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**DEVELOPMENT AGREEMENT  
BY AND BETWEEN THE  
CITY OF MERRILL, WISCONSIN  
AND  
WILLIAM J. FILLMORE AND SUNEI FILLMORE**

THE DEVELOPMENT AGREEMENT (the “Agreement”) is entered into as of \_\_\_\_\_ by and between the City of Merrill, Wisconsin, (the “City”) a political subdivision of the State of Wisconsin, and William J. Fillmore and Sunee Fillmore, (the “Developer”).

**RECITALS**

- A. The City desires to encourage economic development, the development of underutilized land, expand its tax base and retain existing 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:

Section 11, Township 31, Range 6

Part of Assessors Plat No. 505 in Government Lot 2 Beginning at the Southeast corner of Assessor’s Plat #505, thence West 262’, thence North to river, thence Southeast to place of beginning. Shown on Certified Survey Map #2251.

A/K/A 1000 W. Main Street, Merrill, Wisconsin

E. The redevelopment project will include an addition to an existing building with a net increase of approximately 1,300 square feet and installation of new equipment.

F. As an inducement to Developer to undertake the Development in the Development Area and to construct or cause to construct the Development, the City and the RDA intend to provide an incentive to Developer by making an incentive payment to the Developer for project costs incurred. The redevelopment project will include building expansion and installation of new equipment within the Development Area.

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

H. 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, retaining existing 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. Created a tax increment finance district (TID No. 8) in accordance with Wis. Stat. §66.1105 including the development site.

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. Acquired all necessary real estate interests.
- b. Raised equity and financing necessary for the development.
- c. File site plan and permit applications with the City.
- d. Contract for development construction.
- e. Developer will commence new construction by June 1, 2013 with occupancy planned by December 1, 2013. The new tax increment would be generated beginning with 2013 property tax (2014 collection).
- f. This development incentive is for building expansion and new job creation.

## ARTICLE II

### INCENTIVE PAYMENT TO DEVELOPER

The City shall pay a development incentive to Developer in the aggregate amount of seventeen thousand, five hundred and no/100 Dollars (\$17,500). This incentive shall be paid to William J. Fillmore and Sunee Fillmore as follows:

Within 30 days after occupancy (Anticipated 2013)	\$5,000
Annually by September 1 <sup>st</sup> for five (5) years Beginning in 2014 through 2018	\$2,500

## 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. As an express condition for such consent, the City shall require purchaser to annually pay to the City an amount equal to all property taxes, which would have accrued to the Development Area if it were subject to property taxation. Any such payments shall be considered tax increment and shall be applied as set forth in above.

#### Section 3.02 Indemnification.

William J. Fillmore and Sunee Fillmore 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.



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 City Authorization.

The execution of this Agreement was authorized by Resolution No. \_\_\_\_\_ adopted on February 12, 2013, by the Common Council



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**DEVELOPMENT AGREEMENT  
BY AND BETWEEN THE  
CITY OF MERRILL, WISCONSIN  
AND  
MARK A. RAYMER**

THE DEVELOPMENT AGREEMENT (the "Agreement") is entered into as of \_\_\_\_\_ by and between the City of Merrill, Wisconsin, (the "City") a political subdivision of the State of Wisconsin, and Mark A. Raymer, (the "Developer").

**RECITALS**

- A. The City desires to encourage economic development, the development of underutilized land, expand its tax base and retain existing 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:
  - J.M. Smith & Company Third Addition
  - East 52' of Lots 7 and 8 and South 45' of the East 52' of Lot 9 in Block 11.
  - A/K/A 1502 W. Main Street, Merrill, Wisconsin
- E. The redevelopment project will include façade restoration and both retail and residential interior rehabilitation.

F. As an inducement to Developer to undertake the Development in the Development Area and to construct or cause to construct the Development, the City and the RDA intend to provide an incentive to Developer by making an incentive payment to the Developer for project costs incurred. The redevelopment project will include façade restoration and both retail and residential interior rehabilitation within the Development Area.

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

H. 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, retaining existing jobs and causing the redevelopment of underutilized property thereby serving a public purpose in accordance with state and local law.

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### Section 1.02 Initial Undertakings of the Developer

- a. Acquired all necessary real estate interests.
- b. Raise equity and financing necessary for the development.
- c. File site plan and permit applications with the City.
- d. Contract for development construction.
- e. Developer will commence new construction by June 1, 2013 with occupancy planned by December 1, 2013. The new tax increment would be generated beginning with 2013 property tax (2014 collection).
- f. This development incentive is for building expansion and new job creation.

## ARTICLE II

### INCENTIVE PAYMENT TO DEVELOPER

The City shall pay a development incentive to Developer in the aggregate amount of Twenty-five thousand and no/100 Dollars (\$25,000). This incentive shall be paid to Mark A. Raymer as follows:

Within 30 days after occupancy (Anticipated 2013)	\$5,000
Annually by September 1 <sup>st</sup> for four (4) years Beginning in 2014 through 2017	\$5,000

## 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. As an express condition for such consent, the City shall require purchaser to annually pay to the City an amount equal to all property taxes, which would have accrued to the Development Area if it were subject to property taxation. Any such payments shall be considered tax increment and shall be applied as set forth in above.

#### Section 3.02 Indemnification.

Mark A. Raymer 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.

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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.

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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.



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.

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