

FINANCE AND PERSONNEL COMMITTEE

City of Kaukauna
Council Chambers
Municipal Services Building
144 W. Second Street, Kaukauna



Monday, May 02, 2022 at 6:10 PM

AGENDA

In-Person

1. Correspondence.
2. Discussion Topics.
 - a. Elect Vice-Chairman.
 - b. Elect Secretary.
 - c. Resignation of Police Officer David Knepfel.
 - [d.](#) Authorization to fill vacant police officer position due to resignation.
 - [e.](#) Amendments to the Kaukauna Housing Authority Agreement.
3. General Matters.
4. Adjourn.

NOTICES

Notice is hereby given that a majority of the City Council will be present at the meeting of the Finance and Personnel Committee scheduled for Monday, May 2, 2022 at 6:10 P.M. to gather information about a subject over which they have decision making responsibility.

IF REQUESTED THREE (3) DAYS PRIOR TO THE MEETING, A SIGN LANGUAGE INTERPRETER WILL BE MADE AVAILABLE AT NO CHARGE.





MEMO

HUMAN RESOURCES

To: Finance and Personnel Committee
From: Shanon Swaney, Human Resources Director
Date: April 29, 2022
Re: Approval to post position

Staff seeks authorization from the Finance and Personnel Committee to fill a Patrol Office vacancy due to the resignation of Officer David Knepfel.



City of Kaukauna
Finance and Personnel Committee
 jn/engr dept

May 2, 2022

Agenda Item #2e
Amendments to PILOT, Loan Agreement, and Agreement to Subordinate to Rad Use

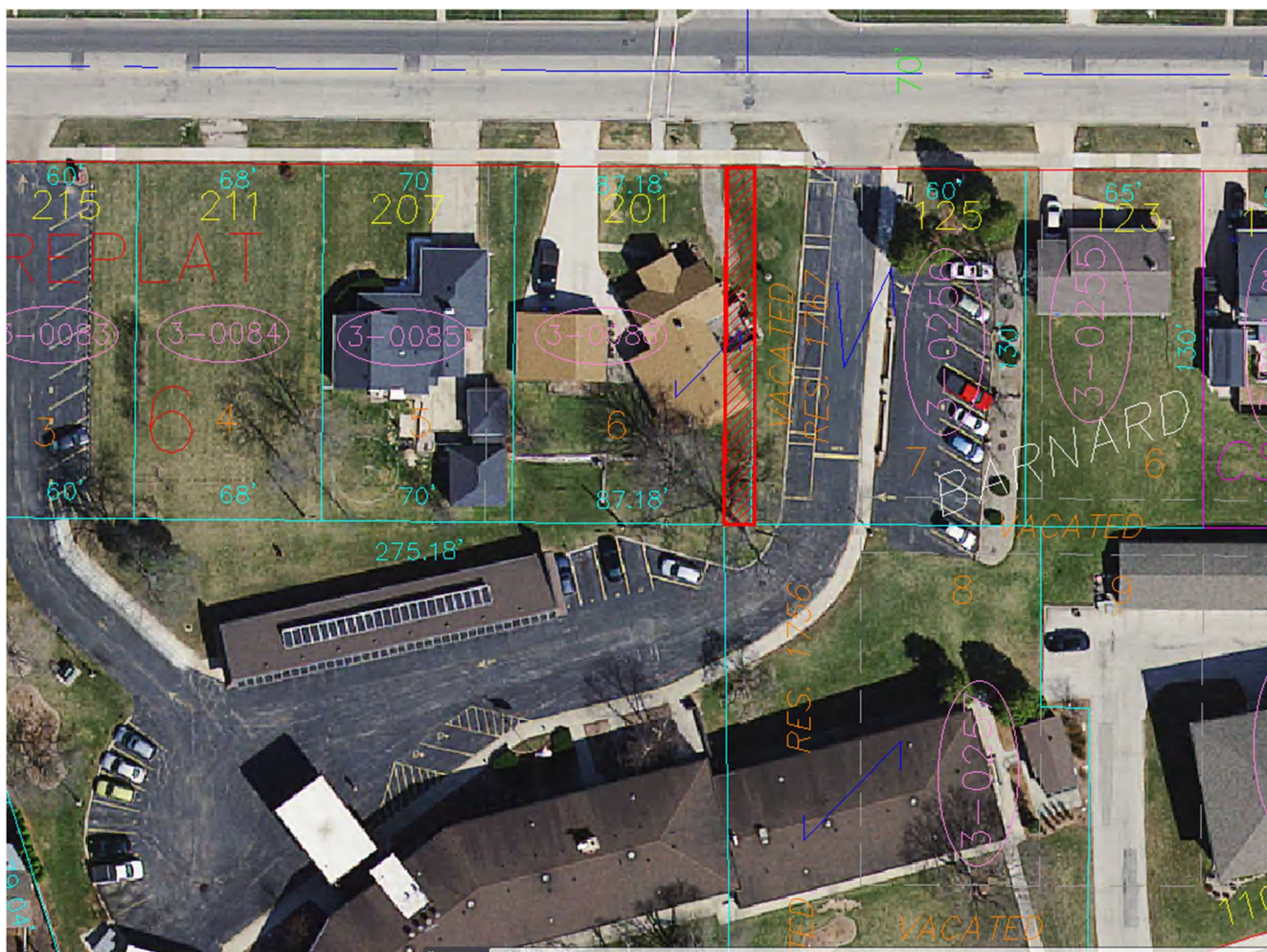
Background

Due to an error found in a legal description for the Kaukauna Housing Authority property, the PILOT Agreement, Loan Agreement and associated Subordination Agreement will require amendments. A note to add a missing Exhibit to the Loan Agreement is also included. The Exhibit was to identify any liens on the property at the time of agreement; there were no liens, but the exhibit is referenced in the Loan Agreement and should be included.

A copy of the proposed amendments are attached.

Recommended Action

Discussion Item. No action needed. A resolution authorizing Mayor and City Clerk to sign the amendments is on Tuesday's Common Council Agenda.



FIRST AMENDMENT TO
HOUSING AUTHORITY OF THE CITY OF
KAUKAUNA
PILOT AGREEMENT

Document

7 PAGES (INCLUDING COVER SHEET)

Recording Area

Name and Return Address:

City of Kaukauna
Atty. Kevin W. Davidson
144 W. Second Street
Kaukauna, WI 54130

See Exhibit A

Parcel Identification Number

This instrument prepared by:
City of Kaukauna
Attorney Kevin Davidson
City Attorney
144 W. Second Street
Kaukauna, WI 54130
(920) 766-6318

**THIS PAGE IS PART OF THIS LEGAL DOCUMENT - DO NOT
REMOVE.**

This information must be completed by submitter: document title name & return address and PIN (if required). Other information such as the granting clause, legal description, etc., may be placed on this first page of the document or may be placed on additional pages of the document.

WRDA Rev. 12/22/2010

FIRST AMENDMENT TO
HOUSING AUTHORITY OF THE CITY OF KAUKAUNA
PILOT AGREEMENT

OWNER: Housing Authority of the City of Kaukauna
OWNER ADDRESS: 125 W. 10th Street Kaukauna, WI 54130
PROPERTY ADDRESS: 125 W. 10th Street Kaukauna, WI 54130
PROPERTY PARCEL IDENTIFICATION NO: Parcel 1 No. 323008300; Parcel 2 No. 323008400; Parcel 3 Nos. 323025600, 323072600, 323025700, 323025001

This Amendment (the "Amendment") is made by and between the Housing Authority of the City of Kaukauna (the "Housing Authority") and the City of Kaukauna, a Wisconsin municipal corporation (the "City") as of the ____day of _____, 2022.

RECITALS

WHEREAS, the Housing Authority and the City entered into that certain PILOT Agreement dated as of November 29, 2021 (the "Agreement") with respect to: (i) certain real property commonly known as 125 W. 10th Street Kaukauna, WI 54130, defined in the Agreement as the "KHA Property", and (ii) certain real property commonly known as 109-117 West 11th Street, Kaukauna, WI 54130, which is defined in the Agreement as the "11th Street Property"; and

WHEREAS, the legal description of the KHA Property originally attached to the Agreement was incorrect, in that it included a ten foot (10') strip of property owned by an adjacent property owner; and

WHEREAS, the parties desire to correct the legal description error as set forth herein.

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. INCORPORATION OF WHEREAS CLAUSES. The parties hereby acknowledge that the above clauses are part of this Agreement.

2. AMENDMENT OF LEGAL DESCRIPTION. The legal description of the KHA Property originally included in the Agreement is hereby amended by deleting Exhibit A of the Agreement, and replacing it in its entirety with the Exhibit A attached hereto.

3. **GENERAL.** The parties agree the Agreement remains in full force and effect, except as expressly modified herein. The laws of the State of Wisconsin and ordinances and regulations of the City of Kaukauna shall be the governing law with respect to this Amendment. This Amendment may be executed electronically and in counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by duly authorized representatives as of the date and year first written above.

[SIGNATURE PAGE TO FOLLOW]

CITY OF KAUKAUNA

BY _____
 Anthony J. Penterman, Mayor

Attest: _____
 Sally Kenney, City Clerk

STATE OF WISCONSIN }
 } SS
 OUTAGAMIE COUNTY }

Personally came before me on _____, 2022, the above named Anthony J. Penterman and Sally A. Kenney, to me known to be the persons who executed the foregoing instrument in their duly authorized capacity and acknowledged the same.

 Notary Public, State of Wisconsin
 My commission expires: _____

HOUSING AUTHORITY OF
THE CITY OF KAUKAUNA

BY _____
 Housing Authority of the City of Kaukauna

STATE OF WISCONSIN }
 } SS
 OUTAGAMIE COUNTY }

Personally came before me on _____, 2022, the above named _____, to me known to be the persons who executed the foregoing instrument in their duly authorized capacity and acknowledged the same.

 Notary Public, State of Wisconsin
 My commission expires: _____

EXHIBIT A

Legal Description – KHA Property

Parcel A(l):

PART OF GOVERNMENT LOTS SEVEN (7) AND EIGHT (8), SECTION TWENTY-TWO (22), TOWNSHIP TWENTY-ONE (21) NORTH, RANGE EIGHTEEN (18) EAST AND PART OF LOTS SEVEN (7) AND EIGHT (8), BLOCK THREE (3) AND LOT SEVEN (7), BLOCK FOUR (4), ALL ACCORDING TO THE RECORDED PLAT OF BARNARD JACOB'S ADDITION TO SOUTH KAUKAUNA AND THAT PART OF VACATED STREET AND ALLEY LYING ADJACENT THERETO, ALL IN THE CITY OF KAUKAUNA, OUTAGAMIE COUNTY, WISCONSIN, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF THE REPLAT OF BLOCK 6, BLACKWELL BROS. ADDITION TO THE CITY OF KAUKAUNA, WISCONSIN, SAID POINT BEING ON THE EAST LINE OF GOVERNMENT LOT 8; THENCE SOUTH 89° 51' WEST ALONG THE SOUTH LINE OF SAID REPLAT OF BLOCK 6, 275.18 FEET; THENCE NORTH 00° 17' WEST ALONG THE WEST LINE OF LOT 3 OF THE REPLAT OF BLOCK 6, 2.92 FEET; THENCE SOUTH 61° 38' WEST ALONG THE SOUTHERLY LINE OF LOT 2 OF THE REPLAT OF BLOCK 6, 18.63 FEET; THENCE SOUTH 18° 20' EAST, 471.47 FEET; THENCE ALONG THE ARC OF A 31° 30' CURVE (ARC DEFINITION) TO THE LEFT, 105.56 FEET, THE LONG CHORD OF WHICH BEARS NORTH 56° 02' EAST, 104.42 FEET; THENCE NORTH 39° 50' EAST, 97.14 FEET TO A POINT ON THE EAST LINE OF GOVERNMENT LOT 8, BEING THE WEST LINE OF LOT 7; THENCE CONTINUING NORTH 39° 50' EAST, 120.42 FEET TO THE POINT OF CURVE; THENCE ALONG THE ARC OF A 23° 26' CURVE (ARC DEFINITION) TO THE RIGHT 45.28 FEET, THE LONG CHORD OF WHICH BEARS NORTH 45° 19' EAST, 45.25 FEET; THENCE NORTH 00° 19' EAST ALONG THE EAST LINE OF LOT 8, BLOCK THREE (3), BERNARD JACOBS ADDITION TO THE CITY OF KAUKAUNA AND ITS NORTHERLY EXTENSION,

196.42 FEET; THENCE SOUTH 89° 51' WEST, 6.00 FEET; THENCE NORTH 00° 09' WEST, ALONG A LINE PARALLEL TO AND 6 FEET WEST OF THE EAST LINE OF LOT 7, BLOCK 3 OF SAID BERNARD JACOBS ADDITION, 130.00 FEET; THENCE SOUTH 89° 51' WEST, 109.92 FEET, TO THE NORTHEAST CORNER OF THE REPLAT OF THE SAID BLOCK 6; THENCE SOUTH 00° 09' EAST ALONG THE EAST LINE OF SAID REPLAT OF BLOCK 6, BEING THE EAST LINE OF GOVERNMENT LOT 8 AND THE WEST LINE OF GOVERNMENT LOT 7, 130.00 FEET TO THE PLACE OF BEGINNING.

EXCEPT THE FOLLOWING DESCRIBED PARCEL:

COMMENCING AT THE INTERSECTION OF THE SOUTH LINE OF THE WEST 10TH STREET AND THE EAST LINE OF GOVERNMENT LOT 8, SECTION 22, TOWN 21 NORTH, RANGE 18 EAST IN THE FOURTH WARD, CITY OF KAUKAUNA, OUTAGAMIE COUNTY, WISCONSIN: THENCE SOUTHERLY ALONG THE EAST LINE OF SAID GOVERNMENT LOT 8 (BEING ALSO THE EAST LINE OF LOT 6, REPLAT OF BLOCK 6, BLACKWELL BROS. ADDITION) 130.0 FEET TO THE SOUTHEAST CORNER OF SAID LOT 6; THENCE N. 89°51' E, AND BEING PARALLEL TO THE SOUTH LINE OF WEST 10TH STREET, 10.00 FEET TO A POINT; THENCE NORTHERLY, PARALLEL TO AND 10.00 FEET EASTERLY OF THE EAST LINE OF SAID GOVERNMENT LOT 8 (BEING ALSO THE EAST LINE OF SAID LOT 6), TO A POINT ON THE SOUTH LINE OF WEST 10TH STREET; THENCE S. 89°51' WEST ALONG THE SAID SOUTH LINE OF WEST 10TH STREET, 10.00 FEET TO THE POINT OF BEGINNING. THE ABOVE PARCEL OF LAND BEING PART OF VACATED HENDRICKS AVENUE, AS CONVEYED IN WARRANTY DEED RECORDED ON MAY 9, 1969 IN VOLUME 806, PAGE 146 AS DOCUMENT NO. 623181.

Parcel A(II):

PART OF LOT NINE (9), BLOCK THREE (3), AND PART OF VACATED 11TH STREET, ALL IN BARNARD JACOB'S ADDITION TO SOUTH KAUKAUNA, CITY OF KAUKAUNA, OUTAGAMIE COUNTY,

WISCONSIN, DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE WEST LINE OF MAIN AVENUE WITH THE CENTERLINE OF THE VACATED ALLEY IN SAID BLOCK 3; THENCE NORTH 89° 43' 56" WEST, 267.00 FEET ALONG SAID CENTERLINE TO A POINT; THENCE SOUTH 00° 09' 47" WEST, 147.46 FEET TO THE NORTH LINE OF RELOCATED 11TH STREET; THENCE SOUTHWESTERLY ALONG THE ARC OF A 244.53 FOOT RADIUS CURVE OF SAID NORTH LINE HAVING A CHORD WHICH BEARS SOUTH 62° 49' 35" WEST AND IS 97.94 FEET IN LENGTH TO THE SOUTHERLY EXTENSION OF THE WEST LINE OF SAID LOT 9, BEING THE POINT OF BEGINNING; THENCE NORTH 00° 09' 47" EAST, 124.59 FEET ALONG SAID EXTENSION OF SAID WEST LINE AND THE NORTHERLY EXTENSION OF SAID WEST LINE OF LOT 9 TO A POINT; THENCE SOUTH 89° 43' 56" EAST, 18.00 FEET TO A POINT; THENCE SOUTH 00° 09' 47" WEST PARALLEL TO THE WEST LINE OF SAID LOT 9 TO A POINT ON THE NORTH LINE OF RELOCATED 11TH STREET; THENCE SOUTHWESTERLY ALONG THE ARC OF A CURVE OF SAID NORTH LINE TO THE POINT OF BEGINNING.

FOR INFORMATIONAL PURPOSES ONLY:

TAX PARCEL NO. 323072600, 323025700, 323026001 and 323025600

PARCEL B:

ALL OF LOT 3, IN BLOCK 6, BLACKWELL BROS. ADDITION, VILLAGE OF LEDYARD, NOW A PART OF THE CITY OF KAUKAUNA, WISCONSIN, ACCORDING TO THE REPLAT OF SAID BLOCK 6.

AND

LOT FOUR (4), BLOCK SIX (6), BLACKWELL BROTHER'S ADDITION, THIRD WARD, CITY OF KAUKAUNA, OUTAGAMIE COUNTY, WISCONSIN, ACCORDING TO THE REPLAT OF SAID BLOCK SIX (6).

FOR INFORMATIONAL PURPOSES ONLY:

TAX PARCEL NO. 323008300 and 323008400

FIRST AMENDMENT TO
LOAN AGREEMENT

Document

8 PAGES (INCLUDING COVER SHEET)

Recording Area

Name and Return Address:

City of Kaukauna
Atty. Kevin W. Davidson
144 W. Second Street
Kaukauna, WI 54130

See Exhibit A
Parcel Identification Number

This instrument prepared by:
City of Kaukauna
Attorney Kevin Davidson
City Attorney
144 W. Second Street
Kaukauna, WI 54130
(920) 766-6318

**THIS PAGE IS PART OF THIS LEGAL DOCUMENT - DO NOT
REMOVE.**

This information must be completed by submitter: document title name & return address and PIN (if required). Other information such as the granting clause, legal description, etc., may be placed on this first page of the document or may be placed on additional pages of the document.

WRDA Rev. 12/22/2010

FIRST AMENDMENT TO LOAN AGREEMENT

OWNER: Housing Authority of the City of Kaukauna
 OWNER ADDRESS: 125 W. 10th Street Kaukauna, WI 54130
 PROPERTY ADDRESS: 125 W. 10th Street Kaukauna, WI 54130
 PROPERTY PARCEL IDENTIFICATION NO: Parcel 1 No. 323008300; Parcel 2 No. 323008400; Parcel 3 Nos. 323025600, 323072600, 323025700, 323025001

This Amendment (the "Amendment") is made by and between the Kaukauna RAD, LLC (the "RAD") and the City of Kaukauna, a Wisconsin municipal corporation (the "City") as of the ____ day of _____, 2022.

RECITALS

THIS LOAN AGREEMENT (this "Agreement") is dated effective February 28, 2022 (the "Effective Date"), and is entered into by and between Kaukauna RAD, LLC, a Wisconsin limited liability company (the "Borrower") and the City of Kaukauna, 144 W 2nd Street, Kaukauna, Wisconsin 54130; and

WHEREAS, the legal description of Exhibit D originally attached to the Agreement was incorrect, in that it included a ten foot (10') strip of property owned by an adjacent property owner; and

WHEREAS, the legal description of Exhibit E originally attached to the Agreement was incorrect, in that it included a ten foot (10') strip of property owned by an adjacent property owner; and

WHEREAS, the legal description of Exhibit F originally attached to the Agreement was incorrect, in that it included a ten foot (10') strip of property owned by an adjacent property owner; and

WHEREAS, the parties desire to correct the legal description error as set forth herein; and

WHEREAS, Exhibit G "Permitted Liens" was not attached to the original Agreement;

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. INCORPORATION OF WHEREAS CLAUSES. The parties hereby acknowledge that the above clauses are part of this Agreement.

2. AMENDMENT OF LEGAL DESCRIPTION. The legal description originally included in the Agreement is hereby amended by deleting Exhibit D of the Agreement, and replacing it in its entirety with the Exhibit A attached hereto.

3. AMENDMENT OF LEASEHOLD MORTGAGE. The legal description originally included in the Agreement is hereby amended by deleting Exhibit A of the Leasehold Mortgage known as Exhibit E, and replacing it in its entirety with the Exhibit A attached hereto.

4. AMENDMENT OF ASSIGNMENTS OF LEASES AND RENTS. The legal description originally included in the Agreement is hereby amended by deleting Exhibit A of the Assignments of Leases and Rents known as Exhibit F, and replacing it in its entirety with the Exhibit A attached hereto.

5. EXHIBIT G. The Permitted Liens originally mentioned in the Agreement is hereby amended and replacing it its entirety with Exhibit B attached hereto.

4. GENERAL. The parties agree the Agreement remains in full force and effect, except as expressly modified herein The laws of the State of Wisconsin and ordinances and regulations of the City of Kaukauna shall be the governing law with respect to this Amendment. This Amendment may be executed electronically and in counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by duly authorized representatives as of the date and year first written above.

[SIGNATURE PAGE TO FOLLOW]

CITY OF KAUKAUNA

BY _____
 Anthony J. Penterman, Mayor

Attest: _____
 Sally Kenney, City Clerk

STATE OF WISCONSIN }
 } SS
 OUTAGAMIE COUNTY }

Personally came before me on _____, 2022, the above named Anthony J. Penterman and Sally A. Kenney, to me known to be the persons who executed the foregoing instrument in their duly authorized capacity and acknowledged the same.

 Notary Public, State of Wisconsin
 My commission expires: _____

KAUKAUNA RAD MM, LLC By
 COMMONWEALTH HOLDINGS, LLC

BY _____
 Kristi Morgan, Manager

STATE OF WISCONSIN }
 } SS
 OUTAGAMIE COUNTY }

Personally came before me on _____, 2022, the above named Kristi Morgan, to me known to be the person who executed the foregoing instrument in their duly authorized capacity and acknowledged the same.

 Notary Public, State of Wisconsin
 My commission expires: _____

EXHIBIT A

Legal Description – KHA Property

Parcel A(l):

PART OF GOVERNMENT LOTS SEVEN (7) AND EIGHT (8), SECTION TWENTY-TWO (22), TOWNSHIP TWENTY-ONE (21) NORTH, RANGE EIGHTEEN (18) EAST AND PART OF LOTS SEVEN (7) AND EIGHT (8), BLOCK THREE (3) AND LOT SEVEN (7), BLOCK FOUR (4), ALL ACCORDING TO THE RECORDED PLAT OF BARNARD JACOB'S ADDITION TO SOUTH KAUKAUNA AND THAT PART OF VACATED STREET AND ALLEY LYING ADJACENT THERETO, ALL IN THE CITY OF KAUKAUNA, OUTAGAMIE COUNTY, WISCONSIN, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF THE REPLAT OF BLOCK 6, BLACKWELL BROS. ADDITION TO THE CITY OF KAUKAUNA, WISCONSIN, SAID POINT BEING ON THE EAST LINE OF GOVERNMENT LOT 8; THENCE SOUTH 89° 51' WEST ALONG THE SOUTH LINE OF SAID REPLAT OF BLOCK 6, 275.18 FEET; THENCE NORTH 00° 17' WEST ALONG THE WEST LINE OF LOT 3 OF THE REPLAT OF BLOCK 6, 2.92 FEET; THENCE SOUTH 61° 38' WEST ALONG THE SOUTHERLY LINE OF LOT 2 OF THE REPLAT OF BLOCK 6, 18.63 FEET; THENCE SOUTH 18° 20' EAST, 471.47 FEET; THENCE ALONG THE ARC OF A 31° 30' CURVE (ARC DEFINITION) TO THE LEFT, 105.56 FEET, THE LONG CHORD OF WHICH BEARS NORTH 56° 02' EAST, 104.42 FEET; THENCE NORTH 39° 50' EAST, 97.14 FEET TO A POINT ON THE EAST LINE OF GOVERNMENT LOT 8, BEING THE WEST LINE OF LOT 7; THENCE CONTINUING NORTH 39° 50' EAST, 120.42 FEET TO THE POINT OF CURVE; THENCE ALONG THE ARC OF A 23° 26' CURVE (ARC DEFINITION) TO THE RIGHT 45.28 FEET, THE LONG CHORD OF WHICH BEARS NORTH 45° 19' EAST, 45.25 FEET; THENCE NORTH 00° 19' EAST ALONG THE EAST LINE OF LOT 8, BLOCK THREE (3), BERNARD JACOBS ADDITION TO THE CITY OF KAUKAUNA AND ITS NORTHERLY EXTENSION,

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EXCEPT THE FOLLOWING DESCRIBED PARCEL:

COMMENCING AT THE INTERSECTION OF THE SOUTH LINE OF THE WEST 10TH STREET AND THE EAST LINE OF GOVERNMENT LOT 8, SECTION 22, TOWN 21 NORTH, RANGE 18 EAST IN THE FOURTH WARD, CITY OF KAUKAUNA, OUTAGAMIE COUNTY, WISCONSIN: THENCE SOUTHERLY ALONG THE EAST LINE OF SAID GOVERNMENT LOT 8 (BEING ALSO THE EAST LINE OF LOT 6, REPLAT OF BLOCK 6, BLACKWELL BROS. ADDITION) 130.0 FEET TO THE SOUTHEAST CORNER OF SAID LOT 6; THENCE N. 89°51' E, AND BEING PARALLEL TO THE SOUTH LINE OF WEST 10TH STREET, 10.00 FEET TO A POINT; THENCE NORTHERLY, PARALLEL TO AND 10.00 FEET EASTERLY OF THE EAST LINE OF SAID GOVERNMENT LOT 8 (BEING ALSO THE EAST LINE OF SAID LOT 6), TO A POINT ON THE SOUTH LINE OF WEST 10TH STREET; THENCE S. 89°51' WEST ALONG THE SAID SOUTH LINE OF WEST 10TH STREET, 10.00 FEET TO THE POINT OF BEGINNING. THE ABOVE PARCEL OF LAND BEING PART OF VACATED HENDRICKS AVENUE, AS CONVEYED IN WARRANTY DEED RECORDED ON MAY 9, 1969 IN VOLUME 806, PAGE 146 AS DOCUMENT NO. 623181.

Parcel A(II):

PART OF LOT NINE (9), BLOCK THREE (3), AND PART OF VACATED 11TH STREET, ALL IN BARNARD JACOB'S ADDITION TO SOUTH KAUKAUNA, CITY OF KAUKAUNA, OUTAGAMIE COUNTY,

WISCONSIN, DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE WEST LINE OF MAIN AVENUE WITH THE CENTERLINE OF THE VACATED ALLEY IN SAID BLOCK 3; THENCE NORTH 89° 43' 56" WEST, 267.00 FEET ALONG SAID CENTERLINE TO A POINT; THENCE SOUTH 00° 09' 47" WEST, 147.46 FEET TO THE NORTH LINE OF RELOCATED 11TH STREET; THENCE SOUTHWESTERLY ALONG THE ARC OF A 244.53 FOOT RADIUS CURVE OF SAID NORTH LINE HAVING A CHORD WHICH BEARS SOUTH 62° 49' 35" WEST AND IS 97.94 FEET IN LENGTH TO THE SOUTHERLY EXTENSION OF THE WEST LINE OF SAID LOT 9, BEING THE POINT OF BEGINNING; THENCE NORTH 00° 09' 47" EAST, 124.59 FEET ALONG SAID EXTENSION OF SAID WEST LINE AND THE NORTHERLY EXTENSION OF SAID WEST LINE OF LOT 9 TO A POINT; THENCE SOUTH 89° 43' 56" EAST, 18.00 FEET TO A POINT; THENCE SOUTH 00° 09' 47" WEST PARALLEL TO THE WEST LINE OF SAID LOT 9 TO A POINT ON THE NORTH LINE OF RELOCATED 11TH STREET; THENCE SOUTHWESTERLY ALONG THE ARC OF A CURVE OF SAID NORTH LINE TO THE POINT OF BEGINNING.

FOR INFORMATIONAL PURPOSES ONLY:
TAX PARCEL NO. 323072600, 323025700, 323026001 and 323025600

PARCEL B:

ALL OF LOT 3, IN BLOCK 6, BLACKWELL BROS. ADDITION, VILLAGE OF LEDYARD, NOW A PART OF THE CITY OF KAUKAUNA, WISCONSIN, ACCORDING TO THE REPLAT OF SAID BLOCK 6.

AND

LOT FOUR (4), BLOCK SIX (6), BLACKWELL BROTHER'S ADDITION, THIRD WARD, CITY OF KAUKAUNA, OUTAGAMIE COUNTY, WISCONSIN, ACCORDING TO THE REPLAT OF SAID BLOCK SIX (6).

FOR INFORMATIONAL PURPOSES ONLY:
TAX PARCEL NO. 323008300 and 323008400

EXHIBIT B

PERMITTED LIENS

No liens at time of agreement/recording.

FIRST AMENDMENT TO
THE AGREEMENT TO SUBORDINATE TO
RAD USE AGREEMENT CITY OF KAUKAUNA
LOAN

Document

6 PAGES (INCLUDING COVER SHEET)

Recording Area

Name and Return Address:

City of Kaukauna
Atty. Kevin W. Davidson
144 W. Second Street
Kaukauna, WI 54130

See Exhibit A
Parcel Identification Number

This instrument prepared by:
City of Kaukauna
Attorney Kevin Davidson
City Attorney
144 W. Second Street
Kaukauna, WI 54130
(920) 766-6318

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WRDA Rev. 12/22/2010

FIRST AMENDMENT TO
THE AGREEMENT TO SUBORDINATE TO RAD USE AGREEMENT
CITY OF KAUKAUNA LOAN

OWNER: Housing Authority of the City of Kaukauna
OWNER ADDRESS: 125 W. 10th Street Kaukauna, WI 54130
PROPERTY ADDRESS: 125 W. 10th Street Kaukauna, WI 54130
PROPERTY PARCEL IDENTIFICATION NO: Parcel 1 No. 323008300; Parcel 2 No. 323008400; Parcel 3 Nos. 323025600, 323072600, 323025700, 323025001

This Amendment (the "Amendment") is made by and between the Kaukauna RAD, LLC (the "RAD") and the City of Kaukauna, a Wisconsin municipal corporation (the "City") as of the ____day of _____, 2022.

RECITALS

This Agreement to Subordinate to Rental Assistance Demonstration Use Agreement (this "**Subordination**") is entered into as of this 28th day of February, 2022, by the **City of Kaukauna** (the "**Lender**") and **Kaukauna RAD, LLC**, a Wisconsin limited liability company (the "**Project Owner**"), collectively the "**Parties.**"; and

WHEREAS, the legal description of Exhibit A originally attached to the Agreement was incorrect, in that it included a ten foot (10') strip of property owned by an adjacent property owner; and

WHEREAS, the parties desire to correct the legal description error as set forth herein; and

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **INCORPORATION OF WHEREAS CLAUSES.** The parties hereby acknowledge that the above clauses are part of this Agreement.
2. **AMENDMENT OF LEGAL DESCRIPTION.** The legal description originally included in the Agreement is hereby amended by deleting Exhibit A of the Agreement to Subordinate to RAD Use Agreement City of Kaukauna Loan, and replacing it in its entirety with the Exhibit A attached hereto.
3. **GENERAL.** The parties agree the Agreement remains in full force and effect, except as expressly modified herein. The laws of the State of Wisconsin and ordinances and regulations of the City of Kaukauna shall be the governing law with respect to this Amendment. This Amendment may be executed electronically and in counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by duly authorized representatives as of the date and year first written above.

CITY OF KAUKAUNA

BY _____
Anthony J. Penterman, Mayor

Attest: _____
Sally Kenney, City Clerk

STATE OF WISCONSIN }
 } SS
OUTAGAMIE COUNTY }

Personally came before me on _____, 2022, the above named Anthony J. Penterman and Sally A. Kenney, to me known to be the persons who executed the foregoing instrument in their duly authorized capacity and acknowledged the same.

Notary Public, State of Wisconsin
My commission expires: _____

KAUKAUNA RAD MM, LLC By
COMMONWEALTH HOLDINGS, LLC

BY _____
Kristi Morgan, Manager

STATE OF WISCONSIN }
 } SS
OUTAGAMIE COUNTY }

Personally came before me on _____, 2022, the above named Kristi Morgan, to me known to be the person who executed the foregoing instrument in their duly authorized capacity and acknowledged the same.

Notary Public, State of Wisconsin
My commission expires: _____

EXHIBIT A

Legal Description – KHA Property

Parcel A(l):

PART OF GOVERNMENT LOTS SEVEN (7) AND EIGHT (8), SECTION TWENTY-TWO (22), TOWNSHIP TWENTY-ONE (21) NORTH, RANGE EIGHTEEN (18) EAST AND PART OF LOTS SEVEN (7) AND EIGHT (8), BLOCK THREE (3) AND LOT SEVEN (7), BLOCK FOUR (4), ALL ACCORDING TO THE RECORDED PLAT OF BARNARD JACOB'S ADDITION TO SOUTH KAUKAUNA AND THAT PART OF VACATED STREET AND ALLEY LYING ADJACENT THERETO, ALL IN THE CITY OF KAUKAUNA, OUTAGAMIE COUNTY, WISCONSIN, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF THE REPLAT OF BLOCK 6, BLACKWELL BROS. ADDITION TO THE CITY OF KAUKAUNA, WISCONSIN, SAID POINT BEING ON THE EAST LINE OF GOVERNMENT LOT 8; THENCE SOUTH 89° 51' WEST ALONG THE SOUTH LINE OF SAID REPLAT OF BLOCK 6, 275.18 FEET; THENCE NORTH 00° 17' WEST ALONG THE WEST LINE OF LOT 3 OF THE REPLAT OF BLOCK 6, 2.92 FEET; THENCE SOUTH 61° 38' WEST ALONG THE SOUTHERLY LINE OF LOT 2 OF THE REPLAT OF BLOCK 6, 18.63 FEET; THENCE SOUTH 18° 20' EAST, 471.47 FEET; THENCE ALONG THE ARC OF A 31° 30' CURVE (ARC DEFINITION) TO THE LEFT, 105.56 FEET, THE LONG CHORD OF WHICH BEARS NORTH 56° 02' EAST, 104.42 FEET; THENCE NORTH 39° 50' EAST, 97.14 FEET TO A POINT ON THE EAST LINE OF GOVERNMENT LOT 8, BEING THE WEST LINE OF LOT 7; THENCE CONTINUING NORTH 39° 50' EAST, 120.42 FEET TO THE POINT OF CURVE; THENCE ALONG THE ARC OF A 23° 26' CURVE (ARC DEFINITION) TO THE RIGHT 45.28 FEET, THE LONG CHORD OF WHICH BEARS NORTH 45° 19' EAST, 45.25 FEET; THENCE NORTH 00° 19' EAST ALONG THE EAST LINE OF LOT 8, BLOCK THREE (3), BERNARD JACOBS ADDITION TO THE CITY OF KAUKAUNA AND ITS NORTHERLY EXTENSION,

196.42 FEET; THENCE SOUTH 89° 51' WEST, 6.00 FEET; THENCE NORTH 00° 09' WEST, ALONG A LINE PARALLEL TO AND 6 FEET WEST OF THE EAST LINE OF LOT 7, BLOCK 3 OF SAID BERNARD JACOBS ADDITION, 130.00 FEET; THENCE SOUTH 89° 51' WEST, 109.92 FEET, TO THE NORTHEAST CORNER OF THE REPLAT OF THE SAID BLOCK 6; THENCE SOUTH 00° 09' EAST ALONG THE EAST LINE OF SAID REPLAT OF BLOCK 6, BEING THE EAST LINE OF GOVERNMENT LOT 8 AND THE WEST LINE OF GOVERNMENT LOT 7, 130.00 FEET TO THE PLACE OF BEGINNING.

EXCEPT THE FOLLOWING DESCRIBED PARCEL:

COMMENCING AT THE INTERSECTION OF THE SOUTH LINE OF THE WEST 10TH STREET AND THE EAST LINE OF GOVERNMENT LOT 8, SECTION 22, TOWN 21 NORTH, RANGE 18 EAST IN THE FOURTH WARD, CITY OF KAUKAUNA, OUTAGAMIE COUNTY, WISCONSIN: THENCE SOUTHERLY ALONG THE EAST LINE OF SAID GOVERNMENT LOT 8 (BEING ALSO THE EAST LINE OF LOT 6, REPLAT OF BLOCK 6, BLACKWELL BROS. ADDITION) 130.0 FEET TO THE SOUTHEAST CORNER OF SAID LOT 6; THENCE N. 89°51' E, AND BEING PARALLEL TO THE SOUTH LINE OF WEST 10TH STREET, 10.00 FEET TO A POINT; THENCE NORTHERLY, PARALLEL TO AND 10.00 FEET EASTERLY OF THE EAST LINE OF SAID GOVERNMENT LOT 8 (BEING ALSO THE EAST LINE OF SAID LOT 6), TO A POINT ON THE SOUTH LINE OF WEST 10TH STREET; THENCE S. 89°51' WEST ALONG THE SAID SOUTH LINE OF WEST 10TH STREET, 10.00 FEET TO THE POINT OF BEGINNING. THE ABOVE PARCEL OF LAND BEING PART OF VACATED HENDRICKS AVENUE, AS CONVEYED IN WARRANTY DEED RECORDED ON MAY 9, 1969 IN VOLUME 806, PAGE 146 AS DOCUMENT NO. 623181.

Parcel A(II):

PART OF LOT NINE (9), BLOCK THREE (3), AND PART OF VACATED 11TH STREET, ALL IN BARNARD JACOB'S ADDITION TO SOUTH KAUKAUNA, CITY OF KAUKAUNA, OUTAGAMIE COUNTY,

WISCONSIN, DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE WEST LINE OF MAIN AVENUE WITH THE CENTERLINE OF THE VACATED ALLEY IN SAID BLOCK 3; THENCE NORTH 89° 43' 56" WEST, 267.00 FEET ALONG SAID CENTERLINE TO A POINT; THENCE SOUTH 00° 09' 47" WEST, 147.46 FEET TO THE NORTH LINE OF RELOCATED 11TH STREET; THENCE SOUTHWESTERLY ALONG THE ARC OF A 244.53 FOOT RADIUS CURVE OF SAID NORTH LINE HAVING A CHORD WHICH BEARS SOUTH 62° 49' 35" WEST AND IS 97.94 FEET IN LENGTH TO THE SOUTHERLY EXTENSION OF THE WEST LINE OF SAID LOT 9, BEING THE POINT OF BEGINNING; THENCE NORTH 00° 09' 47" EAST, 124.59 FEET ALONG SAID EXTENSION OF SAID WEST LINE AND THE NORTHERLY EXTENSION OF SAID WEST LINE OF LOT 9 TO A POINT; THENCE SOUTH 89° 43' 56" EAST, 18.00 FEET TO A POINT; THENCE SOUTH 00° 09' 47" WEST PARALLEL TO THE WEST LINE OF SAID LOT 9 TO A POINT ON THE NORTH LINE OF RELOCATED 11TH STREET; THENCE SOUTHWESTERLY ALONG THE ARC OF A CURVE OF SAID NORTH LINE TO THE POINT OF BEGINNING.

FOR INFORMATIONAL PURPOSES ONLY:
TAX PARCEL NO. 323072600, 323025700, 323026001 and 323025600

PARCEL B:

ALL OF LOT 3, IN BLOCK 6, BLACKWELL BROS. ADDITION, VILLAGE OF LEDYARD, NOW A PART OF THE CITY OF KAUKAUNA, WISCONSIN, ACCORDING TO THE REPLAT OF SAID BLOCK 6.

AND

LOT FOUR (4), BLOCK SIX (6), BLACKWELL BROTHER'S ADDITION, THIRD WARD, CITY OF KAUKAUNA, OUTAGAMIE COUNTY, WISCONSIN, ACCORDING TO THE REPLAT OF SAID BLOCK SIX (6).

FOR INFORMATIONAL PURPOSES ONLY:
TAX PARCEL NO. 323008300 and 323008400

EXHIBIT B – PERMITTED LIENS

1. Ground Lease by and between The Housing Authority of the City of Kaukauna a/k/a Kaukauna Housing Authority, as landlord, and Kaukauna RAD, LLC, a Wisconsin limited liability company, as Tenant, dated February 28, 2022, a Memorandum of Ground Lease of which was recorded in the office of the Register of Deeds for Outagamie County, Wisconsin on March 1, 2022 as Document No. 2263062.
2. Utility Easement to City Kaukauna Electrical and Water Departments and the Wisconsin Telephone Company, dated April 23, 1965, recorded/filed May 07, 1965 in Volume 690, Page 38.
3. Restrictions, dedications, conditions, reservations, easements and other matters shown on the plat of Replat of Block 6 Blackwell Bros. Add'n, as recorded in October 21, 1943 in Cabinet A of Plats, Page 134 as Document No. 414766.
4. Rental Assistance Demonstration Use Agreement by and between United States Department of Housing and Urban Development, Kaukauna RAD, LLC, a Wisconsin limited liability company and The Housing Authority of the City of Kaukauna a/k/a Kaukauna Housing Authority dated February 28, 2022 and recorded March 1, 2022 as Document No. 2263063.
5. A Construction Leasehold Mortgage, Security Agreement, and Fixture Filing to secure an original principal indebtedness of \$7,816,419.00 from Kaukauna RAD, LLC to Associated Bank National Association dated as of February 28, 2022 recorded March 1, 2022 as Document No. 2263064.
 - a. As affected by Agreement to Subordinate to RAD Use Agreement dated February 28, 2022 and recorded March 2, 2022 as Document No. 2263100.
6. Assignment of Leases and Rents made by Kaukauna RAD, LLC, a Wisconsin limited liability company to Associated Bank, National Association, a national banking association, its successors and assigns recorded March 1, 2022 as Document No. Document No. 2263065
7. Rights of tenants as tenants only, under unrecorded leases of one year or less with no purchase rights