

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**

**January 23, 2018**

**5:00 PM**

**AGENDA**

- A. CALL TO ORDER
- B. ROLL CALL/EXCUSED ABSENCES
- C. MINUTES TO APPROVE
  - 1. Minutes of the December 18, 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. 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. 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 207  
December 18, 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, Linda Kennedy and Bob Stevens.

REDEVELOPMENT AUTHORITY MEMBERS EXCUSED: Kip Golden.

OTHERS PRESENT: PP Schroeder, Phil Sternig (Van's Realty and Construction), Mayor Merkes, ASD Jacobs, and CA Pam Captain, Ald. Collier.

**C. MINUTES TO APPROVE**

**1. Minutes of the November 16, 2017 Redevelopment Authority Meeting**

Motion to approve the November 16, 2017 Redevelopment Authority meeting minutes as presented made by Ald. Nichols, seconded by Stevens. Motion carried.

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

No Public Comment Made

**E. DISCUSSION/ACTION ITEMS**

**1. Letter of Intent, Lot 90 and Second Amendment to the Development Agreement Between the Redevelopment Authority of the City of Menasha and Van's Realty and Construction**

PP Schroeder gave a brief background of the request by Van's Realty and Construction explaining that this past fall the RDA approved a First Amendment that extended the builders credit one year but failed to also extend the promissory note. The Second amendment was requested to align the promissory notes with the builder's credit extension. While the RDA extended the note on 3 of the 5 lots, the Applicant was requesting the RDA reconsider the original request. In addition to the amendments to the Land and Purchase Agreement, Van's Realty Construction also submitted a letter of intent to purchase and consolidate property known as Lot 90 between the two neighboring properties.

The Authority ensued in a general discussion of the request in addition to conversing with Van's representative. After noting that the representative at the meeting could not negotiate on behalf of the company, the Authority made a motion to reconsider the request which at that time there would be a representative from Van's at the meeting that could negotiate on its behalf.

Nichols motioned to reconsider the request for the Second Amendment to the Development Agreement between the Redevelopment Authority of the City of Menasha and Van's Realty and Construction, seconded by Kennedy. Motion carried unanimously.

Before the RDA is the following motion: *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 by Nichols, second by Kennedy to postpone this item to the following RDA meeting. Motion carried unanimously.

**F. Communications**

**1. Lot 70 Sale Status**

**G. Adjournment**

Vanderlinden motioned to adjourn the meeting at 5:35 pm. Motion was seconded by Vanderhyden. Motion carried unanimously.

*Minutes respectfully submitted by PP Schroeder.*

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 January, 2018, 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: "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 LOAN AGREEMENT BY AND BETWEEN THE REDEVELOPMENT  
AUTHORITY OF THE CITY OF MENASHA, WISCONSIN, AND VAN'S REALTY AND CONSTRUCTION  
OF APPLETON, INC., DATED NOVEMBER 15, 2016, AS AMENDED

THIS FIRST AMENDMENT TO LOAN AGREEMENT, executed in Menasha, Wisconsin on  
this \_\_\_\_ day of January 2018, is made effective between the Redevelopment Authority of the  
City of Menasha and Van's Realty and Construction of Appleton, Inc. The Promissory Note by  
and between the parties dated as of November 15, 2016 is amended as follows:

(1) As to Section B 1 (a) (ii), amend as follows: "Except as otherwise provided in paragraph  
(iii) below, the Loan will mature on November 15<sup>th</sup>, 2017, (the "Maturity Date"). The entire  
unpaid balance of the Loan, including principal and accrued interest and all other amounts due  
under or by reason of this Agreement, if not sooner paid, shall be paid in full by Vans to RDA on  
the Maturity Date."

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 PROMISSORY NOTE BY AND BETWEEN THE REDEVELOPMENT  
AUTHORITY OF THE CITY OF MENASHA, WISCONSIN, AND VAN'S REALTY AND CONSTRUCTION  
OF APPLETON, INC., DATED NOVEMBER 15, 2016, AS AMENDED

THIS FIRST AMENDMENT TO PROMISSORY NOTE, executed in Menasha, Wisconsin on  
this \_\_\_\_ day of January, 2018, is made effective between the Redevelopment Authority of the  
City of Menasha and Van's Realty and Construction of Appleton, Inc. The Promissory Note by  
and between the parties dated as of November 15, 2016 is amended as follows:

As to Paragraph 3, amend: "Final Payment. Except as provided in paragraph 2 above,  
the unpaid principal balance of the Loan, all accrued and unpaid interest, if any, and all other  
sums due and payable under this Promissory Note, if not sooner paid, shall be paid to RDA in  
full before November 15, 2018 (the "Maturity Date"). "

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.

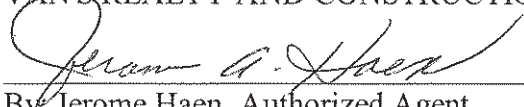
SECTION 4.06. TERMINATION. This agreement shall terminate upon the sale and transfer of last Lot from Vans to a third party or on December 31, 2020, whichever comes first.

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