



**Village of Bayside  
9075 N Regent Road  
Board of Trustees Meeting  
July 27, 2023  
Village Board Room, 8:00am**

## **MEETING AGENDA**

**PLEASE TAKE NOTICE** that a meeting of the Bayside Village Board will be held at the Village Hall of the Village of Bayside, 9075 N. Regent Road, Bayside, Wisconsin in addition to virtually. Public can access this meeting of the Village Board by phone or by computer. The phone number is: **+1 312 626 6799**. The Zoom Meeting code is: **824 4368 6232** and the Passcode is: **479770**. <https://bit.ly/3K8TMdV> The following items of business will be discussed and possibly acted upon:

### **I. CALL TO ORDER AND ROLL CALL**

### **II. PLEDGE OF ALLEGIANCE**

### **III. CONSENT AGENDA**

Upon request of any Trustee, any item may be removed from the Consent Agenda for separate consideration.

Approval of:

- A. Consent of Village to Collateral Assignment of Development Agreement and Municipal Revenue Obligations requested by Bayside Development Partners II, LLC and OneNorth Building C, LLC pursuant to terms of Development Agreement Dated December 20, 2021.

### **IV. ADJOURNMENT**

Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. Contact Village Hall at 414-206-3915. It is possible that members of and possibly a quorum of members of other Boards, Commissions, or Committees of the Village may be in attendance in the above stated meeting to gather information; no action will be taken by any other Boards, Commissions, or Committees of the Village except by the Board, Commission, or Committee noticed above. Agendas and minutes are available on the Village website ([www.baysidewi.gov](http://www.baysidewi.gov))



## MEMORANDUM

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*To:* Village of Bayside – Board of Trustees

*From:* Christopher J. Jaekels, Attorney, Village of Bayside

*Date:* July 25, 2023

*Subject:* Request of Bayside Development Partners II, LLC and OneNorth Building C, LLC for Consent of Village to Collateral Assignment of Development Agreement Pursuant to the Terms of the Development Agreement Dated December 20, 2021

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Under Article X, Paragraph J of the December 20, 2021 Development Agreement, the Developers of the OneNorth properties are granted the ability, subject to consent from the Village in its reasonable discretion, to make certain agreements and collateral assignments with third parties. The Developers have made a request to assign collateral and portions of the Agreement to First Business Bank (First Business Bank has a solid financial base and reputation, including \$2.7 Billion in assets). This will enable the Developer to obtain a loan of up to \$29,085,000 as contemplated by the Development Agreement. Moreover, this action leaves MRO obligations of the Parties unchanged. You are provided with a Consent form that has been negotiated between the Developer and the Village. The Bank is requiring that Village consent be provided so that the loan can be closed this month.

The Terms of the Development Agreement and the Consent to Collateral Assignment make it clear that the Developers will remain responsible for all aspects of the Development Agreement in the event that there is some Developer/lender default whether caused by First Business Bank or the Developers. In this sense, the Consent provides more security from risk than the current Agreement without the Consent to Collateral Assignment.

Based on the foregoing, I recommend execution of the Consent.

CJJ/das

**CONSENT OF VILLAGE TO  
COLLATERAL ASSIGNMENT OF  
DEVELOPMENT AGREEMENT AND MUNICIPAL REVENUE OBLIGATIONS**

The Village of Bayside, Wisconsin (the “Village”) hereby consents to the Collateral Assignment of Development Agreement and Municipal Revenue Obligations (the “Assignment”) executed by Bayside Development Partners II, LLC, a Wisconsin limited liability company, and OneNorth Building C, LLC, a Wisconsin limited liability company (collectively, “Developer”) in favor of First Business Bank (“Lender”) with respect to that certain Development Agreement dated as of December 20, 2021 (as amended, the “Development Agreement”).

The Village (1) certifies that Developer is not in default under the Development Agreement and nothing has occurred that, with the giving of notice or the passage of time or both, would constitute such a default, and (2) agrees that if Lender notifies the Village in writing that Lender is exercising its right to assume Developer’s rights and obligations under the Development Agreement, the Village shall continue to perform its obligations under the terms of the Development Agreement in the manner specified in the Development Agreement as if Lender were originally a party to the Development Agreement, including, without limitation, making any and all payments due developer under the MROs (as defined in the Assignment) directly to Lender. Lender’s obligations under the foregoing Assignment are not personal obligations or binding on any of Lender’s assets, except Lender’s interest in the property subject to the Development Agreement (the “Property”).

Nothing in the Assignment constitutes a release by the Village of Developer from its obligations under the Development Agreement even if Lender elects to assume Developer’s rights and obligations thereunder, and to the extent the Development Agreement is not performed by Lender, Developer remains responsible to the Village for all of its obligations under the Development Agreement. The Village shall provide written notice to Lender of any default of Developer under the Development Agreement in the same manner and at the same time as required under the Development Agreement to the following address: First Business Bank, 18500 West Corporate Drive, Brookfield, Wisconsin 53045, Attention: Robert N. Bell, III, Senior Vice President.

VILLAGE OF BAYSIDE

By: \_\_\_\_\_  
Eido M. Walny, Village President

Attest: \_\_\_\_\_  
Rachel Safstrom, Village Clerk

# Article X December 20, 2021 Development Agreement

J. This Agreement may not be assigned by the Developer without the Village's consent, which may be granted or withheld in the Village's reasonable discretion. Developer may collaterally assign this Agreement to Developer's construction lender or to other lenders for the Project. In the event that such construction lender or any other lender forecloses on its collateral and succeeds to ownership any portion of the Project Site, the Village shall fulfill its obligations hereunder provided that such construction lender or other lender assumes in writing all of the obligations of Developer hereunder.

K. Developer shall not be released from any of its obligations hereunder by any sale, foreclosure or other conveyance of all or any portion of the Project Site, either before or after completion of the Project, without the written consent of the Village.

L. Subject to applicable laws, Developer and the Village shall work together expeditiously and in good faith to obtain appropriate project entitlements, including, without limitation, approvals for site plan, architectural, landscaping, traffic, and offsite improvements.

M. Subject to applicable laws, Developer and the Village shall work together expeditiously and in good faith in support of optimizing the overall economic efficiency of the Project through appropriate structuring of such matters as Site Infrastructure financing and construction, etc.

N. This Agreement contains the entire agreement between the Village and Developer with respect to the subject matter of this Agreement and may be amended or modified only by subsequent written agreement duly signed by both parties hereto.

## ARTICLE XI TERMINATION

A. Developer shall have the right to terminate this Agreement immediately upon written notice to the Village in the event that Developer determines that it will not be able to satisfy the Village's preconditions to issuance of the First Additional MRO Bond set forth in Article II. In the event of a termination of this Agreement pursuant to this Section XIA, the MRO Bond shall be terminated and the Village shall thereafter have no further obligations under this Agreement.

B. This Agreement shall automatically terminate and be of no further force or effect upon the last to occur of all of the following:

1. Timely completion of all of Developer's activities set forth on Exhibits D and D-1.
2. Payment in full of the MRO Bond, the First Additional MRO Bond, and the Second Additional MRO Bond;
3. Payment in full by Developer to the Village of any sums due in connection with a demand or claim that has been made by the Village upon Developer in connection with an alleged default in its obligations under this Agreement.