

**CITY OF MERRILL
COMMON COUNCIL
SPECIAL MEETING
THURSDAY, SEPTEMBER 5, 2013
5:30 P.M.
CITY HALL COMMON COUNCIL CHAMBERS**

AGENDA

- 130920S1** Roll Call
- 1309260S1** A Resolution authorizing a Development Agreement by and between the City of Merrill, Wisconsin and Merrill Area Development Corporation, for 201 South Prospect Street (from July 30th, 2013 Committee of the Whole meeting and September 3rd, 2013 City Plan Commission meeting)
- 1309280S1** Public Comment Period
- 1309999S1** Adjournment

William N. Heideman, CMC, WCMC
City Clerk

The Merrill City Hall is accessible to the physically disadvantaged. If special accommodations are needed, please contact the Merrill City Hall at (715) 536-5594.

1309260S1

RESOLUTION NO.

A RESOLUTION AUTHORIZING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF MERRILL, WISCONSIN AND MERRILL AREA DEVELOPMENT CORPORATION (FOR 201 S. PROSPECT ST.)

WHEREAS, the Common Council of the City of Merrill created Tax Increment District (TID) No. 8 (West Side Area) on September 27, 2011; and,

WHEREAS, Merrill Area Development Corporation (MADC) is acquiring 201 South Prospect Street which is a thirty-three acre vacant manufacturing parcel located within TID No. 8; and

WHEREAS, there are some buildings in need of demolition and some areas where environmental remediation work is required; and

WHEREAS, about 35 manufacturing jobs will be relocated to Merrill through the initial redevelopment project, with an additional 40 new jobs created over the next year, and potential additional future new jobs; and,

WHEREAS, the City of Merrill finds that the proposed development and the fulfillment of the items and conditions of the attached agreement are in the vital and best interest of the City of Merrill, Redevelopment Authority and City residents and serve a public purpose in accordance with State law; and

WHEREAS, the City and Merrill Area Development Corporation (MADC) have negotiated the development agreement to provide incentive payments to facilitate the site acquisition and redevelopment process; and

WHEREAS, the City commits to assist Merrill Area Development Corporation (MADC) with future site assessment and environmental remediation funding applications to the State of Wisconsin and appropriate Federal agencies;

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MERRILL, WISCONSIN this 5th day of September, 2013, that the Mayor and City Clerk are authorized to sign the development agreement by and between the City of Merrill and Merrill Area Development Corporation (MADC) and to facilitate the implementation thereof.

Recommended by: Committee of Whole – July 30th, 2013

CITY OF MERRILL, WISCONSIN

William R. Bialecki
Mayor

Moved: _____

Passed: _____

William N. Heideman
City Clerk

**DEVELOPMENT AGREEMENT
BY AND BETWEEN THE
CITY OF MERRILL, WISCONSIN
AND
MERRILL AREA DEVELOPMENT CORPORATION**

THE DEVELOPMENT AGREEMENT (the "Agreement") is entered into as of _____, 2013 by and between the City of Merrill, Wisconsin, (the "City") a political subdivision of the State of Wisconsin, and Merrill Area Development Corporation ("MADC"), (the "Developer").

RECITALS

- A. The City desires to encourage economic development, the development of underutilized land, expand its tax base and create new jobs within the City.
- B. Wis. Stat. §66.1105 (the "Tax Increment Law") provides the authority and establishes procedures by which the City may exercise powers necessary and convenient to carry out the purposes of the Tax Increment Law, cause project plans to be prepared, approve such plans, implement provisions and effectuate the purposes of such plans and finance such development through the use of tax incremental financing.
- C. Wis. Stat. §66.1333 (the "Redevelopment Law") provides the authority and establishes the procedures by which the City acting through and by the Redevelopment Authority of the City of Merrill (the "RDA") may exercise powers necessary and convenient to carry out the purposes of the Redevelopment Law, cause redevelopment plans to be prepared, approve such plans, borrow money and issue bonds, implement provisions and effectuate the purposes of such plans and finance redevelopment through the Redevelopment Law.
- D. The Developer owns a development area described as:
- Lots 314, 314.1, 314.2 and 501 of the Assessor's Plat of Merrill, Lincoln County, Wisconsin.
- E. As an inducement to Developer to undertake the redevelopment in the Development Area, the City and the RDA intend to provide an incentive to Developer by making a loan to the Developer for project costs incurred to assist in redevelopment of manufacturing space within the Development Area.

In addition, City shall purchase a five (5) acre parcel owned by MADC for the sum of \$100,000. The parcel is more particularly described as: Lot 2, CSM #2122 City of Merrill, Lincoln County, Wisconsin. Also identified as PIN # 251-3107-074-0049

F. The City and RDA find such incentives to be necessary to encourage the redevelopment in the Development Area and for Developer to undertake the Development in such a manner as to accomplish the City goals.

G. The City finds that the development of the Development Area and the fulfillment generally of the terms and conditions of this Agreement are in the vital and best interest of the City, RDA and City residents by expanding the tax base, creating new jobs and causing the redevelopment of underutilized property thereby serving a public purpose in accordance with state and local law.

NOW THEREFORE, in consideration of the promises and mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

ARTICLE I

Section 1.01 Initial Undertaking of the City of Merrill

The City Has:

- a. Included the Development Area within TID #8, which was created September 27, 2011.

Following Execution of this Agreement, the City agrees that it shall cooperate with Developer to facilitate Developer's performance under this Agreement.

Section 1.02 Initial Undertakings of the Developer

- a. Raised equity and financing necessary for the redevelopment.
- b. As necessary, file permit applications with the City.
- c. Developer will commence with redevelopment by November 1, 2013 with initial new job creation by January 15, 2014. MADC will redevelop the 33 acre manufacturing site at 201 S. Prospect, Merrill, Wisconsin. Redevelopment activities include building demolition and environmental remediation work/activity.
- d. This development incentive is for financial assistance for new processing/manufacturing operations. Approximately 35 to 75 full-time positions will result from this redevelopment project.
- e. MADC will grant to the City and/or its designee a perpetual easement, not less than 50 feet in width, along the Wisconsin River on the Prospect Street land, described in Section D as the development area, for trail purposes. This easement shall facilitate development of a pedestrian/bicycle trail.

ARTICLE II
INCENTIVE PAYMENT TO DEVELOPER

The City shall pay a development incentive to Developer in the aggregate amount of Two Hundred Thousand Dollars, which will be a TID loan paid to MADC within five (5) days after execution of the development agreement.

This loan shall be repaid over a ten (10) year period commencing January 1, 2014 and shall bear interest at the rate of 2%. Interest and principal payments shall be made quarterly.

ARTICLE III
MISCELLANEOUS

Section 3.01 Restriction on Sale.

Prior to the earlier of January 1, 2038 or the date TID #8 is dissolved, the Developer shall not sell, transfer, convey or assign the Development Area or any part thereof to any person, entity or in any manner which would render the Development Area exempt from property taxation without the prior written consent to the City.

Section 3.02 Indemnification.

MADC and the City, its successors and assigns shall indemnify and same harmless and defend the other party and its respective officers, agents and employees from any and all liabilities, suits, actions, claims, demands, losses, costs, damages and expenses of every kind and description, including attorney costs and fees for claims of any character, including liability and expenses in connection with the loss of life, personal injury or damage to property or any of them brought because of any injuries or damages received or sustained by any persons or property on account of or arising out of or occasioned wholly or in part by any act or omission on the other party's part or on the part of its agents, contractors, subcontractors, invitees or employees provided that the foregoing indemnification shall not be effective for any claims of the indemnified parties that are not contemplated by this Agreement or which constitute gross negligence or willful misconduct.

Section 3.03 No City Obligations.

The City shall have no obligations or liability for any obligations or responsibilities to any lending institution, architect, contractor or sub-contractor or any other party retained by Developer in the performance of its obligations and responsibilities under the terms and conditions of this Agreement. The Developer specifically agrees that no representation, statements, assurances or guarantees will be made by Developer to any third party contrary to this provision.

Section 3.04 Default.

a. Default and Notice of Default. In the event either party to this Agreement is in default hereunder (the “Defaulting Party”) the other party (the “Non-Defaulting Party”) shall be entitled to take any action allowed by applicable law, by virtue of said default, provided that Non-Defaulting Party gives the Defaulting Party written notice of default describing the nature of the default, what action, if any, is deemed necessary to cure the same and specifying a time period of not less than sixty (60) days in which the default may be cured by the Defaulting party. Notwithstanding the foregoing, if any default cannot reasonably be cured within sixty (60) days, the Non Defaulting Party shall refrain from exercising remedies as long as a cure is being diligently pursued.

If either party fails to cure a default as permitted herein, the Non-Defaulting Party, without limiting its remedies under this Agreement, may compel performance by the Defaulting Party by bringing an action for specific performance. If after the specified time period for cure proceedings are initiated to cure an alleged default, the prevailing party in such proceedings shall be entitled to reimbursement from the other party for its reasonable attorney’s fees and associated costs incurred in such proceedings.

b. Force Majeure. Neither party shall be responsible to the other party for any resulting losses if the fulfillment of any of the terms of this Agreement is delayed or prevented by revolutions or other civil disorders, wars, acts of the enemies, strikes, fires, floods, acts of God, unusual weather, or by any other cause not within the control of the party whose performance was interfered with and which by the exercise of reasonable diligence such party is unable to prevent, whether of the class of causes herein above enumerated or not, and the time for performance shall be extended by the period of delay occasioned by any such cause.

Section 3.05 Non Discrimination.

Neither the Development nor any portion thereof shall be used by any party in any manner to permit unlawful discrimination or unlawful restriction on the basis of race, creed, ethnic origin or identity, color, gender, marital status, familial status, age, handicap, sexual orientation, or national origin and the construction and operation of the Development shall be in compliance with all effective laws, ordinances, and regulations relating to discrimination on any of the foregoing grounds.

Section 3.06 Parties and Interest; Survival of Agreements.

Except as otherwise expressly provided herein, this Agreement is made solely for the benefit of the parties hereto and no other person, partnership, association, or corporation shall acquire or have any rights hereunder by virtue hereof. All representations and agreements in this Agreement shall remain operative and at full force and effect regardless of any investigation made by or on behalf of any party. No party may assign its rights under this Agreement without the written consent of the other party.

Section 3.07 Notices.

All notices, demand, certificates, or other communications under this Agreement shall be sufficiently given and shall be deemed given when hand-delivered or when mailed by first class mail postage pre-paid with property addresses indicated below:

To the City: City of Merrill, Wisconsin
 Attention: City Clerk
 1004 East First Street
 Merrill, Wisconsin 54452

With a copy to the City Attorney.

To the Developer: Merrill Area Development Corporation
 % Lincoln County Economic Development Corporation
 Executive Director
 801 N. Sales St., Suite 200
 Merrill, WI 54452

Any party may, by written notice to the other party, designate a change of address for the purposes aforesaid.

Section 3.08 Amendment.

No modification, alteration, or amendment of this Agreement shall be binding upon any party hereto until such modification, alteration, or amendment is reduced to writing and executed by all parties hereto.

Section 3.09 Governing Law.

The laws of the State of Wisconsin shall govern this Agreement.

Section 3.10 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 and provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatsoever.

Section 3.11 Compliance with Law.

The parties shall, in undertaking the construction and operation of the Development, comply with all applicable federal, state, and local laws.

Section 3.12 Authorization.

The execution of this Agreement was authorized by Resolution No. _____ adopted on September ____, 2013 by the Common Council.

IN WITNESS WHEREOF:

The parties have executed this Agreement as of _____, 2013

CITY OF MERRILL, WISCONSIN

William R. Bialecki, Mayor

William N. Heideman, Clerk

Approved:

Approved as to Form:

Katherine G. Unertl, Finance Director

Thomas N. Hayden, City Attorney

STATE OF WISCONSIN)

) ss.

COUNTY OF LINCOLN)

Personally came before me this ____ day of _____, 2013, the above named William R. Bialecki, Mayor and William N. Heideman, Clerk, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

Notary Public, State of Wisconsin

My commission _____

City of Merrill – TIF Development Incentive Overview

TID No. 8 (West Side)

Property Owner:	Site being acquired by Merrill Area Development Corporation (MADC)
Location:	201 S. Prospect St. (Former Hurd Windows & Doors manufacturing facilities)
Development:	Redevelopment of thirty-three (33) acre vacant manufacturing site will include phased process with some planned building demolitions and environmental remediation work.
Jobs:	Initially 35 jobs will be relocated to Merrill with another 40 new jobs created within a year. Potential for additional job growth.
Infrastructure:	None planned
	MADC is willing to dedicate Wisconsin River frontage for proposed River Bend pedestrian and bicycle trail

TID Development Incentives:

MADC	\$200,000 TID No. 8 loan Term: Ten (10) Years @ 2.00% Interest
MADC	\$100,000 TID No. 5 land purchase by the City of Merrill of PIN 251-3107-074-0049 (Five acre site north of Zastrow's) for regional stormwater drainage and future development along N. Pine Ridge Ave. frontage

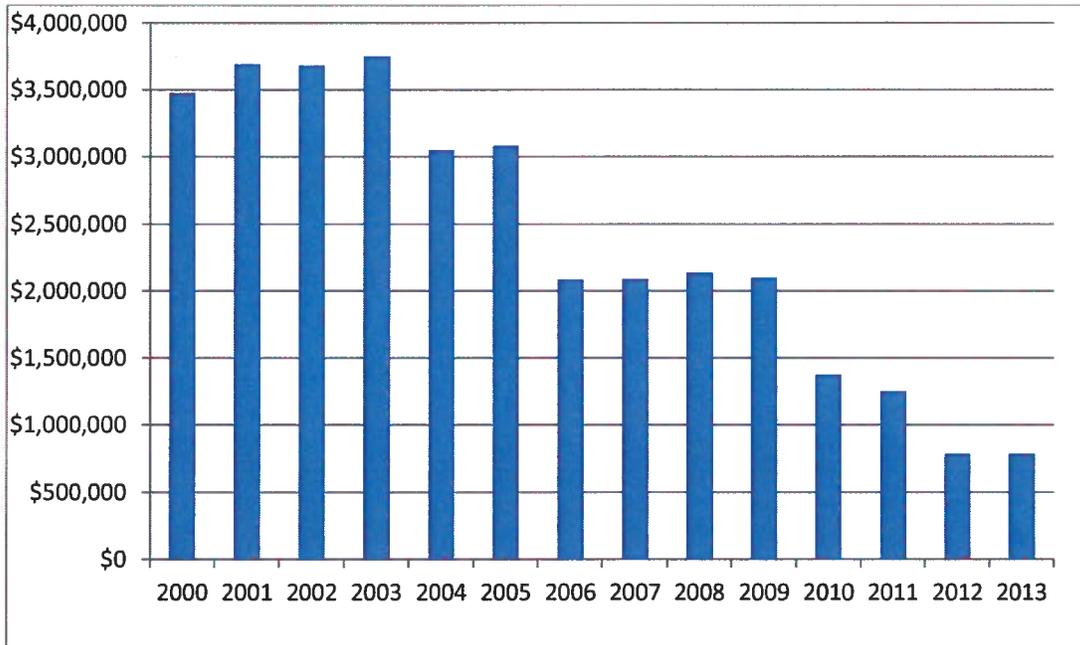
TID Lifespan Tax Increment:

Spreadsheet provided – projected at \$730,066 and likely to be higher than conservative estimates depending on the timing of redevelopment and any potential new building construction

Restoration of Tax Base:

This parcel was once had the highest improved valuation within in the City. Redevelopment will result in future increased real estate valuations.

201 S. Prospect St. - Real Estate Valuations



	Land	Improvements	Total
2000	\$131,200	\$3,343,500	\$3,474,700
2001	\$123,600	\$3,568,200	\$3,691,800
2002	\$123,600	\$3,558,100	\$3,681,700
2003	\$123,600	\$3,626,600	\$3,750,200
2004	\$140,200	\$2,911,200	\$3,051,400
2005	\$141,600	\$2,939,600	\$3,081,200
2006	\$139,100	\$1,948,400	\$2,087,500
2007	\$139,200	\$1,949,900	\$2,089,100
2008	\$142,300	\$1,993,200	\$2,135,500
2009	\$147,000	\$1,951,500	\$2,098,500
2010	\$147,900	\$1,227,700	\$1,375,600
2011	\$147,900	\$1,105,300	\$1,253,200
2012	\$146,500	\$640,300	\$786,800

2013	\$146,500	\$640,300	\$786,800
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City of Merrill - Projected Tax Increment for 201 S. Prospect St.					
Merrill Area Development Corporation (MADC)					
Real Estate		Current	Projected		Projected
		Valuation	Valuation		TID Increment
	Land	\$146,500	\$147,500		\$1,000
	Improved	\$640,300	\$2,000,000	Phased-In	\$1,359,700
	Total	\$786,800	\$2,147,500		\$1,360,700
Will potentially have future new construction?					
Note: Some Personal Property tax increment may result from office equipment. However, most equipment will be Exempt - Manufacturing.					
Projected Tax Increment (TID No. 8 - West Side)					
Const. Year	Value Year	Revenue Year	Total Value Increment	Tax Rate	Real Estate Tax Increment
2013	2014	2015		\$28.13	
2014	2015	2016	\$400,000	\$28.13	\$11,252
2015	2016	2017	\$400,000	\$28.13	\$11,252
2016	2017	2018	\$400,000	\$28.13	\$11,252
2017	2018	2019	\$400,000	\$28.13	\$11,252
2018	2019	2020	\$1,060,700	\$28.13	\$29,837
2019	2020	2021	\$1,060,700	\$28.13	\$29,837
2020	2021	2022	\$1,060,700	\$28.13	\$29,837
2021	2022	2023	\$1,060,700	\$28.13	\$29,837
2022	2023	2024	\$1,060,700	\$28.13	\$29,837
2023	2024	2025	\$1,360,700	\$28.13	\$38,276
2024	2025	2026	\$1,360,700	\$28.13	\$38,276
2025	2026	2027	\$1,360,700	\$28.13	\$38,276
2026	2027	2028	\$1,360,700	\$28.13	\$38,276
2027	2028	2029	\$1,360,700	\$28.13	\$38,276
2028	2029	2030	\$1,360,700	\$28.13	\$38,276
2029	2030	2031	\$1,360,700	\$28.13	\$38,276
2030	2031	2032	\$1,360,700	\$28.13	\$38,276
2031	2032	2033	\$1,360,700	\$28.13	\$38,276
2032	2033	2034	\$1,360,700	\$28.13	\$38,276
2033	2034	2035	\$1,360,700	\$28.13	\$38,276
2034	2035	2036	\$1,360,700	\$28.13	\$38,276
2035	2036	2037	\$1,360,700	\$28.13	\$38,276
2036	2037	2038	\$1,360,700	\$28.13	\$38,276
Projected Tax Increment					\$730,066