

## OPTION AND PREDEVELOPMENT AGREEMENT

This agreement made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2017, by and between the City of Racine (“City”), a municipal corporation, the Redevelopment Authority of the City of Racine (“RDA”), a body politic, and General Capital Group, LLP (“General Capital”), a domestic limited liability partnership.

### WITNESSETH:

WHEREAS, RDA holds title to the land with buildings and improvements located at 922 Sixth Street and 615 Marquette Street, Racine, Wisconsin (PINs 276-00-00-03532-003 and 276-00-00-03539-000) (collectively described as “the Property”);

WHEREAS, in September 2016 RDA sought Requests for Proposals for the redevelopment of the former Case Plow Works Building located on the Property. RDA received eight (8) responses to the Request for Proposals and through a competitive selection process involving careful evaluation, presentation of credentials, and review of development pro formas, RDA selected General Capital as its development partner. RDA has determined to pursue negotiations with General Capital towards the execution of a Predevelopment Agreement. Since that time, the parties have negotiated initial terms and conditions, set forth in this agreement;

NOW THEREFORE, in consideration for One Hundred Dollars (\$100.00) (the “Option Consideration”), the receipt of which is City and RDA hereby acknowledges, City, RDA, and General Capital hereby agree as follows:

1. Grant of option. RDA hereby grants to General Capital the exclusive and irrevocable option to purchase the parcels of land located at 922 Sixth Street and 615 Water Street, with the buildings and improvements thereon and together with all rights and easements appurtenant thereto, on the terms and conditions contained in this Agreement.

2. Term. This Agreement shall become effective on the date of signing of this Agreement and shall continue in effect until the earlier of:

- a. The date the parties execute a Development Agreement;
- b. A date mutually agreed to by the parties; or
- c. December 31, 2018 at 11:59 p.m. Central Standard Time.

3. Notice and Conditions Precedent of Exercise. This option may only be exercised by General Capital or its assignee giving written notice of election to exercise to RDA by first class mail, postage prepaid, registered or certified, return receipt requested, or by hand delivery, in either case addressed or delivered to RDA at the office of its Executive Director, 730 Washington Avenue Racine, Wisconsin, Room 102. Said notice shall be deemed to have been duly given if postmarked or delivered by hand prior to the expiration date and the time specified

herein. General Capital's exercise of this option shall be of no force or effect unless at the time of such exercise General Capital is in compliance with all of the conditions precedent required of it at the time the option is exercised, unless such conditions are expressly waived by RDA and City.

4. Failure to exercise. In the event that General Capital fails to exercise the option granted in this Agreement within the time specified in Section 2 above in accordance with Section 3 above, the Option Consideration shall be retained by RDA and thereafter neither RDA nor General Capital shall have any further rights or claims against the other except those specifically provided as surviving closing or termination hereof.

5. Purchase price. Subject to any adjustments or prorations as may be later agreed upon by the parties, the total purchase price for the Property shall be Seven Hundred Fifty Thousand Dollars (\$750,000.00) (the "Purchase Price") payable at closing by certified or cashier's check or bank wire transfer. The Option Consideration shall be credited to General Capital or its assignee at the closing.

6. Title. RDA shall convey to General Capital or its assignee at closing all rights, title and interest RDA has in the Property.

7. Assignment. General Capital shall not assign or transfer this Agreement to any other corporation, organization, entity or person without the express written consent of RDA. Consent shall not be unreasonably withheld.

8. Access. RDA and City retain the ability to access to the Property from now until closing (the "Predevelopment Phase"). General Capital or its assignee shall have access to conduct studies, testing and other evaluations of the Property; however, General Capital shall:

- a. Notify RDA at least 48 hours in advance of each access of the Property, whether conducted by General Capital or any of its employees, agents, assigns, contractors, subcontractors, or anyone acting on its behalf; and
- b. Notify RDA of all methods of testing, studies, or evaluations that it or anyone on its behalf undertakes, as well as provide copies of all results of such tests, studies, or evaluations; and
- c. Leave the Property in as good of or better than the condition it found it.

9. Risk of Loss, Insurance. All risk of loss prior to closing shall remain on RDA and/or City, except if it arises from the act or omission of General Capital. General Capital acknowledges that predevelopment testing, studies and evaluations will be conducted on the

Property, and do not constitute loss for purposes of this section, subject to the requirements Section 9.c. above.

RDA will maintain property insurance on the Property until closing.

10. Predevelopment Costs. Predevelopment Costs are those direct, out-of-pocket expenses incurred by each party after the date of this Agreement in connection with predevelopment activities related to the redevelopment of the Property, including without limitation the Expense Types described in Exhibit A. The parties understand that actual costs for the items listed in Exhibit A may vary, however, in no instance shall withhold completion of the listed activity/obligation based solely on nominal cost adjustments.

The attached Exhibit A and the terms therein are incorporated into this Agreement as if fully set forth herein.

The parties agree to share with one another the results of the market analyses, studies, testing and other evaluations undertaken during the Predevelopment Phase.

11. Possession. RDA shall deliver possession of the Property to General Capital at closing, free and clear of any leases, tenancies, or occupancies by any person other than RDA or City.

12. Limitation of Liability. Except for the indemnity obligations set forth in this Agreement, the Parties waive any claims that each may have against the other with respect to punitive or other special damages, however caused, which may arise out of this Agreement. In addition, neither Party shall be liable to the other for any lost revenue, lost profits or loss of technology.

13. Modification. This Agreement may be modified or extended only upon the express written consent of all parties.

14. Public records. The parties acknowledge City's and RDA's obligations under the Wisconsin Public Records Law and Wisconsin Open Meetings Law, Wis. Stat. §§19.31-19.39 and 19.85-19.98. In the event that a request for records or information is received by any party, the receiving party shall endeavor to notify the other party of the request and provide an opportunity to object to release of the records or information.

15. Severability. If any provision of this Agreement is held invalid, illegal or unenforceable by a court or agency of competent jurisdiction, the validity, legality and enforceability of the remaining provisions of this Agreement are not affected or impaired in any way if the overall purpose of the Agreement is not rendered impossible and the original purpose, intent or consideration is not materially impaired.

**EXHIBIT A**

**Predevelopment Costs Apportionment**

<b>Expense Type</b>	<b>RDA/City Pays</b>	<b>General Capital Pays</b>
ALTA Survey	\$3,500	
Building Survey (interior)	\$10,000	
Legal for Predevelopment Agreement/Option to Purchase (For RDA Meeting – Feb. 6)	\$5,000	\$2,500
Historic District Nomination	\$30,000	
Part II ESA – including Lead and Asbestos Testing	\$8,000 (possible SAG Grant)	
Review of Phase II ESA by Developer’s Consultant		\$2,500
NPS Part 1 (Historic)		\$20,000
Conceptual Architecture/Civil and Site Plan		Arch: \$10,000 Civil \$5,000
TID Revenue study	\$5,000	
Market Analysis		\$5,000
General Pro forma/underwriting Agreement	\$10,000	
Zoning Entitlements (fees)		\$1,500
Final Development Agreement	\$10,000	\$10,000
Pre-approval for BC-RLF	\$5,000	
WHEDA Application		\$15,000
<b>TOTAL Pre Development Costs</b>	<b>\$86,500</b>	<b>\$71,500</b>

GENERAL CAPITAL GROUP, LLP

By: \_\_\_\_\_  
Print name: \_\_\_\_\_ Date \_\_\_\_\_  
Title: \_\_\_\_\_

REDEVELOPMENT AUTHORITY OF THE  
CITY OF RACINE

By: \_\_\_\_\_  
Amy Connolly, Executive Director Date \_\_\_\_\_

CITY OF RACINE

By: \_\_\_\_\_  
John Dickert, Mayor Date \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Janice Johnson-Martin, City Clerk Date \_\_\_\_\_

Provisions have been made to pay the liability that will accrue hereunder.

By: \_\_\_\_\_  
David Brown, Finance Director Date \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Scott R. Letteney, City Attorney Date \_\_\_\_\_