lots already constructed interest free.

Motion by Nichols, second by Vanderlinden to approve a second amendment to the development agreement between the Redevelopment Authority of the City of Menasha and Van's Realty and Construction extending the promissory note 1 year for the 3 vacant lots and waiving the interest on the defaulted promissory notes for the 2 lots already constructed. Motion carried unanimously.

**2. RR Donnelley/LSC Communications Land Purchase – 460 Ahnaip Street**

CD Buck gave a brief update regarding the Purchase Agreement between the RDA and RR Donnelley/LSC Communications. In September the RDA recommended moving forward with the acquisition of the property with the condition that Section 6(d) was removed from the Real Estate Purchase and Sale Agreement. The Common Council also approved this purchase. On November 13, 2017 the City was notified that RR Donnelley/LSC Communications have accepted the condition and they are revising the Purchase Agreement to remove the said Section and any reference to that Section. After this sale is finalized, the next steps will be staff working with WEDC, the DNR Green Team, and the DOT. The City is hopeful to redevelop this property as soon as possible; however in the meantime the Council does have the moneys in the RDA 2018 budget for the holding cost of this property.

**F. Adjournment**

Ald. Nichols motioned to adjourn the meeting at 5:28 pm. Motion was seconded by Propp. Motion carried unanimously.

*Minutes respectfully submitted by PP Schroeder.*

**LETTER OF INTENT**  
**October 6, 2017**

This Letter of Intent is not contractually binding on the parties and is only an expression of the basic terms and conditions that could be incorporated into an agreement. The parties shall not be contractually bound unless and until a final agreement is executed.

1. The parties are Van's Realty & Construction of Appleton, Inc. ("Van's"), the owners of Lot 89 in Lake Park Villas Phase II (the "Shaws"), and the City of Menasha and Redevelopment Authority of the City of Menasha (collectively "RDA").
2. Van's and the Shaws each respectively desire to acquire one-half of Lot 90 in Lake Park Villas Phase II from the RDA.
3. Van's and the Shaws will equally share the cost of and be responsible for all survey, recording, transfer, and other fees associated with the transaction.
4. The purchase price would be \$10,000 and shared equally by Van's and the Shaws.
5. As additional consideration, Van's will reduce the figure identified in the first bullet point of Article III of the Land Purchase Development Agreement dated September 14, 2016 with the RDA to \$8,900.
6. As additional consideration and incentive for both Van's and the RDA, Van's and the RDA believe this transaction will enable Van's to sell the home and property known as Lot 91 in Lake Park Villas Phase II and expedite and potentially expand further development in the subdivision.
7. If all parties execute this Letter of Intent, the parties will attempt to negotiate to enter into a mutually acceptable agreement on or before November 1, 2017. It shall include such other terms and conditions as may be required and agreed upon by the parties.

\_\_\_\_\_  
The Redevelopment Authority of the City of Menasha  
by Phillip K. Vanderhyden, Chairman

October \_\_\_\_\_, 2017

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Van's Realty & Construction of Appleton, Inc.  
by Jason Haen, President or Jerome Haen, Authorized Agent

October \_\_\_\_\_, 2017

\_\_\_\_\_  
\_\_\_\_\_ Shaw

October \_\_\_\_\_, 2017

SECOND AMENDMENT TO LAND PURCHASE AND DEVELOPMENT AGREEMENT BY AND BETWEEN THE REDEVELOPMENT AUTHORITY OF THE CITY OF MENASHA, WISCONSIN, AND VAN'S REALTY AND CONSTRUCTION OF APPLETON, INC., DATED September 14, 2016, AS AMENDED

THIS SECOND AMENDMENT TO DEVELOPMENT AGREEMENT, executed in Menasha, Wisconsin on this \_\_\_\_ day of November, 2017, is made effective between the Redevelopment Authority of the City of Menasha and Van's Realty and Construction of Appleton, Inc. The Development Agreement by and between the parties dated as of September 14, 2016, as amended, is further amended as follows:

As to ARTICLE II, SECTION 2.02, add: "Consistent with the terms of the FIRST AMENDMENT TO DEVELOPMENT AGREEMENT, Vans shall be required to pay the outstanding balance of each Promissory Note issued on each of the first five lots purchased by Vans on November 15, 2016, in full for each lot sold or transferred, prior to or at the time of each closing between Vans and its immediate successor in interest to the Lot using first proceeds for said payment or November 15, 2018, whichever comes first."

THE REDEVELOPMENT AUTHORITY OF THE CITY OF MENASHA

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By: Phillip K. Vanderhyden, Chairman

VAN'S REALTY AND CONSTRUCTION OF APPLETON, INC.

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By: Jason C. Haen, President

**FIRST AMENDMENT TO LAND PURCHASE AND DEVELOPMENT AGREEMENT**  
**BY AND BETWEEN THE CITY OF MENASHA, WISCONSIN, AND VAN'S REALTY**  
**AND CONSTRUCTION OF APPLETON, INC**  
**DATED AS OF SEPTEMBER 14, 2016**


THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT, executed in Menasha, Wisconsin on this 5<sup>th</sup> day of August, 2017, is made effective between the City of Menasha and Van's Realty and Construction of Appleton, Inc. The Development Agreement by and between the parties dated as of September 14, 2016 is amended as follows:

1. As to ARTICLE II, SECTION 2.03, after the sentence "Vans agrees to construct homes on each Lot purchased within the LPVPII from the RDA within one year of closing" add the following: This requirement does not apply to the first five lots purchased by Vans on November 15, 2016.
2. As to ARTICLE II, SECTION 2.03.1, change the sentence "Construction of homes on each of the first five lots purchased shall be completed no later than December 31, 2017, and shall be demonstrated by receipt of a certificate of occupancy for each home." to "Construction of homes on each of the first five lots purchase shall be completed no later than December 31, 2018, and shall be demonstrated by receipt of a certificate of occupancy for each home."
3. All other terms and conditions set forth in the Development Agreement dated September 14, 2016 shall remain the same.

THE REDEVELOPMENT AUTHORITY OF THE CITY OF MENASHA

  
By: Phillip K. Vanderhyden, Chairman

VAN'S REALTY AND CONSTRUCTION OF APPLETON, INC.

  
By: Jerome Haen, Authorized Agent

## LAND PURCHASE AND DEVELOPMENT AGREEMENT

This Land Purchase and Development Agreement (hereinafter AGREEMENT) is made and entered into as of the 14<sup>th</sup> day of September, 2016, by and between the Redevelopment Authority of the City of Menasha, Wisconsin, a Wisconsin municipal corporation with its principal offices located at 140 Main St., Menasha, Wisconsin 54952 (hereinafter "RDA"), and Van's Realty and Construction of Appleton, Inc., a Wisconsin corporation with its principal offices located 2525 Oneida St., Appleton, WI 54915 (hereinafter "Vans").

### RECITALS

Whereas: Vans submitted a Letter of Intent to the RDA for the acquisition of certain rights in and to 10 lots within the Lake Park Villas Phase II Subdivision (LPVP2) listed as follows: 81, 70, 4CSM3511, 19R, 108, 124, 125, 91, 21R, 123, hereinafter referred to individually "Lot" or collectively "Lots"; and

Whereas: Vans has requested certain incentives from the Redevelopment Authority of the City of Menasha (RDA) to facilitate the purchase of said Lots, development of homes and to market the developed properties within LPVP2; and

Whereas: The RDA has obligations under its development agreement with the City of Menasha to promote the development of the LPVP2 and to market and sell properties contributed from the city to the RDA; and

Whereas: The RDA has determined that the provision of incentives to Vans is necessary to stimulate the sale of Lots and construction of homes in LPVP2.

### ARTICLE I PURPOSE

SECTION 1.01. PURPOSE OF AGREEMENT. The purpose of this Agreement is to facilitate the sale, development and marketing of certain properties within LPVP2 by Vans. The recitals are incorporated herein by reference.

### ARTICLE II OBLIGATIONS

#### SECTION 2.01. PURCHASE RIGHTS AND OBLIGATIONS.

SECTION 2.01.1. Purchase. On or before December 31, 2016, Vans agrees to purchase five of the Lots, specifically: 91, 108, 19R, 124, and 21R from the RDA for the purchase price of \$35,000 for each Lot (less the Builder Credit).

SECTION 2.01.2. Option to Purchase. Vans shall have the Option to Purchase the additional five Lots, specifically: 70, 81, 4CSM3511, 123 and 125 (hereinafter referred to individually an "Option Lot" and collectively the "Option Lots") until December 31, 2018 for the purchase price of \$35,000 for each lot. Vans' Option to Purchase shall be

exercisable by written communication and delivered by mail, personally, or electronic means to RDA.

SECTION 2.01.3. Right of First Refusal. If RDA receives an offer to purchase any of the Option Lots from a third party prior to Vans having exercised its Option to Purchase, Vans shall have a Right of First Refusal to purchase any such Option Lot, provided that the conveyance shall be subject to the terms of the third party offer and at the purchase price offered by the third party. Vans Right of First Refusal shall be exercisable by written communication within 72 hours after Vans receives written notice of the third party offer from RDA and shall be delivered by mail, personally, or electronic means to RDA or the Right of First Refusal shall be deemed waived with respect to the third party offer. If the third party offer does not close, then Vans shall retain its Option to Purchase and Right of First Refusal on the Option Lot.

SECTION 2.01.4. Substitute Option Lot. If Vans elects not to exercise its Option to Purchase or Right of First Purchase and the RDA transfers an Option Lot to a third party, then Vans shall have the right to identify and substitute a replacement Option Lot within the LPVPII which shall then be subject to the terms and conditions of this Agreement, including Vans' Option to Purchase and Right of First Purchase as if it was specifically identified herein.

SECTION 2.01.5. Conveyance. All transfers to Vans hereunder shall be by Warranty Deed from RDA conveying title free of all liens and encumbrances (except easements and restrictions of record, including but not limited to the Lake Park Villas Home Owners Association covenants and restrictions), and RDA and Vans shall assume customary rights and obligations of buyers and sellers up to and including closing.

SECTION 2.02. PAYMENT; SECURITY. For each Lot purchased, Vans shall either pay cash at closing or Vans shall execute a Promissory Note in favor of the RDA in the amount of the Purchase Price. The terms of the Promissory Note shall be 0% interest per annum until paid in full except in the case of a default, then interest shall be 5% per annum from the date of execution until paid in full. Vans shall be required to pay the outstanding balance of each Promissory Note in full for each lot sold or transferred, prior to or at the time of each closing between Vans and its immediate successor in interest to the Lot using first proceeds for said payment or 1 year from the date of execution of the Promissory Note, whichever comes first. As security for said Promissory Note(s), Vans shall give RDA a first mortgage position.

SECTION 2.03. CONSTRUCTION. Vans agrees to construct homes on each Lot purchased within the LPVPII from the RDA within one year of closing:

SECTION 2.03.1. Construction of homes on each of the first five lots purchased shall be completed no later than December 31, 2017, and shall be demonstrated by receipt of a certificate of occupancy for each home.



SECTION 2.03.2. Each home shall be at least 1,400 square feet exclusive of garage and basement floor space. Two of the homes shall meet or exceed 1600 square feet exclusive of garage and basement floor space.

SECTION 2.03.3. Each home shall be constructed in accordance with the LPVP II Home Construction Standards.

SECTION 2.04. TAXES. It is understood that the land and improvements resulting from the acquisition and subsequent construction of homes on the Lots shall be subject to property taxes. Vans shall pay when due all federal, state and local taxes in connection with the Lots and homes thereon constructed.

SECTION 2.05. CONDITION. Except as provided herein, the Lots shall be conveyed in "as is" physical condition. The RDA is not responsible for any subsequent remediation, demolition, underground debris, or other clean-up costs after conveyance.

SECTION 2.06. RECORDING. This Agreement may not be recorded with the register of deeds. A memorandum of this Agreement shall be executed by both parties and recorded with the register of deeds to provide record notice of Vans' interest in the Lots in the form attached hereto; Van's shall bear the recording fee.

### ARTICLE III BUILDER CREDIT

SECTION 3.01. BUILDER CREDIT. As long as Vans is not in default of its obligations under this Agreement or any terms of the Promissory Note(s), RDA agrees to provide Vans a "Builder Credit" against any amount owed to RDA under a Promissory Note which applies to a respective Lot based on the sale price of such respective Lot and improvements thereon from Vans to a third party. The Builder Credit shall be calculated as follows:

- \$10,500 credit if the sale price meets or exceeds \$200,000.
- There shall be no credit applied if the sale price is below \$200,000.

SECTION 3.02. CONDITIONS TO CREDIT. There is no cash value of the Builders Credit. It is only available to Vans, and it is only available as a credit against the amounts due on the Promissory Note which applies to the respective Lot improved and for which a credit is due under Section 3.01, above. The credit available to Vans under this section shall terminate upon the sale and transfer of the last Lot from Vans to a third party or on December 31, 2020, whichever occurs first.

### ARTICLE IV MISCELLANEOUS PROVISIONS

SECTION 4.01. NO ASSIGNMENT. The rights, duties and obligations of the any of the parties hereunder may not be assigned without the written consent of both parties to the assignment.

SECTION 4.02. SURVIVAL. The terms of this Agreement shall survive closing on the Lots. Any provision of this Agreement which has not been fully performed prior to transfer of possession shall not be deemed to have been terminate, but shall survive unless expressly waived in writing, and shall be in full force and effect until performed.

SECTION 4.03. NO SUBORDINATION. The RDA shall not subordinate any interest it has in this Agreement for any reasons, unless it is determined to be in the best interests of the RDA.


SECTION 4.04. SEVERABILITY. If any provisions of this Agreement shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

SECTION 4.05. CERTIFICATE OF COMPLETION. Upon completion of the improvements by Vans and review of the improvements by RDA, the RDA will provide Vans with an appropriate instrument certifying that the improvements have been made in accordance with this Agreement.

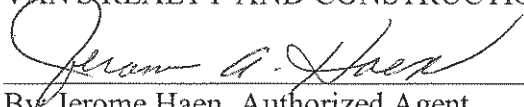
SECTION 4.06. TERMINATION. This agreement shall terminate upon the sale and transfer of last Lot from Vans to a third party or on December 31, 2020, whichever comes first.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the 14<sup>th</sup> day of September, 2016.

THE REDEVELOPMENT AUTHORITY OF THE CITY OF MENASHA

  
By: Phillip K. Vanderhyden, Chairman

VAN'S REALTY AND CONSTRUCTION OF APPLETON, INC.

  
By: Jerome Haen, Authorized Agent