

## Development Agreement

This Development Agreement is made as of the 25<sup>th</sup> day of September, 2006, by and among the City of Racine, Wisconsin, a Wisconsin municipal corporation (the “City”), the Redevelopment Authority of the City of Racine, Wisconsin (the “Authority”), Key Bridge Group, Inc., a Wisconsin corporation, its successors or assigns (the “Developer”), and Pointe Blue LLC, a Wisconsin limited liability company, its successors and assigns (the “Owner”).

### Recitals

- (i) The Owner intends to acquire the land shown on Exhibit A attached hereto on or about September 29, 2006.
- (ii) Simultaneously with the acquisition of the land shown on Exhibit A, the Owner intends to acquire certain land shown on Exhibit B attached hereto from the City (the land shown on Exhibit A and Exhibit B shall be collectively referred to as the “Developer Land”).
- (iii) The Owner has engaged the Developer to design and construct the Project on the Developer Land.
- (iv) In connection with the construction of Phase II of the Project, the City has established a TID for the Project and the Authority intends to issue the Bonds.
- (v) The parties enter into this Development Agreement for the purpose of setting forth certain rights, duties and obligations of the parties with respect to the development of the Developer Land, the establishment of the TID and the issuance of the Bonds.

**Now, therefore,** in consideration of the recitals and mutual agreements herein set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Recitals and Capitalized Terms.** The Recitals are true, correct and accurate and incorporated herein by this reference. Capitalized terms used in the Recitals are defined in Paragraph 3 below.
2. **Project Overview.** The preliminary site plan for the Project is attached hereto as Exhibit C.
3. **Definitions.** As used in this Agreement, the following terms shall have the following meanings:
  - (a) “Acquisition Lender” means the mortgage lender who will provide a loan to finance Phase I of the Project, its successors and assigns.

(b) “Affiliate” means: (i) a person or an entity that directly or indirectly controls, or is controlled by, or is under common control with, Owner or Developer or POINTEBLUE HOLDCO LLC (“Holdco”); or (ii) a person or entity that directly or indirectly beneficially owns or holds any ownership interest in Owner or Developer Holdco; or (iii) any entity in which Owner or Developer or Holdco or the managing member of Owner or Developer has an ownership interest; or (iv) any person or entity that is an officer or director or member of Owner or Developer or Holdco. As used in this definition, the term “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person or entity, whether through the ownership of voting securities, by contract or otherwise.

(c) “Architect” means one or more architects engaged by Owner to design Phases II and III of the Project.

(d) “Authority” means the Redevelopment Authority of the City of Racine, Wisconsin, its successors and assigns.

(e) “Bonds” means the tax increment revenue bonds issued pursuant to Paragraph 5 below.

(f) “City” means the City of Racine, Wisconsin, a Wisconsin municipal corporation, its successors and assigns.

(g) “City Land” means that portion of the Walker Manufacturing site, as more particularly described in Exhibit B.

(h) “Closing” means the date of conveyance of the Developer Land other than that portion of the Developer Land owned by Leora McGowen to the Owner pursuant to Phase I.

(i) “Construction Lender” means the mortgage lender who will provide Owner with financing for Phase III of the Project, and its successors and assigns.

(j) “Contractor” means one or more prime or general contractors engaged by the Owner and/or Developer to construct Phases II and III of the Project.

(k) “Developer” means Key Bridge Group, Inc., a Wisconsin corporation, and Permitted Successors and Assigns.

(l) “Developer Land” means, collectively, the land described on Exhibits A and B attached hereto.

(m) “Infrastructure Improvements” means collectively, the Taxable Infrastructure Improvements and the Public Infrastructure Improvements.

(n) "Loan Documents for Phase I" means the documents and instruments delivered to the Acquisition Lender in connection with the financing of Phase I, including any notes, subordination agreements, intercreditor agreements and mortgages.

(o) "Loan Documents for Phase II" means the documents and instruments delivered to the Phase II Lender in connection with the financing of Phase II, including any notes, subordination agreements, intercreditor agreements and mortgages.

(p) "Loan Documents for Phase III" means the documents and instruments delivered to the Construction Lender in connection with the financing of Phase III, including any notes, subordination agreements, inter-creditor agreements and mortgages.

(q) "Net Tax Increment" means an amount calculated as of September 30 of each calendar year, equal to the difference between (i) the gross annual tax increment collected in such calendar year attributable to the gross annual tax increment produced by the Project in the immediately preceding calendar year; minus (ii) the actual legal, financial, engineering and administrative expenses incurred by the City and the Authority in connection with the Project or the TID for the immediately preceding calendar year.

(r) "Permitted Successors or Assigns" means upon the acceleration of the loan from the Acquisition Lender, or the Phase II Lender, or the Construction Lender, then the Acquisition Lender, the Phase II Lender or the Construction Lender, as the case may be, or any transferee following a foreclosure from the Acquisition Lender or the Phase II Lender or the Construction Lender, any purchaser at a foreclosure sale, and such other successors or assigns as may be approved in writing by the City and the Authority, in their sole discretions.

(s) "Phase I" means the acquisition of the Developer Land.

(t) "Phase II" means the design and construction of the Infrastructure Improvements.

(u) "Phase III" means the design and construction of the residential, commercial and apartment developments, landscaping, and all other associated improvements as may be required in order to comply with applicable zoning laws, rules, regulations and ordinances. Phase III shall be comprised substantially of the following unless otherwise approved by the City and the Authority, in their sole discretions: A residential development of 434 residential dwelling units comprised of the following: 116 low-rise waterfront villas, row houses and single-family homes; 270 main-stream condominiums; and 40-luxury condominiums; and associated parking; and a commercial development of approximately 125,000 square feet of space and associated parking; and a residential rental development comprised of approximately 93 apartments along Dodge and Michigan Streets with a total square footage of approximately 161,000 square feet and associated parking.

(v) "Phase II Lender" means the mortgage lender who will provide a loan to finance Phase II of the Project (the "Phase II Loan"), its successors and assigns.

(w) "Phase II Line Item Budget" means, for Phase II, a current completion and draw schedule and cost breakdown of construction and non-construction cost items clearly identifying development, construction, furnishing, equipping, financing, contingency and all other direct and indirect costs of development, construction and installation of Phase II of the Project in accordance with the Phase II Plans for the Project, as may be amended from time to time.

(x) "Phase II Plans" means final detailed plans and specifications for Phase II prepared by the Owner's engineer, approved by the City Engineer and accepted by the Owner.

(y) "Phase III Line Item Budget" means, for Phase III, a current completion and draw schedule and cost breakdown of construction and non-construction cost items clearly identifying development, construction, furnishing, equipping, financing, contingency and all other direct and indirect costs of development, construction and installation of Phase III of the Project in accordance with the Phase III Plans for the Project, as may be amended from time to time.

(z) "Phase III Plans" means final detailed plans and specifications for Phase III prepared by the Owner's architect, approved by the City Engineer and accepted by the Owner.

(aa) "Planned Unit Development" means the planned unit development approved for Phases II and III of the Project by the City, as well as such amendments as may be approved by the City from time to time. The Planned Unit Development must reflect and comply with all terms and conditions of this Development Agreement, in addition to all laws, rules, regulations and ordinances.

(bb) "Pointe Blue LLC" means a single asset, single purpose Wisconsin limited liability company formed for the purpose of acquiring, constructing, financing and selling the Project, who is controlled by the Developer through Holdco and any Permitted Successors or Assigns.

(cc) "Project" means collectively, Phase I and Phase II and Phase III, all of which must be developed in accordance with the Planned Unit Development approved by the City and the Authority and this Development Agreement.

(dd) "Project Completion Date" means the earlier to occur of the following: (i) closing of the acquisition of the Developer Land and Substantial Completion of each of Phase II and Phase III, or (ii) December 31, 2012.

(ee) "Public Infrastructure Improvements" means that portion of the Infrastructure Improvements that shall be dedicated to the City as described in paragraph \_\_\_ below and on Exhibit D.

(ff) "Residual Profits" is defined in Paragraph 20 of this Agreement.

(gg) "Substantial Completion" means occurrence of all of the following: (i) a certificate of occupancy is issued by the appropriate governmental authorities for units in the Project; and (ii) the Architect and City Engineer have certified that all of the units and improvements in the Project have been substantially completed in accordance with the Phase II and Phase III Plans; provided, however, tenant build-outs for the commercial portions of the Project need not be completed for substantial completion.

(hh) "Taxable Infrastructure Improvements" means filling, grading, installation of utility services, installation of roads, sidewalks, driveways, walkways, curbs and gutters and all other site work as may be required in connection with the construction of the Project.

(ii) "TID" means the Racine Tax Increment District No. 14 as certified by all local governmental authorities with jurisdiction, whose current boundaries may be modified only with the written consent of the Developer and Owner.

(jj) "Title Company" means the title company issuing the Owner's policy of title insurance for Developer Land.

4. **Commitments**. Subject to the terms and conditions of this Agreement: (a) Owner and Developer, at their cost and expense, will construct, install, furnish and equip the Project; and (b) the Authority will issue the Bonds; and (c) the City having created the TID will transfer the City Land to the Owner.

5. **Tax Increment Revenue Bonds**. As an inducement for and in consideration of Owner's and Developer's construction of the Project, the Authority shall issue two Tax Increment Revenue Bonds, one tax-exempt and the other taxable (collectively, the "Bonds" and each individually, a "Bond") to the Owner in an aggregate principal amount not to exceed \$21,562,500.00, or such lesser amount as is determined pursuant to the terms of this Agreement. The principal amount (if any) of the tax-exempt Bond shall be determined by the Authority's bond counsel based on the eligibility of the Public Infrastructure Improvements for tax-exempt financing under the Internal Revenue Code of 1986, as amended, and the applicable regulations thereunder. The remaining principal amount shall be issued as the taxable Bond. The Bonds shall bear interest at a rate that reflects the market rate for bonds of a similar type and denomination and issued under similar circumstances. Interest on the Bonds shall begin to accrue on a date determined by mutual agreement of the parties to this Development Agreement. Each Bond shall mature on October 1, 2033. Principal and interest on each Bond will be due and payable on October 1 of each year during the term of the Bond, commencing in the calendar year in which interest begins to accrue on the Bond. The aggregate amount of the annual payment of principal and interest due on the Bonds on October 1 of each year shall be equal to the Net Tax Increment calculated as of September 30 of such year. Each payment of principal and interest shall be applied first to interest, then to principal. The parties hereby stipulate that the installments payable pursuant to the Bonds are necessary and essential to construct the Project, and that Owner and Developer would not proceed with construction of the Project without the proceeds of the Bonds because the Project would not be financially feasible. The Bonds shall be issued not earlier than the date set by the Authority's bond counsel as the date on which the

Bonds can be issued in compliance with all applicable laws, rules, regulations and ordinances, but thereafter, on a date mutually agreed to by the parties to this Agreement. The Bonds shall be held in trust by the Authority and shall be delivered to Owner only upon completion of Phase II of the Project. The Bonds shall be subject to the following conditions:

(a) The Bonds shall be special and limited obligations of the Authority payable solely from Net Tax Increment which is appropriated by the Common Council and paid by the City to the Authority ("Contribution Payments") and shall not be a general obligation of the Authority, the City, or any political subdivision thereof, and shall not be a charge against the City's or the Authority's general credit or the City's taxing powers. Only funds appropriated by the Common Council from the special fund of the TID to make Contribution Payments to the Authority shall be used and deposited to pay principal and interest on the Bonds. The Net Tax Increment which is appropriated to payment of the Bonds shall be applied to make payments due on the Bonds pro-rata among the taxable Bond and tax-exempt Bond without priority one over the other. The City fully expects and intends that, to the extent Net Tax Increment is available in the special fund of the TID, it will appropriate such funds to make Contribution Payments to the Authority for the payment of the principal of and interest on the Bonds. The City agrees that it will use all available legal means to enforce collection of tax revenues from the residents of the Project. The City agrees to provide the Owner with an annual accounting of tax receipts from the Project in a form acceptable to both City and Owner and substantially as described on Exhibit E attached hereto.

(b) City staff shall include in each annual City budget submitted to the Common Council for consideration, the payment from the TID special fund to the Authority for the payment of the principal and interest on the Bonds, but only to the extent of Net Tax Increment. If the budget is approved by the Common Council, the Common Council shall, at the time of and as part of the approval of the annual City budget, direct to payment of the Authority as a Contribution Payment for payment of principal and interest on the Bonds, such Net Tax Increment. All payments on the Bonds shall be applied first to interest, then to principal.

(c) If the aggregate amount of Net Tax Increment available and appropriated to make Contribution Payments during any budget year is less than the aggregate principal and interest payments payable on the Bonds during that budget year, the amount due but not paid shall accumulate, and the City shall pay accumulated amounts from Net Tax Increment if, as and when it is available and appropriated for that purpose during the term of the Bonds. If the amount available for transfer from the TID special fund for any budget year exceeds the amount of the principal and interest due and payable on the Bonds on the Bond payment dates occurring during said budget year, then the City shall be entitled to use such excess funds for any other statutorily eligible project costs for TID #14.

(d) If on October 1, 2033, there remain amounts outstanding and unpaid on the Bonds, then all interest accrued but unpaid and the remaining balance of principal of the Bonds, shall be deemed paid in full, it being understood that upon October 1, 2033, the liability of the City and the Authority to make any payments on the Bonds shall also terminate. Neither the City nor the Authority shall have any obligation to pay any amount of principal or interest on the Bonds which remains unpaid as of October 1, 2033, and the owner of the Bonds shall have no right to receive payment of such amounts. All payments received by the City from the TID

following October 1, 2033, may be used by the City in any manner the City, in its sole discretion, chooses.

If for any reason the TID terminates prior to October 1, 2033, and there remain amounts outstanding and unpaid on the Bonds, then all interest accrued but unpaid and the remaining balance of principal of the Bonds, shall be deemed paid in full, it being understood that upon such early termination of the TID, the liability of the City and the Authority to make any payments on the Bonds shall also terminate. Neither the City nor the Authority shall have any obligation to pay any amount of principal or interest on the Bonds which remains unpaid upon such early termination of the TID and the owner of the Bonds shall have no right to receive payment of such amounts.

(e) The aggregate amount of the Bonds may be reduced following completion of construction of Phase II of the Project based on the actual costs of Phase II of the Project. If the actual costs of Phase II of the Project are less than the cost of Phase II of the Project as shown on the Phase II Line Item Budget, then the amount of the Bonds shall be reduced by the difference between the amount shown on the Phase II Line Item Budget and the actual costs of Phase II of the Project. The actual costs of Phase II of the Project shall be determined by the City's financial advisors.

(f) There will be one issuance of the tax exempt Bonds and one issuance of the taxable Bonds; provided however, to the extent necessary, the City and the Authority will create a reasonable number of varying denominations under each issuance of the Bonds to facilitate sale thereof.

6. **Grants.** The City and/or the Authority will cooperate with the Developer to secure grant funds for the Project from all eligible sources. In furtherance of this obligation, the City and/or the Authority may apply for grants for the Project from other governmental agencies and/or private organizations. If the City or the Authority receives such grants for the Project, then the Developer will manage the grant funds and determine the use of the grant funds, unless otherwise required by the granting agency. If the City and/or the Authority is required by the granting agency to administer the grant funds, then the City and/or the Authority, as the case may be, will consult with the Developer regarding the use of the grant funds but the Developer agrees that the funds can be used only for the purposes permitted by the granting agency. The estimated expenditures for Phase II of the Project are intended to be paid for by an estimated \$5,000,000 of grant funds. In the event the amount of grant funds for the Project is less than \$5,000,000, then any shortfall shall be paid by Developer to the extent needed in connection with construction and installation of Phase II of the Project.

7. **Ownership.** The Owner will own the Developer Land and the Project; provided, however, that there may be sales of condominium units prior to the completion of those units. That portion of the Project which is Public Infrastructure Improvements shall be conveyed by the Owner to the City following completion of construction and installation of the Public Infrastructure Improvements in accordance with the Phase II Plans and approval of the construction and installation of the Public Infrastructure Improvements by the City.

8. **Developer and Owner Authority to Enter Into Agreement.** Concurrent with the execution of this Agreement, Developer and Owner shall:

(a) provide the City with evidence satisfactory to the City that Developer and Owner are authorized to enter into this Agreement and that the persons signing this Agreement on behalf of Developer and Owner are authorized to so sign this Agreement;

(b) as to the Developer, a certificate of incumbency and resolutions or consents of its shareholders, and if any shareholder is an entity, then a certificate of incumbency and resolutions or consents of such shareholder, all of which resolutions and consents shall show that Developer has been duly authorized to enter into this Agreement and all other agreements, documents and contracts required to be executed by it in connection with the transactions which are the subject of this Agreement;

(c) as to the Owner, a certificate of incumbency and resolutions or consents of its members, and if any member is an entity, then a certificate of incumbency and resolutions or consents of such member, all of which resolutions and consents shall show that Developer has been duly authorized to enter into this Agreement and all other agreements, documents and contracts required to be executed by it in connection with the transactions which are the subject of this Agreement; and

(d) as to Holdco, a certificate of incumbency and resolutions or consents of its members, and if any member is an entity, then a certificate of incumbency and resolutions or consents of such member authorizing all agreements, documents and contracts required to be executed by it in connection with the transactions which are the subject of this Agreement.

9. **Escrow Closing for Phase I.** The City, the Owner and the Sellers of the Developer Land other than the City Land and that portion of the Developer Land owned by Leora McGowen and the Title Company shall execute an escrow agreement in form and substance reasonably acceptable to the signatories which identifies the conditions for Closing.

(a) On or before the Closing, Developer, Owner and/or Sellers shall deposit the following in escrow with the Title Company:

i. From Owner and Developer, sufficient funds to acquire the Developer Land other than the City Land;

ii. From the Sellers, documents required for transfer of the Developer Land other than the City Land and the portion of the Developer Land owned by Leora McGowen;

iii. From the Owner or Developer, a certified copy of the Owner's articles of organization, operating agreement and certificate of status issued by the Wisconsin Department of Financial Institutions;



iv. From the Owner or Developer, a certified copy of the Developer's articles of incorporation, shareholder agreement and certificate of status issued by the Wisconsin Department of Financial Institutions;

v. From the Owner or Developer, a timetable for completion of Phases I, II and III of the Project;

vi. From the Owner or Developer, all environmental reports for the Developer Land in Owner's or Developer's possession, including the Phases I through III reports and the Remedial Action Plan to be submitted to the Wisconsin Department of Natural Resources; and

vii. From the Owner or Developer, a metes and bounds legal description of the City Land prepared by National Surveying & Engineering, Inc.

viii. From the Owner or Developer, 2005 audited financial statements of Developer and Owner (if it existed) and 2005 federal income tax returns for Developer and Owner (if it existed).

ix. From the Owner or Developer, Loan Documents for Phase I.

x. From counsel to Owner and Developer, an opinion of Owner's and Developer's counsel in the form attached hereto as Exhibit F.

xi. From Owner or Developer, a marketing and feasibility study prepared by Tracy Cross and Associates, Inc.

xii. From all parties to this Agreement, an executed original of this Agreement.

xiii. From the Owner and Developer and Scott Fergus, the note and guaranty referred to in paragraph 13 below.

xiv. From Holdco, a certified copy of the Holdco's articles of organization, operating agreement and certificate of status issued by the Wisconsin Department of Financial Institutions

All of the above submissions shall be reasonably satisfactory in form and content to the City and to the Authority unless otherwise specifically stated.

(b) On or before the Closing, the City shall deposit the following in escrow with the Title Company:

(i) An executed quit claim deed for the City Land; and

(ii) All other documents as may be reasonably required by the Owner to transfer title to the City Land; and

- (iii) An executed original of this Agreement.

All of the above submissions shall be reasonably satisfactory in form and content to the City and to the Authority unless otherwise specifically stated.

(c) If the Closing has not occurred on or before October 15, 2006, the Authority or the City, at their respective options, exercised in their sole discretions, may terminate this Agreement, in which event, none of the parties to this Agreement shall have any further liability or obligation to the other parties; provided, however, unless the Closing has not occurred as a result of a breach of this Agreement by the City or the Authority, Developer and Owner shall pay all costs and expenses incurred by the City in connection with the Project, the preparation and negotiation of the term sheet, this Development Agreement, and costs incurred in connection with the issuance of the Bonds, including without limitation, reasonable attorneys fees and the fees of the City's financial advisors. The City and the Authority shall have the right to waive any condition precedent to Closing other than the condition set forth in paragraph 9(a)(ii) above.

(d) Absent any default by Owner or Developer, if the City and/or the Authority fail to deposit properly executed documents as are required above into the escrow, which are in form and content reasonably satisfactory to the Owner and Developer, the Developer, for itself and the Owner, in its sole discretion, may terminate this Agreement in which event, none of the parties to this Agreement shall have any further liability or obligation to the other parties.

(e) The City acknowledges that the Developer has provided City with a detailed pro-forma operating statement, dated as of September 5, 2006, for the Project, which is in form and substance acceptable to the City and the Authority.

10. **Conditions Precedent to Issuance of Bonds and Issuance.**

(a) In addition to all other conditions and requirements set forth in this Agreement, the obligations of the Authority under this Development Agreement, to issue the Bonds are conditioned upon satisfaction of each and every of the following conditions:

- i. Submittal to the City and the Authority of the Phase II Plans;
- ii. Submittal to the City and the Authority of the Phase II Line Item Budget certified by the Owner and Developer;
- iii. Submittal to the City and the Authority of copies of accepted Contractor bids to complete the Infrastructure Improvements pursuant to Phase II Plans;
- iv. Approval by the City and the Authority of the ALTA survey of the Developer Land;
- v. Closing of the Phase II Loan and the Phase II Lender shall be unconditionally prepared to commence disbursement of the Phase II Loan;

- vi. Submittal to the City and the Authority of evidence satisfactory to the City and Authority that Owner has sufficient funds in immediately available funds for payment of all costs and expenses associated with the design and construction of the Infrastructure Improvements;
- vii. The Closing shall have occurred and the portion of the Developer Land owned by Leora McGowen shall have been conveyed to Owner;
- viii. Certification of the TID;
- ix. Approval of the Authority by resolution of the issuance of the Bonds; and
- x. There shall exist no Default by Developer or Owner under the terms of this Development Agreement or any other agreement entered into pursuant to this Development Agreement.

If Developer or Owner fails to meet the conditions set forth above on or before December 31, 2008, then the Authority or the City, at their respective options, exercised in their sole discretions, may terminate this Agreement, in which event, none of the parties to this Agreement shall have any further liability or obligation to the other parties; provided, however, Developer and Owner shall pay the damages set forth in Paragraph 13 herein, all costs and expenses incurred by the City or the Authority in connection with the Project, the preparation and negotiation of the term sheet, this Development Agreement, and costs incurred in connection with the issuance of the Bonds, including, without limitation, reasonable attorneys' fees and the fees of City's financial advisors.

All submissions given to the City and the Authority to satisfy the conditions contained in this Paragraph must be reasonably satisfactory in form and content to the City and the Authority, unless otherwise specifically stated. Absent any default by Developer or Owner, if the Authority fails to issue the Bonds in the form described in this Agreement and as otherwise reasonably satisfactory to the Owner and Developer, the Developer, for itself and the Owner, in its sole discretion, may terminate this Agreement in which event, none of the parties to this Agreement shall have any further liability or obligation to the other parties.

11. **Funding of Phase II.** Upon the closing of the Phase II Loan, the City, Authority, Developer, Owner, the Phase II Lender and the Title Company shall enter into a construction disbursement agreement in form and substance acceptable to all the parties and which contains the following provisions:

- (a) All applications for draws shall be pursuant to the Phase II Line Item Budget as may be amended by change order, if such change order was approved in advance by City and Authority;
- (b) Each application for payment shall be certified by the City Engineer(s) and by the Owner;

(c) Each application for payment must include a waiver of lien from the general contractors for all work done and materials supplied through the date of the application and waivers of liens from all subcontractors and materialmen paid from the previous application for payment;

(d) The City and Authority shall receive a copy of all change orders;

(e) The Developer and the Owner covenant that they shall not execute change orders which would cause the eligible costs of the Infrastructure Improvements to exceed the principal amount of the Bonds, unless the Developer or Owner can demonstrate that, either:

i. there are available grant funds to cover any shortfall; or

ii. Developer or Owner funds such shortfall.

All funds to be disbursed for Phase II and from the Phase II Loan shall be disbursed through the Title Company pursuant to the terms of the construction disbursement agreement. The City and the Authority shall respond to any request for the approval of the City or the Authority required in connection with disbursement of funds pursuant to this paragraph 11 within the same period of time as the Phase II Lender is required to give its approval to such disbursement of funds.

12. **Obligations of Developer and Owner For Phase III.**

(a) Prior to the commencement of Phase III, Developer and Owner, at their sole cost and expense, shall provide the City with:

i. The Phase III Plans, which Plans shall conform to the requirements of the approved Planned Unit Development and this Development Agreement;

ii. A condominium plat plan for the Project consistent with the approved Planned Unit Development, prepared by a Wisconsin registered land surveyor, showing the location of all improvements now or to be located thereon, all easements, pathways, exterior boundary lines, walkways, private and public streets, adjoining public streets and alleys, utilities, exits and entrances, all curbs, gutters, sidewalks, and medians, which condominium plat plan must be consistent with the terms of this Development Agreement;

iii. An appraisal of the Project prepared by an M.A.I. appraiser approved by the City, showing that the "as built" fair market value of the residential portion of the Project is not less than \$147,995,000, that the fair market value of the commercial portion of the Project is not less than \$14,200,000, and that the fair market value of the apartment portion of the Project is not less than \$23,000,000, all as identified in the Planned Unit Development and as required by this Development Agreement;

iv. A copy of the Loan Documents for Phase III;

v. A copy of the Phase III Line Item Budget;

vi. Copies of all Contractor agreements supplied to the Construction Lender; and

vii. A copy of the contract between the Owner and an experienced marina operator approved by the City under the terms of which the marina operator will operate the marina facilities at the Project, on terms and conditions reasonably acceptable to the City.

(b) Neither Developer nor Owner shall permit any Default, or event which with the giving of notice or lapse of time or both would be a Default, to exist under this Agreement. Neither Developer nor Owner shall be in default (beyond any applicable period of grace) of any of its obligations under any other agreement or instrument with respect to the Project to which Developer or Owner is a party or an obligor. Notwithstanding the foregoing, Developer or Owner may contest disputed matters in good faith and shall not be considered to be in default until a final unappealable judgment on the decision has been rendered and the Developer or Owner fails to satisfy its obligations under such judgment within sixty (6) calendar days of its entry.

13. **Damages In The Event of Failure to Complete Phases II and III.** In the event that Developer or Owner fails to commence or complete Phases II and III in accordance with this Agreement and in the time periods set forth in this Agreement for commencement and completion of Phases II and III, then, in addition to other remedies available to the City and the Authority in this Agreement, the Developer and Owner shall pay damages to the City as follows:

The sum of one million two hundred fifty thousand dollars (\$1,250,000.00) plus simple interest calculated as follows: (\$1,250,000.00) multiplied by 15.00% per annum calculated from the date of contribution of the City Land until the date of payment as required under this Paragraph. In addition, the Developer and Owner pay all costs and expenses incurred by the City or the Authority in connection with the Project, the preparation and negotiation of the term sheet, this Development Agreement, and costs incurred in connection with the issuance of the Bonds, including, without limitation, reasonable attorneys' fees and the fees of City's financial advisors. The Owner's and Developer's obligations under this paragraph 13 shall be joint and several, shall be evidenced by a note from Owner and Developer to the City. The note shall be secured by a personal, individual, unconditional and unlimited guaranty of Scott Fergus. The Owner and Developer shall execute and deliver the note to the City as part of the escrow for Closing described above. Concurrently with the execution and delivery of the note, Scott Fergus shall execute and deliver to the City, the Wisconsin Bankers Association Form WBA 152 (Guaranty of Specific Transaction). The guaranty of Scott Fergus shall be in full force and effect until the date of closing of the Construction Lender's loan.

14. **Representations and Warranties and Covenants of Developer and the Owner.** The Developer and Owner represent, warrant and covenant to the City and the Authority and covenant with the City and the Authority as follows:

(a) All copies of financial statements, documents, contracts and agreements which Developer and the Owner have furnished to the City and the Authority are true and correct in all material respects. There has been no material adverse change in the business operations of

Developer or the Owner since the date of the last financial statements furnished by it to the City and the Authority.

(b) Developer and the Owner and Holdco shall have paid, and will pay when due, all federal, state and local taxes, and will promptly prepare and file returns for accrued taxes prior to any taxes becoming delinquent.

(c) Developer and the Owner will ensure that payment is made for all work performed and materials furnished for the Project.

(d) No statement of fact by Developer or Owner contained in this Agreement and no statement of fact furnished or to be furnished by Developer or Owner to the City or the Authority pursuant to this Agreement contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary in order to make the statements herein or therein contained not misleading at the time when made.

(e) Developer is a Wisconsin corporation, duly formed and validly existing and has the power and all necessary licenses, permits and franchises to own its assets and properties and to carry on its business. Developer is duly licensed or qualified to do business and in good standing in the State of Wisconsin and all other jurisdictions in which failure to do so would have a material adverse effect on its business or financial condition.

(f) The Owner is and during the term of this Agreement will be, a single asset, single purpose Wisconsin limited liability company, duly formed and validly existing and has the power and all necessary licenses, permits and franchises to own its assets and properties and to carry on its business. The Owner is duly licensed or qualified to do business and in good standing in the State of Wisconsin and all other jurisdictions in which failure to do so would have a material adverse effect on its business or financial condition. The Owner was formed solely to own, develop, construct and sell the Project. Holdco is and during the term of this Agreement will be, a single asset, single purpose Wisconsin limited liability company, duly formed and validly existing and has the power and all necessary licenses, permits and franchises to own its assets and properties and to carry on its business. Holdco is duly licensed or qualified to do business and in good standing in the State of Wisconsin and all other jurisdictions in which failure to do so would have a material adverse effect on its business or financial condition. The Owner was formed solely to own, develop, construct and sell the Project. Holdco was formed solely to own the membership interest in Owner.

(g) The execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate and limited liability company action of Developer and Owner, respectively, and constitute the valid and binding obligations of Developer and the Owner enforceable in accordance with their terms, subject only to applicable bankruptcy, insolvency, reorganization, moratorium, general principles of equity, and other similar laws of general application affecting the enforceability of creditors' rights generally.

(h) The execution, delivery, and performance of Developer's and the Owner's obligations pursuant to this Agreement will not violate or conflict with Developer's articles of incorporation or by-laws or Owner's articles of organization or operating agreement or any

indenture, instrument or agreement by which Developer or Owner is bound, nor will the execution, delivery, or performance of Developer's and Owner's obligations pursuant to this Agreement violate or conflict with any law applicable to Developer or Owner or the Project.

(i) There is no litigation or proceeding pending or threatened against or affecting Developer or the Owner or the Project or Holdco that would adversely affect the Project or Developer or the Owner or Holdco or the enforceability of this Agreement, the ability of Developer and Owner to complete the Project or the ability of Developer and Owner to perform their obligations under this Agreement.

(j) The Phase II Line Item Budget and the Phase III Line Item Budget shall accurately reflect all Project costs that will be incurred in the development, completion, construction, furnishing and equipping of Phases II and III of the Project, and the City and the Authority shall be entitled to rely on such documents. Neither Developer nor Owner knows of any circumstances presently existing or likely to occur which would or could be expected to reduce the value of the Project below the value of the Project as shown in the project operating statement supplied to the City, dated as of September 5, 2006, .

(k) No Default, or event which with the giving of notice or lapse of time or both would be a Default, exists under this Agreement, and Developer and the Owner is not in default (beyond any applicable period of grace) of any of its obligations under any other agreement or instrument entered into in connection with the Project.

(l) Prior to completion of the Project, the shareholders of Developer and the Members of the Owner and the member of Holdco will not sell, transfer, convey or encumber their respective interests in Developer or Owner or Holdco and Scott Fergus shall at all times be the President of Developer. Prior to completion of the Project, Developer and Owner agree: (i) that Developer shall be the sole managing member and member of Holdco; and (ii) Holdco shall be the sole managing member and member of Owner; and (iii) Scott Fergus shall have sole management and control over the day-to-day operations of Developer, Holdco and Owner; and (iv) there shall be no amendment or modification to the formation documents of Developer, Holdco or Owner which would in any way modify or change such management and control of Owner by Holdco and of Holdco by Developer and of Developer, Holdco and Owner by Scott Fergus. Notwithstanding the foregoing, not more than 49% of the membership interests in Owner may be transferred prior to completion of the Project, as long as Holdco continues to own not less than 51% of the membership interests in Owner and Developer continues to own a 100% membership interest in Holdco and as long as all other requirements of this subparagraph (l) are met and satisfied.

(m) Prior to completion of the Project, except for the sale of the units in the residential, apartment, commercial and marina portions of the Project in arm's length transactions, and the Acquisition Lender's loan, the Phase II Loan and the Phase III Construction Lender's loan, Owner shall not sell, convey, assign, or otherwise transfer or encumber the Project or the operation and management of the Project.

(n) Construction of Phase II will commence not later than July 31, 2007. Construction of Phase II shall be completed not later than December 31, 2008. Construction of

Phase III shall commence within thirty (30) after fulfillment of the conditions under the Loan Documents for Phase III, but in no event later than March 31, 2009. Construction of Phase III shall be completed not later than December 31, 2012.

(o) Developer and Owner will continue construction of the Project diligently and shall complete construction of the Project in the time periods and as otherwise required herein.

(p) Developer and Owner will conform and comply with, and will cause the Project to be in conformance and compliance with all applicable federal, state, local and other laws, rules, regulations and ordinances, including without limitation, all zoning and land division laws, rules, regulations and ordinances, all building codes and ordinances of the City and County, all environmental laws, rules, regulations and ordinances and all applicable securities laws, rules, regulations and ordinances. Developer and Owner covenant that they will perform and observe the covenants contained in, and the Project will conform and comply with, the covenants, restrictions, documents and instruments governing the Developer Land and/or the TID.

(q) Developer and Owner will cause the Project to be constructed in a good and workmanlike manner and substantially in accordance with the Phase II Plans and the Phase III Plans and will promptly correct any defects, structural or otherwise, in construction or deviations from the Phase II Plans or the Phase III Plans. Construction of the Project shall be completed free of all liens and encumbrances except for those liens and encumbrances permitted by this Agreement.

(r) Developer and Owner will not, without City's and Authority's prior written consent, change the scope of the Project or the number of residential rental units, residential units to be sold and commercial units in the Project or the uses of the Project.

(s) Developer and Owner will permit City, Authority and City's and Authority's construction consultant or construction reviewer or inspector and engineer, at all reasonable times: (a) to review the Project and all matters relating to the development thereof, and (b) to review and copy all of Developer's, Owner's, Holdco's and the General Contractor's books and records pertaining to the development, construction and operation of the Project. City and Authority assume no obligation to Developer, Holdco or Owner for the sufficiency or adequacy of such reviews, it being acknowledged that such reviews are made for the sole and separate benefit of City and the Authority. Any and all notes and copies of records made by or on behalf of the City or the Authority related to such reviews shall be treated as confidential to the full extent permitted by law. The fact that City and/or the Authority may make construction reviews shall in no way relieve Developer or Owner from their duty to independently ascertain that the construction of the Project is being completed substantially in accordance with the approved Phase II Plans and Phase III Plans and this Agreement.

(t) Developer and Owner shall:



i. As soon as possible and in any event within ten (10) business days after receiving notice of the occurrence of any default, notify City and the Authority in writing of the action which is being taken or proposed to be taken by Developer and Owner with respect thereto.

(ii) Promptly notify City and the Authority of the commencement of any litigation or administrative proceeding that would cause any representation and warranty or covenant of Developer or Owner contained in this Agreement to become untrue in any material respect.

(iii) Notify City and the Authority, and provide copies, immediately upon receipt, of any notice, pleading, citation, indictment, complaint, order or decree from any federal, state or local government agency or regulatory body, asserting or alleging a circumstance or condition that requires or may require a financial contribution by Developer or Owner or Holdco or an investigation, clean-up, removal, remedial action or other response by or on the part of Developer or Owner or Holdco under any environmental laws, rules, regulations or ordinances or which seeks damages or civil, criminal or punitive penalties from or against Developer or Owner or Holdco for an alleged violation of any environmental laws, rules, regulations or ordinances.

(u) Developer and Owner guarantee that the fair market value of the Project upon completion of the Project will be not less than \$185,264,000.00.

(v) Developer and Owner will pay or cause to be paid prior to delinquency all federal, state and local taxes in connection with the Project. Developer and Owner will pay when due all operating expenses in connection with the Project.

(u) During the term of this Agreement, Developer and Owner will provide the City, and will cause Holdco to provide the City, on or before one hundred twenty (120) days following the end of each calendar year, year-end audited financial statements, in a form and level of detail acceptable to the City, for the Project, including balance sheets and income statements. All financial statements shall be certified to by Developer's and Owner's and Holdco's auditor and/or accountant, and by Developer and Owner and Holdco.

(v) Developer and Owner shall have in effect at all times, all permits, approvals and licenses as may be required by any governmental authority or non-governmental entity in connection with the development, construction, management and operation of the Project.

(w) Developer and Owner and their successors and assigns agree to target their marketing efforts for the commercial spaces in the Project to businesses located outside the City's downtown business district with special emphasis on businesses located outside of the City's borders.

(x) The Owner shall not incur any indebtedness unrelated to the Project. The word "indebtedness" in the preceding sentence shall mean any liability or obligation of Owner (i) for borrowed money or for the deferred purchase price of property or services (excluding trade

obligations incurred in the ordinary course of business); (ii) as lessee under leases that have been or should be capitalized according to generally accepted accounting principles; (iii) evidenced by notes, bonds, debentures or similar obligations; (iv) under any guaranty or endorsement (other than in connection with the deposit and collection of checks in the ordinary course of business), and other contingent obligations to purchase, provide funds for payment, supply funds to invest in any entity, or otherwise assure a creditor against loss; or (v) secured by any security interest or lien on assets of Owner, whether or not the obligations secured have been assumed Owner.

(y) To the best of their knowledge, Developer and Owner warrant that any Phase II Line Items Budgets and Phase III Line Item Budgets shall accurately reflect all Project costs that will be incurred by the Developer and Owner in the development, completion, construction, furnishing and equipping of the Project and the City and the Authority are entitled to rely on such documents.

(z) Owner and Developer will not, without City's and Authority's prior written consent: (i) approve any changes in the Project or permit any work to be done pursuant to any changes or modify the Phase II Plans or the Phase III Plans; (ii) increase or decrease any line item of the Phase II Line Item Budget; (iii) increase or decrease any line item of the Phase III Line Item Budget if the decrease would result in the total fair market value of Phase III of the Project to be less than shown in the Phase III Line Item Budget; or (iv) modify or amend any agreement affecting the Project in a manner which would cause the agreement to be inconsistent with this Agreement. Developer shall obtain the approval of the City for any change order which would cause an increase or decrease in any line item of the Phase II Line Item Budget or the Phase III Line Item Budget of 5% or more.

(aa) The Owner shall acquire fee simple title to that portion of the Developer Land owned by Leora McGowen on or before January 15, 2007.

The representations and warranties contained herein shall be true and correct at all times during the term of this Agreement. Developer shall comply with all covenants contained herein at all times during the term of this Agreement.

15. **Covenants of City/Authority.** The City and the Authority covenant with the Developer and Owner as follows:

(a) City and the Authority will expeditiously provide to the Acquisition Lender, Construction Lender, and any other persons or entities directly providing financial support or contribution to the Project, such information as is reasonably requested by such persons or entities.

(b) The City and the Authority will review all building permits applications and the plans and specifications for the Project as expeditiously as possible, taking into account applicable laws, rules, regulations and ordinances.

(c) The lands to be included in the TID are shown on Exhibit G attached hereto. The Project Plan for the TID shall include the eligible expenditures shown on Exhibit H attached hereto, it being understood by Owner and Developer that the amount of the

expenditures shall be adjusted as the actual costs incurred in connection with the Project are determined.

(d) The City has approved preliminarily, the site plan attached hereto as Exhibit C. The review of the site plan for the Project, including the review of architectural plans pursuant to section 114-180(i), RCO, shall be the procedure for design review by the City for the Project. The provisions of Article VII, Division 12, RCO, shall not apply.

(e) The City will request certification from the Wisconsin Department of Revenue of the TID on or before October 15, 2006. The City will use good faith efforts to have the TID certified by the Wisconsin Department of Revenue.

16. **Insurance**. Developer shall maintain the following insurance policies issued by insurers with a rating of at least "A-" and in the financial size category of at least "VII" as established by A.M. Best Company and licensed to do business in the State of Wisconsin, with such policies (the "Insurance Policies") covering loss by perils, hazards, liabilities and other risks and casualties and in such amounts as may be reasonably required by the City and the Authority:

(a) Following completion of construction of Phase II of the Project, "all risks" property insurance (including without limitation, insurance against fire, flood, water damage, collapse, terrorism, windstorm, hail, boiler and machinery, if applicable, sewer back-up, business interruption, and such other risks of loss as the City and the Authority reasonably may require to the extent coverages are available at commercially reasonable rates), against loss of or damage to the Project, in amounts equal to 100% replacement cost of all buildings, improvements, fixtures, equipment and other real and personal property constituting the Project with an extended replacement cost endorsement;

(b) During the construction of the Project, builder's risk insurance in form and amounts reasonably satisfactory to Construction Lender and if not required by the Construction Lender, then as required by the City;

(c) During the term of this Agreement, commercial general liability insurance covered under a comprehensive general liability policy including contractual liability in an amount not less than \$5,000,000.00 combined single limit for bodily injury, including personal injury, and property damage;

(d) During the term of this Agreement, worker's compensation insurance in amounts meeting all statutory federal, state and local requirements;

(e) During construction of the Project, a current payment and performance bond as required by the Construction Lender or if not required by the Construction Lender, then as required by the City; and

(f) Such other insurance as may be reasonably requested by City and the Authority.

Each Insurance Policy shall require the insurer to provide at least thirty (30) days prior written notice to the City of any material change or cancellation of such policy. The City and the

Authority shall be named as an additional insureds/loss payees on all policies of insurance except worker's compensation insurance.

17. **Damage/Destruction.** Developer and Owner shall not be released from their liabilities and obligations under this Agreement in the event of fire, damage or any other casualty to any part of the Project prior to completion of the Project. In such event, Developer and Owner agree, at their cost and expense, to complete the Project and each phase of it timely in accordance with Phase II Plans and the Phase III Plans. Any change in the Phases II and III Line Item Budgets resulting from the fire, damage or other casualty must be approved by the City and the Authority.

18. **Default.** The occurrence of any one or more of the following events shall constitute a default ("Default") hereunder:

(a) Owner or Developer shall fail to pay any amounts due from it under this Agreement on or before the date when due; or

(b) Any material representation or warranty made by Owner or Developer in this Agreement, or any document or financial statement delivered by Owner or Developer or Holdco pursuant to this Agreement, shall prove to have been false in any material respect as of the time when made or given; or

(c) Owner or Developer shall breach or fail to perform timely or observe timely any of its covenants or obligations under this Agreement, and such failure shall continue for thirty (30) days following notice thereof from City or Authority to Owner or Developer (or such longer period of time as is necessary to cure the default as long as Owner or Developer has commenced the cure of the default within the 30-day period, is diligently pursuing the cure of the default and as long as the default is cured not later than 60 days following the notice thereof from the City or the Authority); or

(d) Construction of Phase II of the Project shall not be commenced before July 31, 2007, or shall not be completed on or before December 31, 2008, or construction of Phase III of the Project shall not be commenced before March 31, 2009, or shall not be completed on or before December 31, 2012; or

(e) Developer or the Owner or Holdco shall: (i) become insolvent or generally not pay, or be unable to pay, or admit in writing its inability to pay, its debts as they mature; or (ii) make a general assignment for the benefit of creditors or to an agent authorized to liquidate any substantial amount of its assets; or (iii) become the subject of an "order for relief" within the meaning of the United States Bankruptcy Code, or file a petition in bankruptcy, for reorganization or to effect a plan or other arrangement with creditors; or (iv) have a petition or application filed against it in bankruptcy or any similar proceeding, or have such a proceeding commenced against it, and such petition, application or proceeding shall remain undismissed for a period of ninety (90) days or Developer or the Owner shall file an answer to such a petition or application, admitting the material allegations thereof; or (v) apply to a court for the appointment of a receiver or custodian for any of its assets or properties, or have a receiver or custodian appointed for any of its assets or properties, with or without consent, and such receiver shall not

be discharged within ninety (90) days after his appointment; or (vi) adopt a plan of complete liquidation of its assets; or

(f) If Developer or the Owner or Holdco shall cease to exist; or

(g) A default shall occur under any other loan or indebtedness of Developer or the Owner with respect to the Project that is not cured within any applicable cure period, including without limitation, a default under the loan from the Acquisition Lender or a default under the Phase II Loan or a default under the construction loan for Phase III of the Project.

19. **Remedies.** Upon the occurrence of any Default, without further notice, demand or action of any kind by the City or the Authority, unless notice is required under any provision of this Agreement, the City and/or the Authority may, at their respective options, pursue any or all of the rights and remedies available to the City and/or the Authority at law and/or in equity against Developer, Owner and/or the Project. If the default relates to commencement or completion of Phases I or Phase II, the City and the Authority, in addition to all other remedies under this Agreement, shall be entitled to the damages and remedies set forth in Paragraph 13.

Except as may be otherwise specifically set forth herein, no remedy herein conferred upon the City and/or the Authority is intended to be exclusive of any other remedy and each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement, and/or now or hereafter existing at law or in equity. No failure or delay on the part of the City or the Authority in exercising any right or remedy shall operate as a waiver thereof nor shall any single or partial exercise of any right preclude other or further exercise thereof or the exercise of any other right or remedy. Notwithstanding any of the foregoing authorizations, the City and/or the Authority shall have no duty or obligation whatsoever with respect to any of the matters so authorized.

20. **Costs.** All reasonable fees, costs and expenses incurred by the City and/or the Authority, including reasonable attorneys fees, in connection with the negotiation, preparation and enforcement of this Agreement, and all documents and agreements executed in connection therewith, and the issuance of the Bonds, shall be paid as a TID cost or expense, unless this Agreement is terminated as described in paragraphs 9 or 10 above, in which event Owner and Developer shall pay all such reasonable costs and expenses. The Developer and/or Owner shall pay all costs and expenses associated with the enforcement of the City's and/or the Authority's rights against Developer or Owner under this Agreement, including without limitation the enforcement of such rights in any bankruptcy, reorganization or insolvency proceeding involving Developer or the Owner. Any and all such fees, costs and expenses incurred by the City and/or the Authority which are to be paid by the Developer or Owner, shall be paid by Developer and/or Owner to the City on demand.

21. **City's/Authority's Right to Cure Default.** In case of failure by Developer or the Owner to procure or maintain insurance, or to pay any fees, assessments, charges or taxes arising with respect to the Project or to comply with the terms and conditions of this Agreement or any other document, contract or agreement affecting the Project, including without limitation, the terms and conditions of any documents governing the Acquisition or Construction Lender's or Phase II Lender's loans, the City shall have the right, but shall not be obligated, to obtain such

insurance or pay such fees, assessments, charges or taxes or take such action as is necessary to remedy the failure of Developer or the Owner to comply with the documents, contracts or agreements affecting the Project, and, in that event, the cost thereof shall be payable by Developer and/or the Owner to the City.

22. **Residual Profits on City Owned Land.** As soon as Phase III is completed, the Developer and the Owner shall provide an audited statement of the Project. In the year 2018 or sooner if the Project is entirely sold out before such time, the City, the Authority and its Financial Advisor shall, at that time, use the actual performance data of the Project (revenues and expenses) to update the Total Project Costs. At that time, Residual Profits from the Project will be determined and disbursed in the manner consistent with the examples provided in Exhibit I attached hereto. The City's percentage distribution of Residual Profits ("City's Percentage") shall be based on the Total Project Cost (hereafter defined). The City's Percentage distribution of Residual Profits shall determined as follows:

If and only if the Residual Profits exceed 7.50% (the "Threshold Percentage"), then the City's Percentage shall be 20.00% of the result of the Residual Profits in excess of the dollar amount that results from the application of the Threshold Percentage.

For purposes of this Paragraph only, the term "*Residual Profits*" means a dollar amount received by the Developer and Owner after payment to the following parties:

- (a) first, the Acquisition Lender, Construction Lender and Phase II Lender an amount equal to the release price for all commercial and residential units;
- (b) second, payments to provide such credits to the buyers of units in the Project as are customary in the Racine, Wisconsin, market, and pay all usual and customary closing costs paid by a seller in Wisconsin, including real estate taxes, transfer fees, broker fees (including broker fees paid to affiliates of the Developer as long as such broker fees do not exceed the sums usually and customarily paid for broker fees in Wisconsin, as applicable for vacant, improved, residential or commercial unit sales), and title insurance;
- (c) third, excess proceeds, if any:
  - (i) first, to pay accrued and unpaid interest on any Indebtedness until such amount is reduced to zero; and
  - (ii) second, to pay any principal on any Indebtedness of the Owner.

For purposes of this Paragraph only:

(aa) "*Indebtedness*" means: (xx) member distributions due to investors other than Developer pursuant to the terms and conditions of the operating agreement of the single-asset, single-purpose entity that holds title to the Project; AND (yy) all obligations of Owner, which in accordance with GAAP are classified upon a balance sheet of Owner, as liabilities of relative to this Project,

and in any event shall include all: (1) direct debt and other similar monetary obligations of Owner related solely to the Project (including Owner's obligations under the Bonds); (2) obligations secured by any Lien or other charge upon property or assets owned by Owner, directly connected to the Project, even though Owner has not assumed or become liable for the payment of such obligations (excluding all taxes not yet due and payable); (3) repayment to Developer of the Deferred Developer Fee; and (4) all Guarantees of Developer, Owner and Scott Fergus in connection with the Project.;

(bb) "*Lien*" means any Loan Agreement, mortgage, pledge, hypothecation, assignment, security interest, lien or charge of any kind or nature whatsoever (including, without limitation, any conditional sale or other title retention agreement, any lease having substantially the same economic effect as a conditional sale or other title retention agreement, and the filing of, or agreement to give, any financing statement under the Uniform Commercial Code or comparable law of any jurisdiction); and

(cc) "*Deferred Developer Fee*" means 3.88% of the sum of the total hard construction costs and design soft costs associated with the Project.

For purposes of this Paragraph only, the term "*Total Project Cost*" means a dollar amount equal to the sum of the following payments:

- (a) payments to the Acquisition Lender, Construction Lender and Phase II Lender, an amount equal to the release price for all commercial and residential units;
- (b) payments to provide such credits to the buyers of units in the Project as are customary in the Racine, Wisconsin, market, and pay all usual and customary closing costs paid by a seller in Wisconsin, including real estate taxes, transfer fees, broker fees (including broker fees paid to affiliates of the Developer as long as such broker fees do not exceed the sums usually and customarily paid for broker fees in Wisconsin, as applicable for vacant, improved, residential or commercial unit sales), and title insurance;
- (c) payments, if any:
  - (i) made as member distributions due to investors of Owner other than Owner pursuant to the terms and conditions of the operating agreement of the single-asset, single-purpose entity that holds title to the Project;
  - (ii) all obligations of Owner, which in accordance with GAAP are classified upon a balance sheet of Owner, as liabilities of Owner relative to this Project, and in any event shall include all: (a) direct debt and other similar monetary obligations of Owner related solely to the Project (**EXCLUDING** Owner's obligations under the Bonds); (b) obligations secured by any Lien or other charge upon property or assets owned by Owner, directly connected to the Project, even though Owner has not

assumed or become liable for the payment of such obligations (excluding all taxes not yet due and payable); (c) repayment to Developer of the Deferred Developer Fee; and (d) all Guarantees of Developer, Owner and Scott Fergus in connection with the Project.

23. **Parking.** Owner and Developer understand and agree that it shall be Owner's and Developer's obligation to provide adequate parking for the Project complying with all applicable laws, rules, regulations and ordinances, at Owner's and Developer's cost and expense.

24. **Cost Overruns.** Any cost overruns incurred in connection with the Project shall be paid for by Owner and Developer.

25. **Signage.** All signage installed at the Project, both during construction and after completion of the Project, must comply with all applicable laws, rules, regulations and ordinances. All signage shall be maintained, repaired and replaced as necessary by Owner and Developer, at their expense. Owner and Developer shall post signage at the Project acknowledging that a portion of the funding for the Project is being provided by the Authority and the City.

26. **Real Estate Taxes and Assessments.** Owner and Developer agree to pay timely to the City generally applicable property taxes assessed and levied by the City in connection with the Project under its applicable property tax laws, rules, rates, regulations and ordinances in effect from time to time. Nothing in this Agreement shall impair any statutory rights of the City with respect to the assessment, levy, priority, collection and/or enforcement of real estate and personal property taxes. In addition, Developer and the Owner agrees to pay timely to the City all special assessments as may be assessed or levied in connection with the Project under the applicable special assessment laws, rules, regulations, ordinances and rates in effect at the time said special assessments are assessed or levied.

27. **Indemnifications.** Developer and the Owner hereby indemnify, defend, covenant not to sue and each of the foregoing holds the City and the Authority harmless from and against all loss, liability, damage and expense, including attorneys' fees, suffered or incurred by the City and/or the Authority in any way in connection with the Project, including without limitation: (a) the failure of Developer and/or the Owner or either of their contractors, subcontractors, agents, employees, or invitees to comply with any environmental law, rule, regulation or ordinance, or any order of any regulatory or administrative authority with respect thereto; (b) any release by Developer, the Owner and/or either of their contractors, subcontractors, agents, employees, or invitees of petroleum products or hazardous materials or hazardous substances on, upon or into the Project; (c) any and all damage to natural resources or real property or harm or injury to persons resulting or alleged to have resulted from any failure by the Developer, the Owner and/or any of their contractors, subcontractors and/or agents to comply with any law, rule, regulation or ordinance or any release of petroleum products or hazardous materials or hazardous substances as described in clauses (a) and (b) above; (d) any violation by Developer, the Owner or at the Project or the Developer Land of any environmental law, rule, regulation or ordinance; (e) claims arising under the Americans With Disabilities Act, and any other laws, rules, regulations or ordinances; (f) the failure by Developer or Owner to comply with any term or condition of this Agreement; (g) injury to or death of any person at the Project; and (h) the



failure of Developer or Owner to maintain, repair or replace, as needed, any portion of the Project.

The terms "hazardous substances" means any flammable explosives, radioactive materials, hazardous wastes, toxic substances, or related materials, including without limitation, any substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "toxic substances" under any applicable federal or state or local laws or regulations.

28. **Infrastructure Improvements.** The Infrastructure Improvements shall be constructed and installed in accordance with plans and specifications approved by the City and the Authority as part of the approval of the Phase II Plans. The Infrastructure Improvements shall at all times be subject to City and Authority inspection and approval and the City shall not be required to accept conveyance of the Public Infrastructure Improvements unless the Public Infrastructure Improvements have been constructed in a good workmanlike manner, in accordance with the City-approved plans for the Public Infrastructure Improvements, and otherwise in a condition reasonably acceptable to the City. Following approval by the City and the Authority of the completed Infrastructure Improvements, the Public Infrastructure Improvements shall be conveyed to the City, at no cost or expense to the City. The Owner and the Developer shall provide to the City from the Owner, Developer and all contractors and consultants involved in connection with the construction and installation of the Public Infrastructure Improvements, a three-year warranty against defects in construction, materials and workmanship, in a form reasonably acceptable to the City. The Owner and Developer shall also provide to the City as-built construction records for the Infrastructure Improvements in an electronic format acceptable to the City.

29. **Racine First Program.** Owner and Developer acknowledge that the U.S. Department of Labor Statistics shows that the unemployment rate in the City is very high and the rate in census tracts 1 through 5 is approximately three times the unemployment rate of the City as a whole and that the high unemployment rate in the census tracts 1 through 5 has a substantial adverse impact on the social and economic fiber of the City. The Racine First Program was designed and intended to reduce unemployment in the designated area by creating work opportunities for residents of that area and by retaining current jobs of such residents. Owner and Developer agree to conform to the provisions of the Racine First Program, as established in the Racine Municipal Code, Section 46-41, in connection with Owner's and Developer's contracts for the Project, except as otherwise prohibited by law or regulation.

30. **Riverwalk.** The City has obtained a CMAQ grant from the State of Wisconsin to be used by the City for the construction of improvements for a recreational pathway and riverwalk outside of the boundaries of the Developer Land but immediately adjacent to the Project along Lake Michigan and within the southern portion of the Project along the Root River (the "Riverwalk"). The Developer shall dedicate the right of way for the Riverwalk as shown on Exhibit C to the City at no cost or expense to the City. The riverwalk/bike-path shall be a part of the Public Infrastructure Improvements.

31. **Historic Structures.** Owner and Developer agree to include in the Project and the Phase III Line Item Budget, reasonable amounts required to rehabilitate the two existing

historic structures that exist on the Developer Land as of the date of this Agreement, namely the former U.S. Coast Guard Building and the building adjacent thereto (collectively, the "Historic Structures"). Owner and Developer agree to rehabilitate the Historic Structures to enhance their current character and structure and the Owner and Developer agree that the Historic Structures shall remain open to the public.

32. **Green Space.** The Owner and Developer agree to convey and dedicate to the City, any portion of the Developer Land located east of Lewis Boulevard. The parties agree that nothing in this Agreement does or is intended to give the Owner or the Developer or any owner of any condominium unit any water rights or riparian rights with respect to Lake Michigan. Neither the Owner nor the Developer nor any condominium unit owner shall place any piers or boat slips in Lake Michigan except in accordance with the terms of the approved Planned Unit Development.

33. **Fire and Safety Hazards.** Owner and Developer agree to construct the Project in conformance with all fire and safety standards specified by applicable law.

34. **Nondiscrimination.** The City, the Authority, the Owner and Developer agree that the Project shall not be sold to, leased or used by any party in a manner to permit discrimination or restriction on the basis of race, creed, ethnic origin or identity, color, gender, religion, marital status, age, handicap or national origin, and that the construction and operation of the Project shall be in compliance with all laws, rules, regulations and ordinances relating to discrimination or any of the foregoing.

35. **No Personal Liability.** Under no circumstances shall the City, the Authority or any alderperson, officer, official, director, attorney, employee or agent of the City or the Authority have any personal liability arising out of this Agreement, and no party shall seek or claim any such personal liability.

36. **City Authorization.** The execution of this Agreement by the City was authorized by Resolution No. 06-7244 of the City's Common Council dated September 25, 2006, and by Resolution of the Authority dated May 10, 2006.

37. **Staff Approval.** Except for this Agreement, all other documents and agreements that require approval by the City or the Authority in connection with this Agreement or the Project shall be approved by a staff person designated by the City or Authority.

38. **Termination of TID.** Owner and Developer understand and agree that the TID may remain in existence after the date of maturity of the Bonds. Any amount of tax increment received by the City following October 1, 2033, may be used by the City, at its sole discretion, for any purpose whatsoever. That tax increment will not be used to make any payments on the Bonds, even if the debt evidenced by the Bonds was not fully paid. It is intended that the tax increment collected by the City after the date of maturity of the Bonds will be used, among other purposes, to reimburse the City and the Authority for costs and expenses incurred in connection with the TID, as described herein.

39. **Tax Exempt Covenant.** Developer and the Owner agree that they will not sell, lease, assign or otherwise transfer or convey any interest in the Project or the Developer Land to

a person or entity exempt from general property taxation or in a manner which would cause all or any portion of the Project or the Developer Land to be exempt from general property taxation (the "Tax-Exempt Covenant"). This Tax-Exempt Covenant shall be in effect during the term of the TID. This Tax-Exempt Covenant runs with the Developer Land and binds all owners in title to the Developer Land during the term of the Tax-Exempt Covenant. In the event a court finds the Tax-Exempt Covenant is not valid or enforceable or if for any reason the Tax-Exempt Covenant is terminated, then Owner and Developer and its successors and assigns shall make a payment in lieu of taxes to the City as required from time to time by the City.

40. **Miscellaneous.**

(a) Except as otherwise specifically set forth herein, the respective rights and liabilities of City, the Authority, Owner and Developer under this Agreement are not assignable or delegable, in whole or in part, without the prior written consent of the other party, except to Permitted Successors and Assigns. The provisions of this Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

(b) No waiver, amendment, or variation in the terms of this Agreement shall be valid unless in writing and signed by the City, the Authority, Developer and Owner, and then only to the extent specifically set forth in writing.

(c) All agreements, representations, warranties, covenants, liabilities and obligations made in this Agreement and in any document delivered pursuant to this Agreement shall survive the execution and delivery of this Agreement.

(d) All communications or notices required or permitted by this Agreement shall be in writing and shall be deemed to have been given (i) upon delivery to an officer of the person entitled to such notice, if hand delivered, or (ii) two business days following deposit in the United States mail, postage prepaid, or with a nationally recognized overnight commercial carrier that will certify as to the date and time of delivery, airbill prepaid, or (iii) upon transmission if by facsimile, and each such communication or notice shall be addressed as follows, unless and until any of such parties notifies the other in accordance with this Paragraph of a change of address:

If to the City:	City of Racine, Wisconsin 730 Washington Avenue Racine, WI 53403 Attention: City Clerk Facsimile No.: (262) 636-9298
-----------------	--

If to the Authority:	Director of City Development 730 Washington Avenue, Room 306 Racine, WI 53403 Facsimile No.: (262) 636-9329
----------------------	--

If to the Developer or  
Owner:

Key Bridge Group, Inc.  
259 WEST BROADWAY STE 100  
WAUKESHA WI 53186  
Attention: NEERA ANAND  
Facsimile No.: 262.650.2706  
Email: neera.anand@kbginc.com

(e) This Agreement and the documents executed pursuant to this Agreement and in connection with the Bonds contain the entire understanding of the parties with respect to the subject matter hereof. There are no restrictions, promises, warranties, covenants or undertakings other than those expressly set forth in this Agreement and the documents executed in connection with this Agreement and the Bonds. This Agreement and the documents executed in connection herewith and in connection with the Bonds supersede all prior negotiations, agreements and undertakings between the parties with respect to the subject matter hereof.

(f) This Agreement is intended solely for the benefit of Developer, the Owner and the City and the Authority, and no third party (other than successors and permitted assigns) shall have any rights or interest in any provision of this Agreement, or as a result of any action or inaction of the City and/or the Authority in connection therewith. Without limiting the foregoing, no approvals given pursuant to this Agreement by Developer, the Owner or the City or the Authority, or any person acting on behalf of any of them, shall be available for use by any contractor or other person in any dispute relating to construction of the Project.

(g) This Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the State of Wisconsin applicable to contracts made and wholly performed within such state.

(h) This Agreement may be executed in several counterparts, each of which shall be deemed an original, but each such counterpart shall together constitute but one and the same agreement. Facsimile signatures shall be deemed original signatures for all purposes of this Agreement.

(i) Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement in such jurisdiction or affecting the validity or enforceability of any provision in any other jurisdiction.

(j) Nothing contained in this Agreement or any other documents executed pursuant to this Agreement, shall be deemed or construed as creating a partnership or joint venture between the City, the Authority, and Developer and/or the Owner or between the City and/or the Authority and any other person, or cause the City and/or the Authority to be responsible in any way for the debts or obligations of Developer or Owner or any other person. Developer and the Owner further represent, warrant and agree, for themselves and their respective successors and permitted assigns, not to make any assertion inconsistent with their acknowledgment and agreement contained in the preceding sentence in the event of any action, suit or proceeding, at law or in equity, with respect to the transactions which are the subject of

this Agreement and this paragraph may be pleaded and construed as a complete bar and estoppel against any assertion by or for Developer, the Owner and their respective successors and permitted assigns, that is inconsistent with its acknowledgment and agreement contained in the preceding sentence.

(k) Time is of the essence of each and every obligation or agreement contained in this Agreement and the Bonds.

(l) If any party is delayed or prevented from timely completing construction of the Project, by reason of fire, earthquake, war, flood, riot, strikes, labor disputes, governmental restrictions, judicial order, public emergency, or other causes beyond the control of the party obligated to perform, performance of such act shall be excused for the period of such delay and the time for the performance of any such act shall be extended for a period equivalent to such delay.

(m) This Development Agreement shall terminate on the earlier of: (i) payment in full of the Bonds, or (ii) the expiration of the maximum statutory life of the TID.

(n) This Agreement shall be recorded in the office of the Register of Deeds of Racine County, Wisconsin, prior to the recording of the Acquisition Lender's mortgage, the Phase II Lender's mortgage and the Construction Lender's mortgage and any other mortgage on the Project, it being understood by the parties that until termination of this Agreement as set forth in subparagraph (m) above, this Agreement will run with the land and will be binding upon the Developer Land and the Project and any owner and/or lessee and/or mortgagee of all or any portions of the Developer Land and the Project and their successors and assigns.

(o) The headings in this Agreement are for reference only and are not intended to modify any of the terms and conditions of this Agreement.

(p) Nothing contained in this Agreement is intended to or has the effect of releasing Owner or Developer from compliance with all applicable laws, rules, regulations and ordinances in addition to compliance with all terms, conditions and covenants contained in this Agreement.

(q) This Agreement is the product of negotiation among all of the parties hereto and no term, covenant or provision herein or the failure to include a term, covenant or provision shall be construed against any party hereto solely on the basis that one party or the other drafted this Agreement or any term, covenant or condition contained herein.

(r) The obligations and liabilities of the Owner and Developer hereunder are joint and several.

In Witness Whereof, this Agreement is executed as of the date first above written.

**City of Racine, Wisconsin**

By: \_\_\_\_\_  
\_\_\_\_\_, Mayor

Attest: \_\_\_\_\_  
\_\_\_\_\_, City Clerk

STATE OF WISCONSIN )  
  )ss.

\_\_\_\_\_ COUNTY )

Personally appeared before me this \_\_\_ day of \_\_\_\_\_, 2006, the above-named \_\_\_\_\_ and \_\_\_\_\_, the Mayor and City Clerk, respectively, of the City of Racine, Wisconsin, to me known to be the persons who executed the foregoing agreement on behalf of the City and by its authority.

\_\_\_\_\_  
Name: \_\_\_\_\_  
Notary Public, State of Wisconsin  
My Commission expires: \_\_\_\_\_



**Key Bridge Group, Inc., a  
Wisconsin corporation**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF WISCONSIN    )  
                                  )ss.

\_\_\_\_\_ COUNTY    )

Personally appeared before me this \_\_\_\_ day of \_\_\_\_\_, 2006, the above-named \_\_\_\_\_ and \_\_\_\_\_, the \_\_\_\_\_ of Key Bridge Group, Inc., to me known to be the persons who executed the foregoing agreement on behalf of said corporation and by its authority.

\_\_\_\_\_  
Name: \_\_\_\_\_  
Notary Public, State of Wisconsin  
My Commission expires: \_\_\_\_\_



**Pointe Blue LLC, a Wisconsin  
limited liability company**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF WISCONSIN    )  
                                  )ss.

\_\_\_\_\_ COUNTY    )

Personally appeared before me this \_\_\_\_ day of \_\_\_\_\_, 2006, the above-named \_\_\_\_\_ and \_\_\_\_\_, the \_\_\_\_\_ of Pointe Blue LLC, to me known to be the persons who executed the foregoing agreement on behalf of said corporation and by its authority.

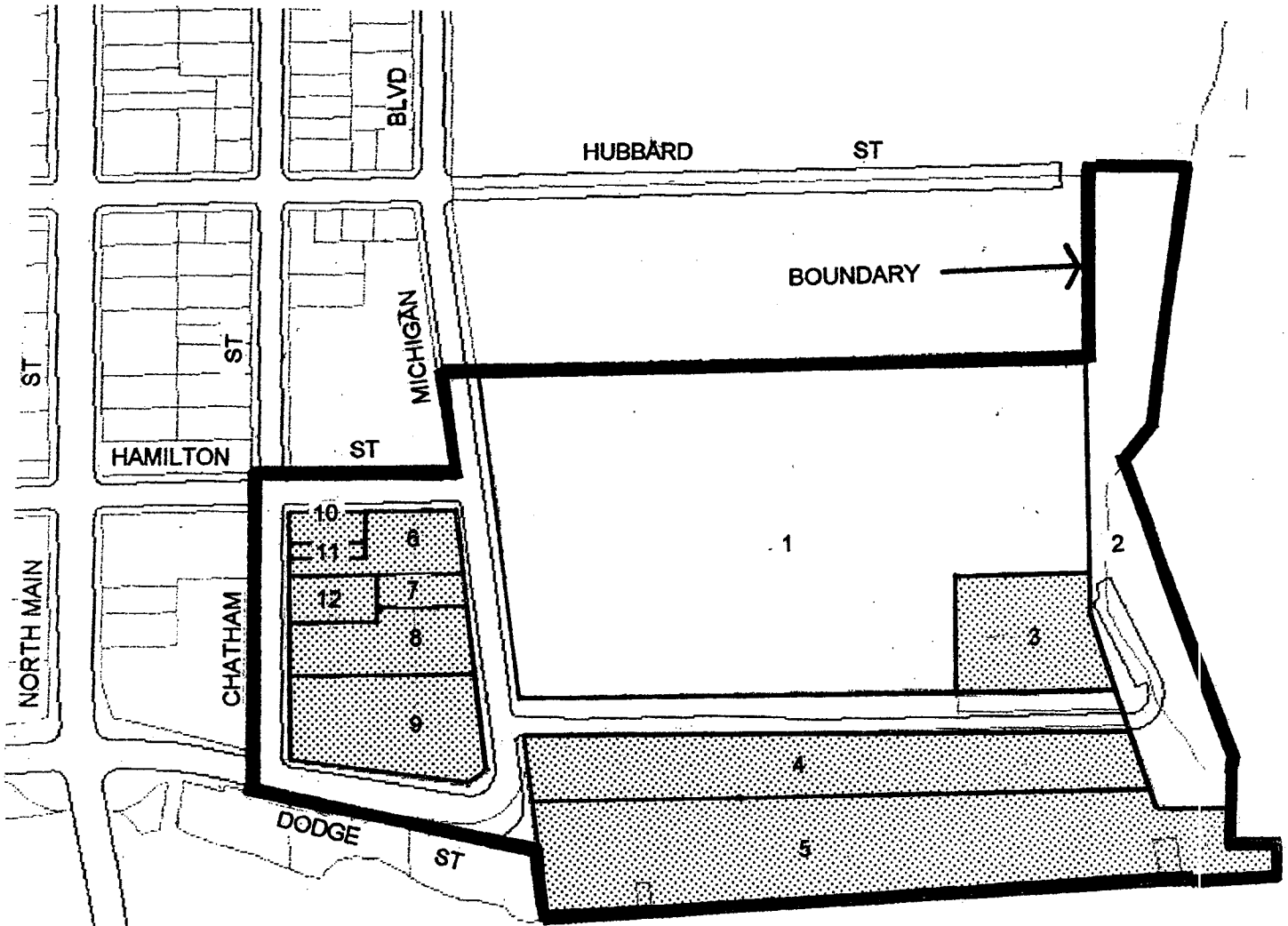
\_\_\_\_\_  
Name: \_\_\_\_\_  
Notary Public, State of Wisconsin  
My Commission expires: \_\_\_\_\_

This instrument was drafted by  
and upon recording return to:

Ann K. Comer, Esq.  
Quarles & Brady LLP  
411 E. Wisconsin Avenue  
Milwaukee, WI 53202

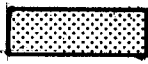
**Exhibit A**

Appears on the next succeeding page.



ROOT RIVER

LEGEND



LANDS TO BE ACQUIRED - OTHER THAN CITY LAND

NORTH DCD 7/19/06 jll

MAP 1. BOUNDARY MAP

EXHIBIT "A"

**Exhibit B**  
(City Land)

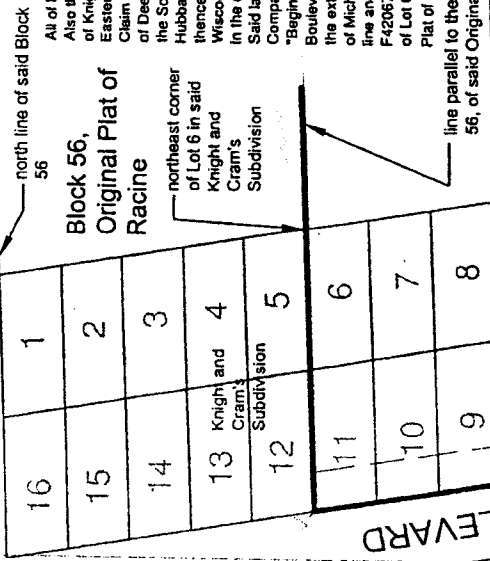
Appears on the next succeeding page

HUBBARD STREET

N 89° 35' E 980.47

WALKER PROPERTY

Plot Plan



north line of said Block 56

**Block 56, Original Plat of Racine**

All of Lots 6, 7, 8, 9, 10 & 11, Knight and Cram's Subdivision of Block 56, Original Plat of Racine, according to the recorded plat of said Subdivision. Also that part of Block 56, Original Plat of Racine, as surveyed by Moses Vlas, according to the recorded plat thereof, lying Easterly of the recorded plat of Knight and Cram's Subdivision. Also that part abutting said property known as Hamilton Street, as vacated from the East line of Michigan Boulevard Easterly to Lake Michigan. Also the north 290.00 feet of Block 57, of said Original Plat of Racine, excepting therefrom the real estate described in Quit Claim Deed from Walker Manufacturing Company of Wisconsin to the City of Racine, dated March 21, 1958 and recorded April 21, 1958 in Volume 622 of Deeds, page 507, Document No. 673654, as follows: "All that certain piece or parcel of land located in Northeast 1/4 Section 9-3-23 East, lying South of the South line of Hubbard Street and East of line described as follows: Begin at a point in North line of Block 56 produced East, being Southerly line of Hubbard Street, which point is 980.40 feet North 89 degrees 35 minutes East from Northwest corner of Block 56, Original Plat of City of Racine; run thence from said point South 0 degree 22 minutes East to a point in Northerly boundary line of lands conveyed by Walker Manufacturing Company of Wisconsin, a Wisconsin Corporation, to W. H. Pugh Coal Company, a Wisconsin Corporation, by Warranty Deed dated October 18, 1955 and recorded in the office of the Register of Deeds for Racine County, Wisconsin on October 20, 1955 in Volume 592 of Deeds, page 83, as Document No. 638690. Said land being in the City of Racine, County of Racine and State of Wisconsin", also Excepting therefrom that portion conveyed to W. H. Pugh Coal Company by Deed dated October 18, 1955, recorded October 20, 1955 in volume 592 of Deeds, page 83, Document No. 638690, as follows: "Beginning on the Easterly extended North line of Reichert Court as now laid out, at a point that is located 642.65 feet East of the East line of Michigan Boulevard; run thence North 180.00 feet; thence East to the waters of Lake Michigan, run thence Southerly along the waters edge of Lake Michigan to the extended centerline of said Reichert Court; thence West along the extended centerline of Reichert Court to a point 642.65 feet East of the East line of Michigan Boulevard; thence North to the place of beginning. Said land being in the City of Racine, County of Racine and State of Wisconsin", west line and north line of Document No. 638690 is delineated on a plat of survey that is on file at the Real Estate Description Department with file number F42067, Job No. 98.146 Nielson-Madsen and Barber. Also excepting therefrom the tract of land that is north of a line that begins at the northeast corner of Lot 6 of Knight and Cram's Subdivision and extends east to Lake Michigan, said extended line is parallel to the north line of Block 56, of said Original Plat of Racine, said described tract containing 9.6524 acres more or less.

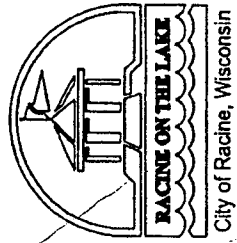
(NE 1/4 Section 09-T3N-R23E) Q-03

Vacated HAMILTON STREET

north line of said Block 57

9.6524 acres more or less

Block 57, Original Plat of Racine



west line of said Block 57

east line of Michigan Boulevard

REICHERT COURT

642.65'  
642.65'  
60.00'  
35.00'  
25.00'

FILE NUMBER : LA. 209

CITY ENGINEER'S OFFICE RACINE, WISCONSIN CODE : 18111 (N.E. 1/4 SECTION 09 T.3N. R.23E.) Q-03

APPROVED : JRB

DATE : 10-29-2001

Parcel Identification Number : 276 0000 02485 000 & 276 000 02468 000

Scale : 1"=150'

EXHIBIT "B"

DRAWN : D R M DATE : 11-2000

RESOLUTION NO : 3465 of 09-05-2000

VOLUME : 3351 PAGE : 73-4

DOCUMENT NUMBER : 811355

Revisions :

Revisions :

*M.B.*

APPROVED : JRB

**Exhibit C**  
(Preliminary Site Plan)

Appears on the next succeeding page.



**Exhibit D**  
(Public Infrastructure Improvements)



**Exhibit E**  
(Form of Reporting of Income from TID)

Appears on the next succeeding pages.

# CITY of RACINE

## Interim TID Tax Rate Projections from PC - 202 Form Methodology

Assumes continuation of Levy Limits  
(Updated by Dave Brown 5/9/06)

Assessment Year	Collection Year	EV TID OUT	County Levy	City Levy	Unified Levy	Gateway Levy	TOTAL Levy	Interim TID Tax Rate	Built-out Project Value	Incremental Project Value	Increment
2005-2006		7.5%	2.7%	2.0%	0.0%	2.0%					
2007-2028		4.5%	2.0%	2.0%	0.0%	2.0%					
2004	2005	3,163,367,350	11,247,233	37,559,199	24,091,710	4,451,146	77,349,288	24.45	4,500,000	-	-
2005	2006	3,406,324,050	11,533,501	39,056,053	23,023,465	4,530,232	78,143,251	22.94	4,702,500	-	-
2006	2007	3,559,608,632	11,841,561	39,837,174	23,023,465	4,620,837	79,323,036	22.28	4,914,113	-	-
2007	2008	3,719,791,021	12,078,392	40,633,918	23,023,465	4,713,253	80,449,028	21.63	5,135,248	-	-
2008	2009	3,887,181,617	12,319,960	41,446,596	23,023,465	4,807,518	81,597,539	20.99	5,366,334	-	-
2009	2010	4,062,104,789	12,566,359	42,275,528	23,023,465	4,903,669	82,769,021	20.38	5,607,819	2,683,167	56,324
2010	2011	4,244,899,505	12,817,686	43,121,038	23,023,465	5,001,742	83,963,932	19.78	5,860,171	5,607,819	114,264
2011	2012	4,435,919,983	13,074,040	43,983,459	23,023,465	5,101,777	85,182,741	19.20	6,123,878	5,860,171	115,914
2012	2013	4,635,536,382	13,335,521	44,863,128	23,023,465	5,203,813	86,425,927	18.64	6,399,453	6,123,878	117,597
2013	2014	4,844,135,519	13,602,231	45,760,391	23,023,465	5,307,889	87,693,976	18.10	6,687,428	6,399,453	119,313
2014	2015	5,062,121,617	13,874,276	46,675,599	23,023,465	5,414,047	88,987,386	17.58	6,988,362	6,687,428	121,063
2015	2016	5,289,917,090	14,151,761	47,609,111	23,023,465	5,522,328	90,306,664	17.07	7,302,839	6,988,362	122,849
2016	2017	5,527,963,359	14,434,796	48,561,293	23,023,465	5,632,774	91,652,328	16.58	7,631,466	7,302,839	124,670
2017	2018	5,776,721,710	14,723,492	49,532,519	23,023,465	5,745,430	93,024,906	16.10	7,974,882	7,631,466	126,528
2018	2019	6,036,674,187	15,017,962	50,523,169	23,023,465	5,860,338	94,424,934	15.64	8,333,752	7,974,882	128,423
2019	2020	6,308,324,526	15,318,321	51,533,633	23,023,465	5,977,545	95,852,984	15.19	8,708,771	8,333,752	130,356
2020	2021	6,592,199,129	15,624,688	52,564,305	23,023,465	6,097,096	97,309,554	14.76	9,100,666	8,708,771	132,327
2021	2022	6,888,848,090	15,937,182	53,615,591	23,023,465	6,219,038	98,795,276	14.34	9,510,196	9,100,666	134,338
2022	2023	7,198,846,254	16,255,925	54,687,903	23,023,465	6,343,418	100,310,712	13.93	9,938,154	9,510,196	136,389
2023	2024	7,522,794,336	16,581,044	55,781,661	23,023,465	6,470,287	101,856,457	13.54	10,385,371	9,938,154	138,481
2024	2025	7,861,320,081	16,912,665	56,897,294	23,023,465	6,599,693	103,433,117	13.16	10,852,713	10,385,371	140,615
2025	2026	8,215,079,485	17,250,918	58,035,240	23,023,465	6,731,686	105,041,310	12.79	11,341,085	10,852,713	142,792
2026	2027	8,584,758,061	17,595,936	59,195,945	23,023,465	6,866,320	106,681,666	12.43	11,851,434	11,341,085	145,012
2027	2028	8,971,072,174	17,947,855	60,379,864	23,023,465	7,003,647	108,354,631	12.08	12,384,749	11,851,434	147,276
2028	2029	9,374,770,422	18,306,812	61,587,461	23,023,465	7,143,720	110,061,458	11.74	12,942,062	12,384,749	149,586
2029	2030	9,796,635,091	18,672,948	62,819,210	23,023,465	7,286,594	111,802,218	11.41	13,524,455	12,942,062	151,942
2030	2031	10,237,483,670	19,046,407	64,075,595	23,023,465	7,432,326	113,577,793	11.09	14,133,056	13,524,455	154,345
2031	2032	10,698,170,435	19,427,335	65,357,107	23,023,465	7,580,972	115,388,879	10.79	14,769,043	14,133,056	156,796
											3,166,495

# City of Racine - Sample TID Increment Projecton (100%)

Tax Increment Forecast To Be Based Upon Actual Increment Values from Project

Construction Year	Valuation Year	Revenue Year	Inflation Increment	Value Added	Inflation Factor		Tax Rate	Tax Increment	Per Schedule Tax
					2,000,000	4.50%			
1	2006	2007	90,000						
2	2007	2008	90,000	90,000	21.63		1,946		
3	2008	2009	94,050	9,447,230	20.99		198,311		
4	2009	2010	515,125	18,526,360.95	20.38		560,483		
5	2010	2011	1,371,992	48,387,070	19.78		957,094		
6	2011	2012	2,267,418	89,180,849	19.20		1,328,476		
7	2012	2013	3,203,138	18,526,360.95	18.64		1,694,952		
8	2013	2014	4,180,968	18,526,360.95	18.10		2,056,835		
9	2014	2015	5,202,795	18,526,360.95	17.58		2,414,429		
10	2015	2016	6,270,807	18,526,360.95	17.07		2,768,033		
11	2016	2017	7,386,471	18,526,360.95	16.58		3,117,935		
12	2017	2018	8,552,548	9,263,180.47	16.10		3,316,247		
13	2018	2019	9,354,256	9,263,180.47	15.64		3,511,443		
14	2019	2020	10,192,041	9,263,180.47	15.19		3,706,666		
15	2020	2021	11,067,526	255,012,544	14.78		3,784,321		
16	2021	2022	11,565,564	286,578,109	14.34		3,823,086		
17	2022	2023	12,066,015	278,664,124	13.93		3,882,983		
18	2023	2024	12,629,888	291,294,009	13.54		3,944,037		
19	2024	2025	13,196,230	304,492,240	13.16		4,006,271		
20	2025	2026	13,792,151	318,284,390	12.79		4,089,712		
21	2026	2027	14,412,798	332,697,188	12.43		4,134,384		
22	2027	2028	15,061,373	347,759,561	12.08		4,200,314		
23	2028	2029	15,739,135	363,497,697	11.74		4,267,527		
24	2029	2030	16,447,396	379,945,093	11.41		4,336,050		
25	2030	2031	17,187,529	397,132,822	11.09		4,405,911		
26	2031	2032	17,960,968	415,093,590	10.79		4,477,138		
27	2032	2033	18,769,212	433,862,802	0.00		0		
	2033	2034	19,613,826	453,478,628	0.00		0		
<b>Totals</b>				<b>185,263,609</b>			<b>74,963,565</b>		
									<b>23,430,260</b>
									<b>Present value at 8.21%</b>

# City of Racine, SAMPLE, Pay As You Go Developer Bond (100% Allocation)

NOTE: PAYMENT OF THIS Municipal Revenue Obligation is strictly contingent upon TID increment being available from Development site and in no way constitutes a general obligation of the City.

### Basic Assumptions:

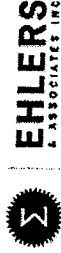
Base year  
 TID 1 Site Base Value  
 Appreciation factor  
 Initial tax rate (Dollars per thousand)  
 Tax rate increment  
 Interest rate on loan  
 Interest starting date  
 First Annual Loan payment date  
 Depreciated Value Due To Rezzing  
 Original loan principal  
 Ratcheting formula

2006  
 2,000,000  
 2.65%  
 21.63  
 Per schedule  
 8.25%  
 01-Jan-08  
 01-Nov-08  
 0  
 21,582,500  
 See Schedule

### Example

This financial forecast is based on preliminary estimates and assumptions that are subject to change. The forecast like all forecasts is based on predictions that are may not materialize as demonstrated. The forecast is useful when compared to others made consistently but with different assumptions.

Subject to amendment once final assessment is known



Asmt Year	Tax Year	TID Project Area Current Value	Equalized Tax Rate	Tax Increment	Capitalized Interest & Capitalized Issue Expenses	Issuance Cost	Administration Cost	Loan Principal Outstanding	Accrued Interest	Interest Paid	Principal Paid	Total Principal & Interest
2007		90,000	21.63	1,948	1,006,484	431,250	1,987	21,582,500	1,475,234	1,475,234	-21*	1,475,234
2008	2008	9,447,230	20.89	198,311	1,046,351	50,000	50,000	21,662,521	1,770,283	1,770,283	24,379*	1,794,662
2009	2010	28,488,717	20.38	580,483	560,483	50,000	50,000	21,638,142	1,768,281	530,483	-1,237,798	530,483
2010	2011	48,387,070	19.78	857,084	857,084	50,000	50,000	22,775,840	1,869,905	807,084	-862,810	807,084
2011	2012	69,180,948	19.20	1,328,478	1,328,478	50,000	50,000	23,788,750	1,848,851	1,278,478	-870,475	1,278,478
2012	2013	90,810,348	18.84	1,894,982	1,894,982	50,000	50,000	24,408,258	2,003,987	1,844,852	-359,048	1,844,852
2013	2014	113,617,676	18.10	2,650,835	2,650,835	50,000	50,000	24,768,271	2,033,475	2,008,835	-26,640	2,008,835
2014	2015	137,348,831	17.56	2,414,428	2,414,428	50,000	50,000	24,784,812	2,035,682	2,035,682	328,787	2,364,428
2015	2016	182,143,800	17.07	2,786,033	2,786,033	50,000	50,000	24,466,144	2,008,670	2,008,670	706,363	2,718,033
2016	2017	188,056,831	16.88	3,117,935	3,117,935	50,000	50,000	23,756,782	1,850,432	1,850,432	1,117,503	3,007,935
2017	2018	205,972,360	16.10	3,915,247	3,915,247	50,000	50,000	22,939,279	1,658,665	1,658,665	1,408,582	3,266,247
2018	2019	224,488,787	15.84	3,511,443	3,511,443	50,000	50,000	21,232,717	1,743,208	1,743,208	1,718,336	3,461,443
2019	2020	243,846,018	15.19	3,706,686	3,706,686	50,000	50,000	19,514,481	1,602,139	1,602,139	2,280,859	3,882,998
2020	2021	265,012,544	14.76	3,764,321	3,764,321	50,000	50,000	17,489,853	1,433,462	1,433,462	2,954,527	4,388,019
2021	2022	288,578,108	14.34	3,823,086	3,823,086	50,000	50,000	15,178,094	1,246,204	1,246,204	2,826,862	4,073,066
2022	2023	278,884,124	13.83	4,005,271	4,005,271	50,000	50,000	12,852,212	1,038,747	1,038,747	2,794,238	3,832,985
2023	2024	291,284,009	13.54	3,944,037	3,944,037	50,000	50,000	9,857,875	809,340	809,340	3,084,897	3,894,237
2024	2025	304,402,240	13.16	4,005,271	4,005,271	50,000	50,000	6,773,278	556,098	556,098	3,400,185	3,956,271
2025	2026	316,284,390	12.79	4,089,712	4,089,712	50,000	50,000	3,373,094	276,831	276,831	3,373,094	3,650,025
2026	2027	332,897,188	12.43	4,134,384	4,134,384	0	0	0	0	0	0	0
2027	2028	347,768,661	12.08	4,200,314	4,200,314	0	0	0	0	0	0	0
2028	2029	363,487,897	11.74	4,287,527	4,287,527	0	0	0	0	0	0	0
2029	2030	378,845,063	11.41	4,336,050	4,336,050	0	0	0	0	0	0	0
2030	2031	397,132,822	11.09	4,405,811	4,405,811	0	0	0	0	0	0	0
2031	2032	415,093,590	10.78	4,477,438	4,477,438	0	0	0	0	0	0	0
2032	2033	433,862,802	0.00	0	0	0	0	0	0	0	0	0
2033	2034	453,476,828	0.00	0	0	0	0	0	0	0	0	0
<b>Totals</b>				<b>74,963,585</b>	<b>3,552,835</b>	<b>431,250</b>	<b>901,967</b>		<b>26,172,921</b>	<b>26,172,921</b>	<b>23,781,141*</b>	<b>50,992,211</b>
												<b>50,992,211</b>

Total Payments to Developer

\*Negative Amortization Added

Town  
 Village } of \_\_\_\_\_  
 City  
 County \_\_\_\_\_

# ASSESSOR'S FINAL REPORT 20 \_\_\_\_\_

Wisconsin Department of Revenue

TAX INCREMENTAL DISTRICT # \_\_\_\_\_

This report is an aid in determining the correct valuation of your taxing district and is required by s. 60.85, 66.1105, and 66.1106 of the Wis. Statutes. File this report with the SUPERVISOR OF EQUALIZATION on or before the SECOND MONDAY IN JUNE. Return this completed form and supplements as soon as the assessment for the municipality is completed to assure allocation of tax increments.

**DO NOT WAIT FOR CLERK'S TOTALS OR COMPLETION OF BOARD OF REVIEW TO COMPLETE AND FORWARD THIS REPORT TO THE APPROPRIATE DISTRICT OFFICE.**

## GENERAL INFORMATION

## TID VALUES ONLY

Report prepared by _____	Email _____																								
	Phone number (     ) _____																								
At what percent of full value are you assessing New Construction and Personal Property? <span style="float: right; border: 1px solid black; padding: 2px 10px;">  %  </span>																									
Are you performing a revaluation for this year? <input type="checkbox"/> Yes <input type="checkbox"/> No																									
Show approximate dollar amounts in columns 5 and 10 on inside pages.																									
Anticipated Board of Review date? _____																									
Where is the value of LAND IMPROVEMENTS (grading, roadway, paving, wells, septic systems, retaining walls, etc.) included in parcel valuation? <input type="checkbox"/> with LAND values <input type="checkbox"/> with IMPROVEMENT values																									
NOTE: DOR values Land Improvements with Improvements per the Wisconsin Property Assessment Manual.																									
If your municipality is a TOWN, does it have an ordinance which has been adopted and is now in effect for licensing MOBILE HOMES under Sec. 66.0435 of Wisconsin Statutes? <input type="checkbox"/> Yes <input type="checkbox"/> No																									
List the total number of acres for Class 4, 5, 5m, 6 and 7																									
<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Type of Land</th> <th style="text-align: left;">Number of Acres</th> </tr> </thead> <tbody> <tr> <td>Total Tillable .....</td> <td>_____</td> </tr> <tr> <td>Pasture .....</td> <td>_____</td> </tr> <tr> <td><b>TOTAL Agricultural (4)</b> .....</td> <td>_____</td> </tr> <tr> <td>Road Right-of-Way .....</td> <td>_____</td> </tr> <tr> <td>Fallow Land .....</td> <td>_____</td> </tr> <tr> <td>Swamp &amp; Waste .....</td> <td>_____</td> </tr> <tr> <td><b>TOTAL Undeveloped (5)</b> .....</td> <td>_____</td> </tr> </tbody> </table>	Type of Land	Number of Acres	Total Tillable .....	_____	Pasture .....	_____	<b>TOTAL Agricultural (4)</b> .....	_____	Road Right-of-Way .....	_____	Fallow Land .....	_____	Swamp & Waste .....	_____	<b>TOTAL Undeveloped (5)</b> .....	_____	<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Type of Land</th> <th style="text-align: left;">Number of Acres</th> </tr> </thead> <tbody> <tr> <td><b>TOTAL Agricultural Forest (5m)</b> .....</td> <td>_____</td> </tr> <tr> <td><b>TOTAL Forest (6)</b> .....</td> <td>_____</td> </tr> <tr> <td><b>TOTAL Other (7)</b> .....</td> <td>_____</td> </tr> </tbody> </table>	Type of Land	Number of Acres	<b>TOTAL Agricultural Forest (5m)</b> .....	_____	<b>TOTAL Forest (6)</b> .....	_____	<b>TOTAL Other (7)</b> .....	_____
Type of Land	Number of Acres																								
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<b>TOTAL Forest (6)</b> .....	_____																								
<b>TOTAL Other (7)</b> .....	_____																								
List value from column 8 due to <u>decreased utility</u> (not including property destroyed or removed) ..... \$ _____																									
List value of newly constructed Buildings on Leased Land (assessed as personal property) less any demolitions ..... \$ _____																									
List value of new Mobile Homes (assessed as personal property) less value of Mobile Homes removed ..... \$ _____																									

Assessor's Signature \_\_\_\_\_ Date \_\_\_\_\_

I have reviewed the new construction and demolition totals with a municipal official.       Yes       No      If yes, complete below.

Municipal Official's Name \_\_\_\_\_ Title \_\_\_\_\_

PA-100T (R. 11-05)

REAL ESTATE		COMPLETE THESE TWO COLUMNS USING THE CLERK'S Statement of Assessment from last year <b>20</b> _____		INCREASES IN ASSESSED VALUES DUE TO:			
				1 Gains in TID Parcels by Territory Amendment	2 Higher Land Use, New Plats, Land Imprvts and New Construction	3 & 4 Property Formerly Assessed as Personal Property or Formerly Exempt now Assessed as Real Estate	5 INCREASES DUE TO Revaluations
		Parcel Count	Assessed Value	Assessed Value	Assessed Value	Assessed Value	Assessed Value
Class "1" Residential	Land						
	Impts.						
	Total						
Class "2" Commercial	Land						
	Impts.						
	Total						
Class "4" Agricultural	Land						
Class "5" Undeveloped	Land						
Class "5m" Agricultural Forest	Land						
Class "6" Forest	Land						
Class "7" Other	Land						
	Impts.						
	Total						
TOTALS	Land						
	Impts.						
	Total						

Class "3" Manufacturing Shifts	Land	
	Impts.	
	Total	

**DEFINITIONS OF COLUMN HEADINGS (Reason for Change)**

- 1. Show only new value due to territory amendment.
- 2. Show increases in land value due to higher land use, new subdivisions, etc. Show increases in value of improvements due to new construction, completion of building partially assessed, remodeling and additions, land improvements such as addition of curb, gutter, sewer, water, etc.

**Column 3 and 4 (Combined above):**

- 3. Show property formerly assessed as personal property that will be assessed as REAL ESTATE for the first time.
- 4. Show formerly exempt property now assessed.
- 5. Show any increases made due to revaluations or use value.

+ OR -		DECREASES IN ASSESSED VALUES DUE TO:				THIS YEAR'S ASSESSMENT ROLL ASSESSOR'S TOTALS		
6 Assessor's Shift in Classification		7 Losses in TID Parcels by Subtraction Amendment	8 Property Destroyed, Removed, or Reduced Utility	9 Property Formerly Assessed, Now Exempt	10 DECREASES DUE TO Revaluations	20 Prior to Board of Review		
No. of Acres	Assessed Value	Assessed Value	Assessed Value	Assessed Value	Assessed Value	Parcel Count	Assessed Value	Line No.
								1
								2
								3
								4
								5
								6
								7
								8
								9
								10
								11
								12
								13
								14
								15
								16


**DEFINITIONS OF COLUMN HEADINGS (Reason for Change)**

6. Show any changes in classification. Indicate this change by a + or - as the case may be. SHIFTS MUST BALANCE TO ZERO. Any gain or loss in value should appear in columns 2, 5, 8 or 10.

Show total acre change by class for land, improvements and total in column provided.

7. Show value lost due to subtraction territory amendment.

8. Show value of property lost due to full or partial destruction, removal or due to contamination.

9. Show any decreases because of property becoming exempt.

10. Show any decreases made due to revaluations, use value, or 50% reductions made to classes 5 and 5m.

**PERSONAL PROPERTY SUMMARY – As of January 1**

**FOR DEPARTMENT OF REVENUE USE ONLY**

			@ _____ %
<b>9</b>	<b>WATERCRAFT</b>	<b>No. Accts.</b>	<b>Assessed Value</b> ▶ <b>9</b>
If significant change in value from last year, please explain.			
<b>11</b>	<b>MACHINERY, TOOLS &amp; PATTERNS</b>	<b>No. Accts.</b>	<b>Assessed Value</b> ▶ <b>11</b>
If significant change in value from last year, please explain.			
<b>12</b>	<b>FURNITURE, FIXTURES &amp; EQUIPMENT</b>	<b>No. Accts.</b>	<b>Assessed Value</b> ▶ <b>12</b>
<b>Note: Computers and related equipment are exempt and should not be included in this value.</b>			
If significant change in value from last year, please explain.			
<b>13</b>	<b>ALL OTHER PERSONAL PROPERTY</b>	<b>No. Accts.</b>	<b>Assessed Value</b> ▶ <b>13</b>
<b>a</b>	All Other		
<b>b</b>	Bldgs. on Leased Land		
<b>c</b>	Mobile Homes		
<b>Total All Other Personal Property</b>			
If significant change in value from last year, please explain.			
<b>TOTAL PERSONAL PROPERTY</b>		<b>No. Accts.</b>	<b>Assessed Value</b>



**Exhibit F**  
(Legal Opinion)

[Letterhead of Owner's and Developer's Counsel]

\_\_\_\_\_, 2006

[Addressees]

Re: Pointe Blue Project

Ladies and Gentlemen:

We have acted as counsel to Pointe Blue, LLC, a Wisconsin limited liability company (the "Owner") and Key Bridge, Inc., a Wisconsin corporation (the "Developer") and Scott Fergus (with respect to Scott Fergus, for the purposes of this opinion only), in connection with the Development Agreement among Owner, Developer, the City of Racine, Wisconsin (the "City"), and the Redevelopment Authority of the City of Racine (the "Authority"), dated as of September 25, 2006, (the "Development Agreement"). The Development Agreement was executed in connection with the Project described in the Development Agreement (the "Project"). In connection therewith, we have examined copies of the following documents, each of which is dated of even date herewith unless otherwise indicated (the documents listed below being herein collectively referred to as the "Development Documents"):

1. a Note executed by Owner, payable to the order of City, in the principal amount of \$ \_\_\_\_\_;
2. a Guaranty of Specific Transaction, executed by Scott Fergus; and
3. the Development Agreement.

Capitalized terms used herein shall have the meaning attributed to them in the Development Documents.

In addition, we have examined the Owner's Articles of Organization and Operating Agreement (the "Owner's Organizational Documents") and the Developer's Articles of Incorporation and Bylaws (the "Developer's Organizational Documents") and all amendments thereto, and such other documents and certificates as we have deemed necessary in order to render this opinion. In rendering this opinion, we have assumed the genuineness of all signatures (other than those of Owner and Developer), the authenticity of all documents submitted to us as originals and the conformity to original documents of all documents submitted to us as copies or drafts of documents to be executed, the due execution of the Development Documents by, and the enforceability of the Development Documents against, the City and the Authority.

On the basis of the foregoing, but subject to the assumptions and limitations set forth below, we are of the following opinions:

1. The Owner is a limited liability company duly organized and validly existing in good standing under the laws of the State of Wisconsin. The Owner is qualified to do business in the State of Wisconsin.

2. The Developer is a corporation duly organized and validly existing in good standing under the laws of the State of Wisconsin. The Developer is qualified to do business in the State of Wisconsin.

3. The Developer is the sole Member of the Owner. Scott Fergus, as President of the Developer, as the sole member of Owner, is authorized in the name of and on behalf of Owner, to execute and deliver the Development Documents to City and the Authority and to execute and deliver to City and the Authority such other documents as City and the Authority may require thereunder, and no other authorizations or consents by or on behalf of the Owner are required with respect to the execution and delivery of the Development Documents.

4. Scott Fergus, as President of the Developer, is authorized in the name of and on behalf of Developer, to execute and deliver the Development Documents to City and the Authority and to execute and deliver to City and the Authority such other documents as City and the Authority may require thereunder, and no other authorizations or consents by or on behalf of the Developer are required with respect to the execution and delivery of the Development Documents.

5. The execution and delivery by the Owner of the Development Documents do not, and the performance by the Owner of the obligations under the Development Documents will not, conflict with or result in a violation of Owner's Organizational Documents or of any law, rule, regulation, order, writ, judgment, decree, indenture, instrument or agreement to which the Owner is a party or to which the Owner's property is subject.

6. The execution and delivery by the Developer of the Development Documents do not, and the performance by the Developer of the obligations under the Development Documents will not, conflict with or result in a violation of Developer's Organizational Documents or of any law, rule, regulation, order, writ, judgment, decree, indenture, instrument or agreement to which the Developer is a party or to which the Developer's property is subject.

7. No approval, authorization or other action by, or filing with, any governmental authority, which has not already been obtained or completed, is required in connection with the execution and delivery of the Development Documents by Owner or Developer or in connection with the performance by Owner or Developer of their respective obligations under the Development Documents, other than any approvals or authorizations of the City or the Authority required pursuant to the Development Documents.

8. The Development Documents have been duly executed and delivered by the Owner and Developer and Scott Fergus and the same constitute the legal and binding obligations of, and are valid and enforceable in accordance with their terms against, the Owner and Developer and Scott Fergus.

9. There are no pending or, to our knowledge, threatened bankruptcy or other creditor proceedings affecting the Owner, the Developer, Scott Fergus, or the Project.

10. There is no action or proceeding pending or, to our knowledge, threatened against the Owner or Developer which brings into question, directly or indirectly, the validity of any of the Development Documents or which would adversely affect the properties, assets, financial condition or business of the Owner or Developer or Scott Fergus, or which would adversely affect the right of the Owner or Developer to carry on their respective businesses.

11. There are no other governmental or judicial, administrative, arbitrational or adjudicatory proceedings or actions of any kind pending or, to our knowledge, threatened against the Project or any part thereof.

11. Owner and Developer have complied with all securities laws in connection with the formation of Owner and the sale of membership interests in Owner.

The foregoing opinions are, however, subject to the following assumptions and qualifications:

A. The enforceability of any of the Development Documents in accordance with their terms and the validity of the liens and security interests granted by the Development Documents (a) may be limited or otherwise affected by applicable bankruptcy laws, insolvency laws, fraudulent conveyance and fraudulent transfer laws, reorganization laws, moratorium laws, and similar laws and equitable principles affecting the rights of creditors and (b) are subject to the availability of equitable remedies for the enforcement of such obligations, including but not limited to specific performance, which is subject to the discretion of the court before which any proceeding therefor may be brought.

B. The opinion expressed above as to the validity or enforceability of any Loan Document is subject to the qualification that certain of the waivers, consents, rights and remedies thereof may be limited by applicable law, although such limitations do not in our opinion make the remedies provided for therein inadequate for the practical realization of the principal benefits of the security intended to be afforded thereby (except for the economic consequences of procedural or other delay).

C. We note that a Wisconsin court may impose certain standards of conduct on the City and the Authority as a condition to or a requirement for enforceability including, without limitation, a requirement that the City and the Authority act reasonably, in good faith, in a commercially reasonable manner, or otherwise in compliance with applicable law.

Our opinions in Paragraphs 1 and 2 regarding the "good standing" of Owner and Developer are based solely upon Certificates of Status issued by the Wisconsin Department of Financial Institutions with respect to Owner and Developer, respectively, each dated September \_\_\_, 2006. For purposes of this opinion, "good standing" means that both Owner and Developer have filed their most recent respective required annual report, and neither Owner nor Developer have filed articles of dissolution with the Wisconsin Department of Financial Institutions.

Whenever our opinion with respect to the existence or absence of facts is indicated to be based on our knowledge or awareness, we are referring solely to the actual knowledge of the particular von Briesen & Roper, s.c. attorneys who have represented Owner, Developer or Scott Fergus in connection with the Development Documents. We have not undertaken any independent investigation to determine the existence or absence of such facts and no inference as to our knowledge concerning such facts should be drawn from the fact that such representation has been undertaken by us.

This opinion is given as of the date hereof, it is intended to apply only to those facts and circumstances which exist as of the date hereof, and we assume no obligation or responsibility to update or supplement this opinion to reflect any facts or circumstances which may hereafter come to our attention, any changes in laws which may hereafter occur, or to inform the addressee

of any change in circumstances occurring after the date of this opinion which would alter the opinions rendered herein.

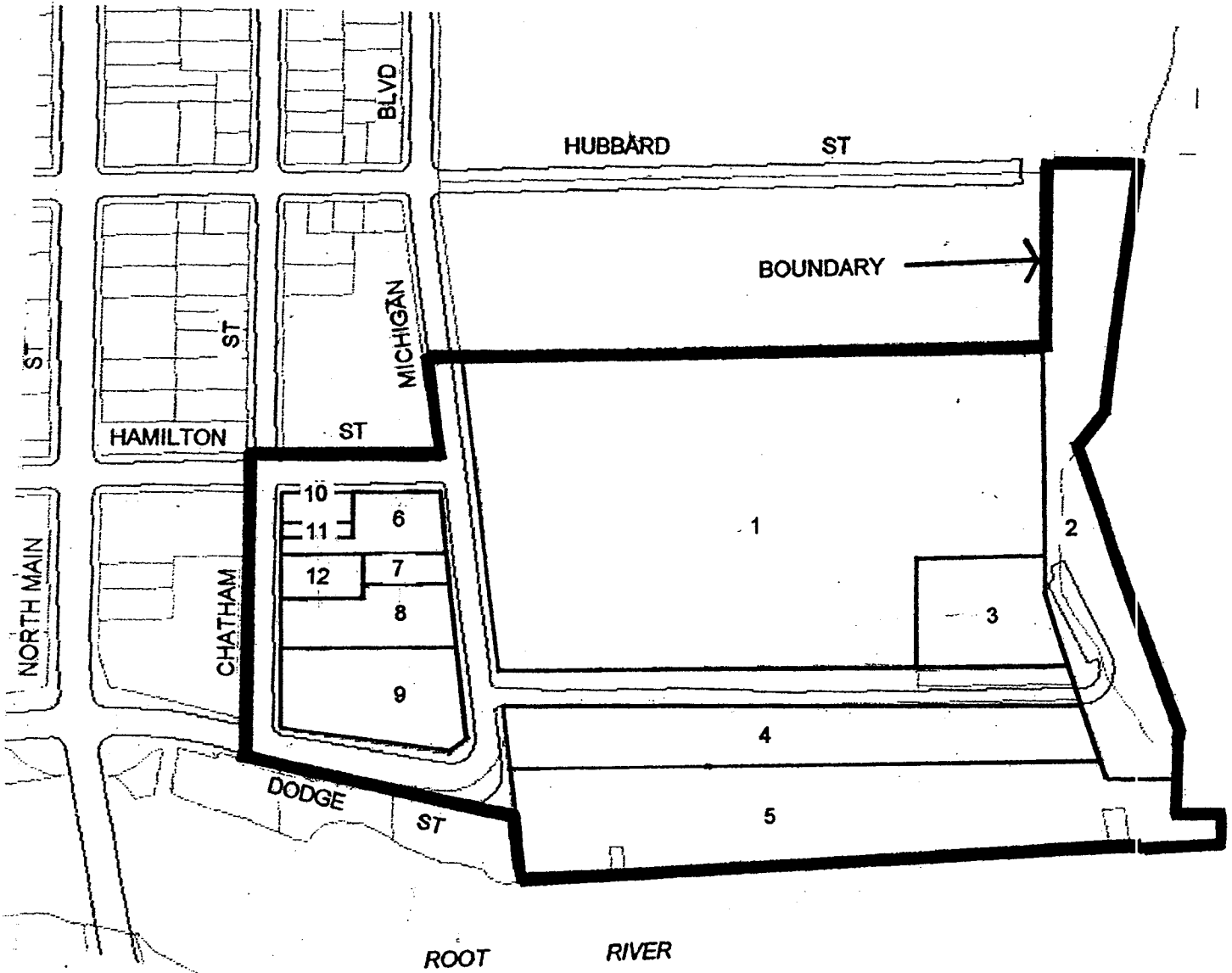
This opinion extends only to questions of the federal laws of the United States of America and the laws of the State of Wisconsin and we express no opinion with respect to any other laws or the law of any other jurisdiction or whether the laws of any particular jurisdiction apply.

This opinion has been rendered solely in connection with the transactions described in the Development Documents for the benefit of you and your counsel and the benefit of your successors and assigns, and no other person or entity shall be entitled to rely hereon without the prior written consent of the undersigned.

Very truly yours,

**Exhibit G**  
(TID Boundaries)

Appears on the next succeeding page.



NORTH DCD 7/19/06 jll

MAP 1. BOUNDARY MAP  
TID NO. 14 - CITY OF RACINE

EXHIBIT "G"

**Exhibit H**  
(Estimated TID Eligible Expenditures)

a. Soft Costs	\$ 1,117,000.00
b. Utility Connection Fees (TBD)	
c. Seawall Improvements	\$ 1,554,000.00
d. Riverwalk Improvements	\$ 777,000.00
e. Demolition/Cleanup/ Excavation.	\$ 2,942,497.00
f. Infrastructure Costs	\$ 5,975,957.00
g. Site Landscaping Costs	\$ 1,085,000.00
h. Other Items	\$ 550,000.00
i. Land Acquisition	\$ 7,248,547.00
j. Capitalized interest on loan From the Phase II Lender	\$ 650,000.00
k. Bond/Reserve Contingency	\$ 4,662,500.00
City/State/Developer Offset	\$ (5,000,000.00)
<b>TOTAL TID COSTS</b>	<b>\$ 21,562,500.00</b>

**Exhibit I**  
(Examples of Residual Profits Calculations)

Appears on the next succeeding page.



**POINTE BLUE PROFIT SHARING ANALYSIS**

City Investment through Walker Site Contribution	\$ 1,250,000.00
Estimated Term of Project	7.00
Agreed Upon Return on Funds Risked	50.00%
Gross Return %	350.00%
TARGET RETURN ON INVESTMENT	\$ 4,375,000.00
Total Project Sales Revenue	\$ 185,263,609.00
Total Project Costs	\$ 197,155,253.41
TIF Amount	\$ 21,562,500.00
NET PROJECT VALUE FOR % PROFIT CALC	\$ 175,592,753.41

EXAMPLE 1	
IF DEVELOPMENT PROFIT IS	
%	\$\$
7.50%	\$ 13,169,456.51

Residual Profit %	\$\$ Profit to KeyBridge	Amt Available for Profit Sharing	City %	City \$\$	KeyBridge	
					%	KeyEridge \$\$
7.50%	\$ 13,169,456.51	\$ -	20.34%	\$ -	79.66%	\$ -
10.00%	\$ 17,559,275.34	\$ -	25.43%	\$ -	74.57%	\$ -
12.50%	\$ 21,949,094.18	\$ -	33.90%	\$ -	66.10%	\$ -
15.00%	\$ 26,338,913.01	\$ -	50.86%	\$ -	49.14%	\$ -

EXAMPLE 2	
IF DEVELOPMENT PROFIT IS	
%	\$\$
10.00%	\$ 17,559,275.34

Residual Profit %	\$\$ Profit to KeyBridge	Amt Available for Profit Sharing	City %	City \$\$	KeyBridge	
					%	KeyEridge \$\$
7.50%	\$ 13,169,456.51	\$ 4,389,818.84	20.34%	\$ 892,889.15	79.66%	\$ 3,496,929.68
10.00%	\$ 17,559,275.34	\$ -	25.43%	\$ -	74.57%	\$ -
12.50%	\$ 21,949,094.18	\$ -	33.90%	\$ -	66.10%	\$ -
15.00%	\$ 26,338,913.01	\$ -	50.86%	\$ -	49.14%	\$ -

EXAMPLE 3	
IF DEVELOPMENT PROFIT IS	
%	\$\$
15.00%	\$ 26,338,913.01

Residual Profit %	\$\$ Profit to KeyBridge	Amt Available for Profit Sharing	City %	City \$\$	KeyBridge	
					%	KeyEridge \$\$
7.50%	\$ 13,169,456.51	\$ 13,169,456.51	20.34%	\$ 2,678,667.45	79.66%	\$ 10,490,789.05
10.00%	\$ 17,559,275.34	\$ 8,779,637.67	25.43%	\$ 2,232,661.86	74.57%	\$ 6,546,975.81
12.50%	\$ 21,949,094.18	\$ 4,389,818.84	33.90%	\$ 1,488,148.59	66.10%	\$ 2,901,670.25
15.00%	\$ 26,338,913.01	\$ -	50.86%	\$ -	49.14%	\$ -

EXAMPLE 4	
IF DEVELOPMENT PROFIT IS	
%	\$\$
20.00%	\$ 35,118,550.68

Residual Profit %	\$\$ Profit to KeyBridge	Amt Available for Profit Sharing	City %	City \$\$	KeyBridge	
					%	KeyEridge \$\$
7.50%	\$ 13,169,456.51	\$ 21,949,094.18	20.34%	\$ 4,464,445.76	79.66%	\$ 17,484,648.42
10.00%	\$ 17,559,275.34	\$ 17,559,275.34	25.43%	\$ 4,465,323.72	74.57%	\$ 13,093,951.62
12.50%	\$ 21,949,094.18	\$ 13,169,456.51	33.90%	\$ 4,464,445.76	66.10%	\$ 8,705,010.75
15.00%	\$ 26,338,913.01	\$ 8,779,637.67	50.86%	\$ 4,465,323.72	49.14%	\$ 4,314,313.95