

*Kenosha*



*County*

**BOARD OF SUPERVISORS.**

RESOLUTION NO \_\_\_\_\_

Subject:  RESOLUTION AUTHORIZING A LOAN IN AN AMOUNT NOT TO EXCEED \$6,165,000 TO BEAR DEVELOPMENT, LLC FOR THE PURPOSE OF ACQUIRING AND CONSTRUCTING HOMES FOR THE AGED AND INDIGENT	
Original <input checked="" type="checkbox"/> Corrected <input type="checkbox"/> 2nd Correction <input type="checkbox"/> Resubmitted <input type="checkbox"/>	
Date Submitted:	Date Resubmitted:
Submitted By:  Finance/Administration Committee	
Fiscal Note Attached <input type="checkbox"/>	Legal Note Attached <input type="checkbox"/>
Prepared By:  Bear Development, LLC	Signature:

RESOLUTION AUTHORIZING LOANS IN AN AMOUNT NOT TO EXCEED  
\$6,165,000 TO BEAR DEVELOPMENT, LLC FOR THE PURPOSE OF ACQUIRING AND  
CONSTRUCTING HOMES FOR THE AGED AND INDIGENT

WHEREAS, Bear Development, LLC ( together with its affiliates and assigns, hereby referred to herein as "Bear") has requested four loans in the aggregate amount not to exceed \$6,165,000 (each the "Loan" and collectively the "Loans") to assist with the financing of the construction of two separate apartment developments each of which would provide homes for the aged and indigent (each the "Project" and collectively the "Projects") in Kenosha County (the "County") and are further described in Exhibit A attached hereto and incorporated herein by this reference; and

WHEREAS, counties are authorized by the provisions of Section 59.52(6)(d), Wisconsin Statutes, to acquire and construct homes for the aged and indigent; and

WHEREAS, the County Board of Supervisors has determined that the Projects constitute homes for the aged and indigent and assisting in the financing of the Projects is desirable to support the needs of the County and the residents thereof; and

WHEREAS, in order to finance and undertake either or both Projects it is necessary and desirable for the County to enter into a purchase and sale agreement (the "Agreement") with Bear for the following purposes: (1) Bear conveying all real property necessary to undertake the Project to the County in exchange for the proceeds of the Loan(s) and (2) the County immediately transferring back to Bear the same real property in exchange for Bear's agreement to make payments under the Loan(s); and

WHEREAS, it is also necessary and desirable for the County to authorize officers of the County to further negotiate the terms of the Loan(s) within the parameters established in this resolution and obtain an irrevocable letter of credit (the "LOC") to further secure Bear's obligation to repay each Loan in the form attached hereto as Exhibit B and incorporated herein by this reference;

NOW THEREFORE, BE IT RESOLVED by the County Board of Supervisors of Kenosha County that:

Section 1. Authorization of the Loan and Loan Commitment. Subject to the conditions specified in Section 3 below, the County hereby authorizes an appropriation of funds in an amount not to exceed \$6,165,000 to make four Loans to Bear for the purpose of carrying out the Projects. Officers of the County are hereby authorized to enter into all agreements necessary to providing the Loan(s) and securing the County's interests in repayment of the Loan(s), including the LOC. The Director of Administration and Finance is hereby authorized to draw on the LOC at any time without further approval in order to secure the repayment of the Loan(s). The County shall charge Bear an origination fee in an amount not to exceed 2.50% of the principal amount of each Loan.

The County Executive or Director of Administration and Finance is authorized to execute and provide Bear with the loan commitments for the Loan(s) in the forms attached as Exhibit C.

Section 2. Authorization of the Agreement. The County hereby authorizes the acquisition of any and all real property associated with the Project and the immediate transfer of such real property back to Bear pursuant to the terms of the Agreement.

Section 3. Conditions and Terms of the Loans. The Director of Administration and Finance of the County is hereby authorized to make the Loan(s) on the general terms set forth in subsection (a) below, subject to satisfaction by Bear of the conditions in (b)-(d) below:

(a) The exact terms of any Loan may be approved by the Director of Administration within the following parameters:

- (1) the term shall not exceed 20 years;
- (2) repayment of principal of any first mortgage loan shall be amortized over 30 years;
- (3) repayment of any subordinate loan shall be subject to available cash flow of the Project;
- (4) a balloon payment may be allowed at the end of any loan;
- (5) the interest rate charged on the Loan shall not exceed the annual long term Applicable Federal Rate (as determined by the IRS) at the time the Loan is issued and such interest payments shall be amortized over the term of the loan and payable at least annually; and
- (6) Bear shall reimburse the County for all reasonable costs the County may incur in making the Loan.

(b) the County shall receive the LOC in the form substantially the same as attached hereto.

(c) the County shall receive an executed promissory note from Bear in the amount of the Loan and satisfactory to Corporation Counsel or outside counsel of the County.

(d) the County shall receive an executed Agreement to convey the real property as described herein.

No Loan shall be made and no funds delivered to Bear until the conditions in (b) – (d) are satisfied by Bear. Upon satisfaction of these conditions, the Director of Administration is authorized to execute the necessary documents, including those provided for herein to make the Loan(s).

Section 4. Professionals for the Transaction. The County is hereby authorized to hire Quarles & Brady LLP and Ehlers & Associates, Inc. and any other professionals deemed necessary to provide professional services to aid the County in undertaking the transactions described in this Resolution. Bear has agreed to pay any and all such fees charged by such professionals.

Section 5. Execution of Documents. The County hereby authorizes the officers and agents of the County to enter into, on its behalf, agreements and contracts in conjunction with the Loans, including but not limited to the documents specifically referenced in this Resolution.

Section 6. Conflicting Resolutions; Severability; Effective Date. All prior resolutions, rules or other actions of the County Board of Supervisors or any parts thereof in conflict with the provisions hereof shall be, and the same are, hereby rescinded insofar as the same may so conflict. In the event that any one or more provisions hereof shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions hereof. The foregoing shall take effect immediately upon adoption and approval in the manner provided by law.

Adopted and recorded this \_\_\_\_ day of November, 2017.

\_\_\_\_\_  
County Board Chairperson

Attest:

\_\_\_\_\_  
County Clerk

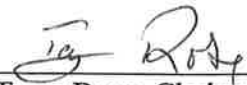
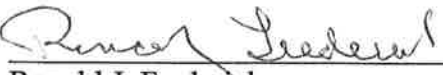
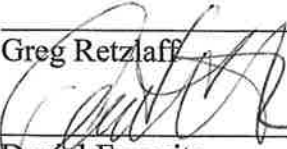
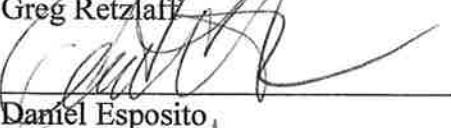
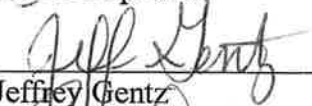

\_\_\_\_\_  
County Executive

(SEAL)

Resolution authorizing a loan in an amount not to exceed \$6,165,000 to Bear Development, LLC for the purpose of acquiring and constructing homes for the aged and indigent.

Approved by:

**FINANCE/ADMINISTRATION COMMITTEE:**

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Abstain</u>	<u>Excused</u>
 Terry Rose, Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Ronald J. Frederick	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Edward Kubicki	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
 Greg Retzlaff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
 Daniel Esposito	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Jeffrey Gentz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Rick Dodge	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## EXHIBIT A

### Description of the Projects Provided by Bear

#### **Project Summary Parkview**

The proposed project located on 8.2 acres on Sheridan Road at the location of the former Parkview Tavern. The development will total 100 units consisting of a high quality 84-unit independent senior housing facility as well as 16 townhomes catering to working local families.

The 84-unit building is designed as a four-story elevated structure for independent seniors taking advantage of great Lake Michigan views and topography. The exterior will consist of high quality masonry materials (brick, stone, LP smart siding or hardiboard). The final design aesthetic will be finalized during the Village of Somers approval process with staff and elected officials feedback ensuring a high quality and attractive building that all stakeholders will be proud of. Common areas and amenity space will cater to a senior's needs including a spacious community room featuring a full kitchen with ample outdoor space, onsite management office as well as a fitness area. The interior unit designs and floor plans will be "*barrier free*" allowing seniors with mobility challenges to live comfortably within their space while maintaining an aesthetically pleasing unit. All units will have the ability for washers and dryers within the unit. The proposed financing structure allows for seniors at a variety of income levels to call the development home. Many seniors on fixed budgets have limited housing choices, this development will provide a high quality and amenity rich option not currently available within the Village. The building shall have a mix of one and two bedroom units with approximate sizes of 700 square feet one bedroom's and 1,025 square feet for the two bedroom units.

The 16 townhomes will comprise of two, eight-unit buildings placed on the site to create an aesthetically pleasing and functional courtyard with significant green space and age appropriate play equipment. Similar to the senior building, the townhomes will be constructed of high quality masonry materials (brick, stone, LP smart siding or hardiboard) in an attractive manor. The design will be finalized during the approval process with input from staff and elected officials. While the townhome's and senior building are designed to function independently the exterior building façades shall complement each other to create a cohesive development. The development will be financed with a variety of capital sources including WHEDA Low Income Housing Tax Credits. These credits allow us to construct a high-quality building with ample amenities while charging moderate rents for working families. All residents must pass a strict background and credit check, provide prior landlord references and prove ample income to pay the rent.

The development shall also include a series of detached garages, the exact number of which shall be determined in conjunction with Village feedback. All buildings shall comply with the Wisconsin Green Built Homes standards for energy efficiency and include high quality interior finishes such as 6ml Laminate Vinyl Plank "LVP" flooring and Energy Star rated appliances. In addition to providing high quality housing, Bear will partner with local service providers to connect senior residents with needed services. Providing these services allows our residents to age in place, living healthy lives with ample opportunities for social involvement. We always take great pride in the health and vibrancy of our senior communities.

## **Project Summary Meadows of Mill Creek Phase II**

The proposed development is located in the already platted and improved Meadows of Mill Creek duplex development in Salem, WI. Meadows of Mill Creek was approved as a 68 unit development (34 duplexes) in 2004 and construction of the last 36 units will successfully complete the project. In 2012, 24 of the units (12 duplexes) were constructed in large part to receiving a WHEDA tax credit award and the development currently has a waiting list for any available unit. All duplexes shall be constructed in strict conformance to the already approved design, plans and exterior materials approved by Kenosha County and Salem. Meadows of Mill Creek an attractive development with private roads, ponds, gazebo, picnic shelter and age appropriate play equipment and shall be maintained and enhanced by the proposed second phase. All units shall feature spacious three-bedroom floor plans in either a ranch or two-story townhome style. The size of the ranch style unit will be approximately 1,470 square feet and the townhomes 1,700 square feet. Each unit will feature a front patio as well as a side and or back patio with access the living room.

The development will be financed with a variety of capital sources including WHEDA Low Income Housing Tax Credits. These credits allow us to construct a high-quality building with ample amenities while charging moderate rents for working families. All residents must pass a strict background and credit check, provide prior landlord references and prove ample income to pay the rent.

EXHIBIT B

Form of LOC

(See Attached)



## IRREVOCABLE LETTER OF CREDIT

TO: Kenosha County

RE: Irrevocable Letter of Credit No. \_\_\_\_\_  
Applicant: Bear Development, LLC

County Board of Supervisors:

The undersigned, SOUTHPORT BANK, a Wisconsin Banking Corporation ("Issuer"), by its duly authorized officer, hereby irrevocably issues to Kenosha County, a Wisconsin quasi-municipal corporation ("Lender") this Irrevocable Letter of Credit in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_.00 (the "Maximum Amount"), which credit may be drawn by the Lender as herein provided. The conditions precedent to a draw being permitted under this Letter of Credit are found below.

This Letter is provided to Lender as security for Applicant's obligation under and pursuant to a Promissory Note in the original principal amount of \$ \_\_\_\_\_ executed on the even date hereof by the Applicant, in favor of Lender in connection with the [Parkview][Meadows of Mill Creek Phase II ] project (the "Promissory Note").

Funds drawn from time to time under this Letter of Credit are available to the Lender upon presentation of a certificate (with all blanks appropriately completed) in the form of Exhibit A attached hereto executed by Lender. the following:

Drawing(s) may be made by Lender in person or by facsimile at the address set forth below for the Issuer, in part or in full and without regard to whether the Promissory Note is in default or otherwise. If a drawing(s) exhausts the Maximum Amount, the Letter of Credit will be retained by Issuer. If a partial drawing is presented and paid, the amount available for draws by the Lender under this Letter of Credit (the "Available Amount") will be reduced automatically by the amount of any drawing hereunder.

This Irrevocable Letter of Credit shall terminate on the earlier of the following to occur:

A. \_\_\_\_\_, 20\_\_; or

B. Upon the payment in full of the amount due to Lender by Applicant under and pursuant to the Promissory Note.

Any and all notices associated with this Irrevocable Letter of Credit shall be delivered as follows:

If to Lender: Kenosha County  
Attn: County Executive  
1010 56<sup>th</sup> Street  
Kenosha, WI 53140

If to Issuer: Southport Bank  
Attn: Russ Weyers, President and CEO  
7027 Green Bay Road  
Kenosha, WI 53142  
Fax: \_\_\_\_\_

If to Applicant: Bear Development, LLC  
Attn: S. R. Mills  
4011 – 80<sup>th</sup> Street  
Kenosha, WI 53142

Issuer certifies that all acts, requirements and other preconditions for the issuance of this Letter of Credit have been completed and that this Letter of Credit is in full force and effect upon execution by Issuer.

Issuer agrees that all demands made in conformity with the Letter of Credit will be duly honored upon presentation in conformity with its forms. If, within seven (7) business days after the date any demand made in conformity with Letter of Credit is presented, the Issuer fails to honor same, Issuer agrees to pay all reasonable attorney fees, court costs and other expenses incurred by Lender in enforcing the terms of this Letter of Credit.

This Letter of Credit is governed by, and construed in accordance with the laws of the State of Wisconsin, including without limitation the Uniform Commercial Code as in effect in the State of Wisconsin, without regard to principles of conflicts of laws.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

*[signatures on following page]*

SOUTHPORT BANK

By: \_\_\_\_\_  
Name: Russ Weyers  
Title: President and CEO

STATE OF WISCONSIN     )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

Personally came before me on \_\_\_\_\_, 2017, the above named Russ Weyers, to me known to be the person who executed the foregoing instrument and acknowledged the same.

\_\_\_\_\_  
\* \_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission expires \_\_\_\_\_

COUNTERSIGNED:

Bear Development, LLC

By: \_\_\_\_\_  
Name: Stephen R. Mills  
Title: Authorized Member

STATE OF WISCONSIN     )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

Personally came before me on \_\_\_\_\_, 2017, the above named Stephen R. Mills, to me known to be the person who executed the foregoing instrument and acknowledged the same.

\_\_\_\_\_  
\* \_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission expires \_\_\_\_\_

EXHIBIT A  
TO  
SOUTHPORT BANK  
IRREVOCABLE LETTER OF CREDIT  
NO. \_\_\_\_\_  
DRAWING CERTIFICATE

Southport Bank  
Attn: [Timothy C. Schadeberg, President and CEO or Russ Weyers]  
7027 Green Bay Road  
Kenosha, WI 53142

Ladies and Gentlemen:

The undersigned individual, a duly authorized representative of Kenosha County (the "*Lender*"), hereby certifies on behalf of the Lender as follows with respect to (i) that certain Irrevocable Letter of Credit No. \_\_\_\_\_ dated \_\_\_\_\_, 2017 (the "*Letter of Credit*"), issued by Southport Bank (the "*Issuer*") in favor of the Lender; and (ii) that certain Promissory Note (as defined in the Letter of Credit):

1. The Lender is entitled to make this drawing in the amount of U.S. \$\_\_\_\_\_ with respect to principal, interest and other amounts outstanding pursuant to the Promissory Note.
2. The amount of the drawing made by this Certificate was computed in compliance with the terms and conditions of the Promissory Note and, when added to the amount of any other drawings under the Letter of Credit, does not exceed the Available Amount (as defined in the Letter of Credit).
3. Payment by the Issuer pursuant to this drawing shall be made to \_\_\_\_\_, ABA Number \_\_\_\_\_, Account Number \_\_\_\_\_, Attention: \_\_\_\_\_, Re: \_\_\_\_\_.
4. Upon payment of the amount drawn hereunder, the Issuer is hereby directed to permanently reduce the Available Amount by U.S. \$[insert amount of reduction] and the Available Amount shall thereupon equal U.S. \$[insert new Available Amount].

(Signature Page Follows)

IN WITNESS WHEREOF, this Certificate has been executed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

KENOSHA COUNTY

\_\_\_\_\_  
By:  
[Title of Authorized Representative]

EXHIBIT C

Form of Loan Commitments

(See Attached)

## ON COMPANY LETTERHEAD

November XX, 2017

Mr. SR Mills, President  
Bear Development, LLC  
4011 80<sup>th</sup> Street  
Kenosha, WI 53142

Re: Loan Commitment for Parkview in Somers

Dear Mr. Mills-

We are excited to work with Bear Development (Bear) on its proposed Parkview development of 100 units of multifamily housing which will be located in Somers. We understand that Bear will be applying for 9% low-income housing tax credits through WHEDA and we are very supportive of the development effort. We commit to providing a loan to the development under the terms outlined below.

- Amount: \$750,000
- Term: 20 Years
- Amortization: 20 Years
- Payments: Payments will be subject to available cash flow with a balloon payment due at the end of the loan term
- Interest Rate: 2.50% (rate will be at or below the long term annual AFR at the time of the financial closing)
- Origination Fee: 2.50% of loan amount
- Security: The loan will be evidenced by a promissory note in the amount of the loan and secured by a letter of credit in the full amount of the loan and payable at any time on demand
- Guarantor: Bear Development, LLC

The housing that would be created by Parkview is much needed in the community and we are pleased to be a part of the development effort.

Please contact me at 262-653-2640 or [dave.geertsen@kenoshacounty.org](mailto:dave.geertsen@kenoshacounty.org) with any questions.

Sincerely,

Dave Geertsen, Director  
Kenosha County  
Department of Finance and Administrative Services

## ON COUNTY LETTERHEAD

November XX, 2017

Mr. SR Mills, President  
Bear Development, LLC  
4011 80<sup>th</sup> Street  
Kenosha, WI 53142

Re: Loan Commitment for Parkview in Somers

Dear Mr. Mills-

We are excited to work with Bear Development (Bear) on its proposed Parkview development of 100 units of multifamily housing which will be located in Somers. We understand that Bear will be applying for 9% low-income housing tax credits through WHEDA and we are very supportive of the development effort. We commit to providing a permanent loan to the development under the terms outlined below.

- Amount: \$3,165,000
- Funding: Loan will fund when the project reaches stabilized operations, which will be defined as being 90% occupied for a minimum of 90 days while meeting the minimum debt coverage ratio set forth below.
- Term: 15 Years
- Amortization: 30 Years
- Debt Coverage Ratio: 1.15x
- Loan-to-value: 90%
- Monthly Payments: \$150,067 with a balloon payment due after year 15
- Interest Rate: 2.50% (rate will be at or below the long term annual AFR at the time of the financial closing)
- Origination Fee: 2.50% of loan amount
- Security: The loan will be evidenced by a promissory note in the amount of the Loan, first position mortgage lien and secured by a letter of credit in the full amount of the loan and payable at any time on demand
- Guarantor: Bear Development, LLC

The housing that would be created by Parkview is much needed in the community and we are pleased to be a part of the development effort.

Please contact me at 262-653-2640 or [dave.geertsen@kenoshacounty.org](mailto:dave.geertsen@kenoshacounty.org) with any questions.



Sincerely,

Dave Geertsen, Director  
Kenosha County  
Department of Finance and Administrative Services

ON COMPANY LETTERHEAD

November XX, 2017

Mr. SR Mills, President  
Bear Development, LLC  
4011 80<sup>th</sup> Street  
Kenosha, WI 53142

Re: Loan Commitment for Meadows of Mill Creek Phase II in Salem Lakes

Dear Mr. Mills-

We are excited to work with Bear Development (Bear) on its proposed second phase of the Meadows of Mill Creek development which is proposed to be 36 units of duplexes which will be located in Salem Lakes. We understand that Bear will be applying for 9% low-income housing tax credits through WHEDA and we are very supportive of the development effort. We commit to providing a loan to the development under the terms outlined below.

- Amount: \$1,080,000
- Term: 20 Years
- Amortization: 20 Years
- Payments: Payments will be subject to available cash flow with a balloon payment due at the end of the loan term
- Interest Rate: 2.50% (rate will be at or below the long term annual AFR at the time of the financial closing)
- Origination Fee: 2.50% of loan amount
- Security: The loan will be evidenced by a promissory note in the amount of the loan and secured by a letter of credit in the full amount of the loan and payable at any time on demand
- Guarantor: Bear Development, LLC

The housing that would be created by the second phase of the Meadows of Mill Creek is much needed in the community and we are pleased to be a part of the development effort.

Please contact me at 262-653-2640 or [dave.geertsen@kenoshacounty.org](mailto:dave.geertsen@kenoshacounty.org) with any questions.

Sincerely,

Dave Geertsen, Director  
Kenosha County  
Department of Finance and Administrative Services

## ON COUNTY LETTERHEAD

November XX, 2017

Mr. SR Mills, President  
Bear Development, LLC  
4011 80<sup>th</sup> Street  
Kenosha, WI 53142

Re: Loan Commitment for Meadows of Mill Creek Phase II in Salem Lakes

Dear Mr. Mills-

We are excited to work with Bear Development (Bear) on its proposed second phase of the Meadows of Mill Creek development which is proposed to be 36 units of duplexes which will be located in Salem Lakes. We understand that Bear will be applying for 9% low-income housing tax credits through WHEDA and we are very supportive of the development effort. We commit to providing a loan to the development under the terms outlined below.

- Amount: \$1,170,000
- Funding: Loan will fund when the project reaches stabilized operations, which will be defined as being 90% occupied for a minimum of 90 days while meeting the minimum debt coverage ratio set forth below.
- Term: 15 Years
- Amortization: 30 Years
- Debt Coverage Ratio: 1.15x
- Loan-to-value: 90%
- Monthly Payments: \$55,475 with a balloon payment due after year 15
- Interest Rate: 2.50% (rate will be at or below the long term annual AFR at the time of the financial closing)
- Origination Fee: 2.50% of loan amount
- Security: The loan will be evidenced by a promissory note in the amount of the Loan, first position mortgage lien and secured by a letter of credit in the full amount of the loan and payable at any time on demand
- Guarantor: Bear Development, LLC

The housing that would be created by the second phase of the Meadows of Mill Creek is much needed in the community and we are pleased to be a part of the development effort.

Please contact me at 262-653-2640 or [dave.geertsen@kenoshacounty.org](mailto:dave.geertsen@kenoshacounty.org) with any questions.

Sincerely,

Dave Geertsen, Director  
Kenosha County  
Department of Finance and Administrative Services