

**TAX INCREMENT FINANCING AGREEMENT
TAX INCREMENT DISTRICT 14
@ NORTH BEACH REDEVELOPMENT**

THIS AGREEMENT made this ____ day of _____, 2018, by and between RACINE HARBORSIDE, LLC, a Wisconsin Limited Liability Company, hereinafter called “DEVELOPER”, and the CITY OF RACINE, a municipal corporation of the State of Wisconsin, located in Racine County, hereinafter called the “CITY”.

RECITALS:

WHEREAS, the CITY Common Council has approved the creation of Tax Increment District 14, Point Blue & Walker Manufacturing” aka “Harborside”, City of Racine, Wisconsin on _____, 20__ (the “DISTRICT”); and

WHEREAS, the CITY Common Council has approved an amended Project Plan (the “PLAN”) for the DISTRICT supporting the construction of a Mixed-use Development consisting of three Phases. Phase I will consist of approximately 260 market-rate apartment units in two buildings, a 4400-sq. ft. restaurant and two structured parking condominium units supporting approximately 232 stalls (the “Parking Units”). Phase II, to be constructed only if it is determined to be economically viable under the conditions herein, will consist of approximately 238 residential units in three buildings, a 4400-sq. ft. retail space and ground level parking for 80 stalls supporting the residential use, and an additional 38 angle stalls and 58 parallel stalls supporting commercial use. This phased development is referred to herein as the "PROJECT"; and

WHEREAS, the PLAN outlines certain financial payments, contributions or grants (the “DEVELOPMENT INCENTIVE”), as authorized by §66.1105 Wis. Stats., that the CITY has arranged to make available to developers of the PROJECT; and

WHEREAS, the land (the “PROPERTY”) upon which such buildings are to be located is shown and legally described on the attached **EXHIBIT A**; and

WHEREAS, at this time the parties wish to enter this TAX INCREMENT FINANCING AGREEMENT (the “TIF AGREEMENT”) setting forth the terms and conditions for the provision of the DEVELOPMENT INCENTIVE by the CITY.

NOW, THEREFORE, the parties hereto agree as follows:

1. **SITE PLAN.** The PROJECT consists of a Mixed-use Development consisting of three Phases. Phase I will consist of approximately 260 market-rate apartment units in two buildings, a 4400-sq. ft. restaurant and two Parking Units supporting approximately 232 stalls. Phase II, to be constructed only if it is determined to be economically viable under the conditions herein, will consist of approximately 238 residential units in three buildings, a 4400-sq. ft. retail space and ground level parking supporting the residential use and commercial use. The PROJECT is generally depicted on the Conceptual Site Plan attached hereto as **EXHIBIT B**.

2. **DEVELOPMENT AGREEMENT.** Prior to commencement of construction of the PROJECT, DEVELOPER shall enter one or more development agreements (the “DEVELOPMENT AGREEMENT(S)” with the CITY. Any DEVELOPMENT AGREEMENT with respect to land that is subject to this TIF AGREEMENT, shall, at a minimum, include terms and conditions for construction of public infrastructure including but not limited to right-of-way and traffic improvements, sanitary sewer and public water improvements, stormwater management improvements, fiber optic and conduit and other site improvements all to be accordance with plans to be approved and stamped “Construction Plans of Record” signed by the City Engineer, all to be on file with the Engineering Department. Further, based upon the environmental condition of the PROPERTY, the Development Agreement shall include the following development obligations:

DEVELOPER shall, at DEVELOPER’s sole cost and expense (except to the extent that DEVELOPER may use TID INCENTIVES provided for in this TID AGREEMENT), develop and maintain the PROPERTY in full compliance with all applicable regulations and approvals pertaining to the environmental condition of the PROPERTY, materials and substances arising or removed from the PROPERTY and land uses at the PROPERTY including, without limitation, the continuing obligations and other conditions of case closure as set forth in the final case closure letter from the Wisconsin Department of Natural Resources with respect to DNR BRRTS Activity #: 02-52-543220 dated August 1, 2018 and as the same may be amended or superseded.

DEVELOPER shall not alter the PROPERTY in any way or remove or construct any improvement at the PROPERTY without first obtaining all regulatory permits and approvals necessary to allow the lawful occurrence of such activity.

Until such time that DEVELOPER owns legal title to the PROPERTY in fee simple, DEVELOPER shall identify itself as the “Operator” of the PROPERTY in all regulatory interactions of DEVELOPER involving the PROPERTY.

DEVELOPER shall copy the CITY on all regulatory correspondence sent and received pertaining to the environmental condition of the PROPERTY, land uses at or proposed for the PROPERTY and developments planned for or at the PROPERTY including, without limitation, applications for permits and approvals.

DEVELOPER shall be the generator of and fully responsible for any waste produced at the Property as result of any activity of Developer, and/or any of Developer's contractors of their subcontractors at the Property.

3. TID 14 INCENTIVE.

A. TAX INCREMENTAL FINANCING. On June 1, 2010, the CITY created the City of Racine Tax Increment Financing District No. 14 ("TID 14"), finding that "public intervention is necessary to stimulate redevelopment or rehabilitation of industrial properties in the District". The PROJECT is located within TID 14. The PROJECT has been found by the CITY and its legal counsel to be consistent with the stated purpose and PROJECT PLAN for TID 14. In particular, the PROJECT PLAN proposes to eliminate blight through redevelopment of the lands to create mixed development consisting of condominium or apartment units and commercial space. Therefore, consistent with such purposes, and because the CITY finds the PROJECT would not proceed but for these incentives, the CITY hereby agrees to provide the following financial incentives to the DEVELOPER for the completion of the PROJECT, subject to all terms and conditions of this TIF AGREEMENT.

B. INCENTIVES. As an incentive for DEVELOPER to undertake the PROJECT, the CITY shall pay to DEVELOPER a REDEVELOPMENT INCENTIVE. The REDEVELOPMENT INCENTIVE shall consist of:

- 1) PARKING FACILITY INCENTIVE -- DEVELOPER shall construct, at DEVELOPER's initial expense, structured parking in one or more buildings containing a minimum of 232-space parking spaces as part of Phase I. The CITY will purchase the Parking Units from the DEVELOPER upon completion of Phase I for a purchase price equal to \$6,496,000. The purchase price will be paid from Tax Increment District 14 reserves. Payment will be made by the City to Developer: in the amount of \$3,248,000 when the Developer and Developer's architect certify and the City Engineer reasonably concurs that at

least 50% of the Parking Units are completed; and in the amount of \$3,248,000 within thirty (30) days after Developer and Developer's architect certify and the City Engineer reasonably concurs that the Parking Units are substantially completed. Any cost to complete the Parking Units in excess of \$6,496,000 shall be DEVELOPER'S responsibility. Upon completion of Phase I, DEVELOPER shall convey fee title to the Parking Units to the CITY. The form of condominium documents shall be reasonably satisfactory to the CITY and DEVELOPER.

DEVELOPER shall lease back the Parking Units from the CITY on a triple net basis, with any and all costs associated with the maintenance, repair or replacement of the Parking Units and foundational podium/pedestal borne by DEVELOPER. The Lease shall be for the term of the TID, and the lease fee shall be \$1.00 per year during the term. Title to the Parking Units shall be transferred to DEVELOPER at the end of the term; however, DEVELOPER shall have an Option to Purchase the Parking Units for \$1.00 which may be exercised at any time prior to the end of the term.

- 2) INFRASTRUCTURE INCENTIVE - A sum of up to \$1,049,112 shall be paid to DEVELOPER for PROJECT related costs for the Phase I design, construction, inspection, and turn-key delivery to the CITY, in full compliance with CITY standards and requirements, of all "City Infrastructure", which shall consist of public streets and sidewalks including lighting and signage. This incentive will be paid for using City of Racine Intergovernmental Revenue Sharing Funds and payment will occur as draw-downs against construction for work completed, to be paid not more frequently than monthly upon receipt of a completed draw request together with full supporting documentation in form and substance as reasonably required by the City Engineer. Upon completion of the City Infrastructure, DEVELOPER shall dedicate the same to the CITY. The CITY shall retain appropriate permanent rights of way and easements for such City Infrastructure. In addition thereto, the CITY shall construct a lift station and associated sewer facilities to service the PROJECT at an estimated

cost of \$1,185,000. This incentive will be paid by the CITY directly to contractors performing the work using the CITY'S Sanitary Sewer Surcharge Fund.

- 3) DEVELOPER INCENTIVE -- A tax increment finance "developer funded" incentive shall be paid to DEVELOPER in an amount equal to 90% of the tax increment generated by the DEVELOPER during the remaining life of TID 14, which ends in 2033. As estimated, the tax incentive will be approximately \$10,000,000, depending on the timing and investments made by DEVELOPER. The remaining 10% increment shall be paid to the City in repayment of costs plus interest associated with the construction of City Infrastructure. The CITY has reviewed DEVELOPER's budget for the PROJECT and confirmed that DEVELOPER has or will incur TID eligible development-related expenses in excess of \$9,000,000.
- 4) REC FEE INCENTIVE – DEVELOPER shall not be responsible for any Residential Equivalent Connection ("REC") fees for Phases I and II of the PROJECT.

4. **DEVELOPER OBLIGATIONS**

A. **FINANCING**. DEVELOPER has provided its financing commitment and proof of PROJECT equity in the minimum amount of fifteen percent (15%) related to the completion of Phase I in its entirety, which have been accepted by the CITY. DEVELOPER shall provide financing commitments and proof of PROJECT equity in the minimum amounts of fifteen (15%) percent prior to approval of Phase II.

B. **MINIMUM INVESTMENT**. DEVELOPER guarantees that it shall invest a minimum of \$50,000,000 (in debt and equity) related to Phase I of the PROJECT. Proof of construction costs shall be submitted in form and substance reasonably acceptable to the City Engineer.

C. **STRUCTURED PARKING**. DEVELOPER shall, as tenant, fully operate, manage, maintain and keep repaired the 232-space Parking Units during the duration of TID 14.

D. CITY STANDARDS. DEVELOPER shall pay all costs associated with the design, construction, inspection, and completion, in full compliance with City standards and requirements, of all “Developer Infrastructure”, which shall consist of: site preparation, environmental remediation and contaminated soils removal, water distribution, sanitary sewer collection, storm sewer collection and/or conveyance, fiber optic cables and/or conduit and necessary detention/retention, signage, lighting, landscaping, electrical, and gas infrastructure necessary and required to support the private development, together with any and all support costs associated therewith.

E. CITY ORDINANCES AND POLICIES. DEVELOPER shall fully comply with all City rules, regulations, policies and Ordinances provisions, including, subject to there being a sufficient workforce pool to select from, the “Racine Works” Ordinance which requires construction work hours to include 20% qualified and eligible low-income City residents, and shall comply with all City Zoning Ordinances, Building Codes, and Downtown Design standards.

F. ENERGY EFFICIENCY AND SUSTAINABILITY GOALS. DEVELOPER shall seek and achieve Leadership in Energy and Environmental Design (LEED) Standards designation for the Project. DEVELOPER’s goal will be to achieve “LEED Gold designation”. However, at minimum, this shall manifest in an agreed upon and enumerated list (“Exhibit C”), as attached, of sustainable elements to be included, plus \$100,000 in additional expenditure (beyond the list) toward achieving designation. CITY agrees to work with DEVELOPER to assist in seeking available and appropriate grant funds which may be available to aid in DEVELOPER’s efforts. If, despite these efforts, DEVELOPER is unable to achieve LEED Gold designation, DEVELOPER and CITY shall work collaboratively in an effort to achieve such designation.

G. SMART CITY ELEMENTS. DEVELOPER shall work in cooperation with the CITY to incorporate strategically selected Smart City elements into the PROJECT and market the building as meeting Smart City criteria, taking advantage of Racine’s position as Foxconn’s “Smart City” Partner. At least three (3%) of the available parking spaces in Phase I shall be equipped with electric vehicle charging stations. Further, DEVELOPER agrees to cooperate with the CITY with respect to use of the PROJECT grounds to

accommodate future or technologically advanced Smart City elements, and shall not unreasonably refuse a CITY request for such improvements.

5. CITY OBLIGATIONS

A. GRANT ASSISTANCE. The CITY shall use reasonable efforts to assist DEVELOPER, to the extent the DEVELOPER and/or the PROJECT is qualified and eligible, to obtain financial assistance from other resources and agencies, such as low-interest brownfield clean-up loan funds or other state or federally-provided environmental clean-up grants or loans.

B. SANITARY SEWER. The CITY will pay all costs associated with the design and construction of sanitary sewer, lift station and equipment necessary to serve all Phases of the PROJECT at an estimated cost of \$1,185,000, in addition to the City's payment of the cost of the City Improvements under Section 3.B.2.

6. SCHEDULE. The DEVELOPER shall endeavor to commence construction of Phase I of the PROJECT on or before April 1, 2019, but in the event this commencement date becomes impracticable, the construction of improvements associated with Phase I of the PROJECT shall be commenced by the DEVELOPER on or before September 1, 2019 and shall continue uninterrupted to completion subject to force majeure events, as they are defined in the construction documents for this Project.

7. OWNERSHIP ASSIGNMENT. DEVELOPER may assign this TIF AGREEMENT, or any part thereof, with the approval of the CITY, which approval shall not be unreasonably withheld or delayed, to any entity or person acquiring any portion or portions of the PROJECT (including DEVELOPER'S lender), provided that in the event of any such transfer, the applicable terms and conditions of this TIF AGREEMENT shall run with the title of said PROPERTY.

8. BINDING EFFECT. The provisions of this TIF AGREEMENT apply to the PROJECT. The covenants, agreements, restrictions and provisions contained in this TIF AGREEMENT constitute covenants running with the land and shall be binding on all parties, their heirs and assigns (including inter alia condominium unit owners, condominium owners' associations,

purchasers at Sheriff's sale, receivers, trustees and mortgagees) and successors having an interest in the land affected hereby, for the life of TID 14.

9. INDEMNITY. In addition to, and not to the exclusion or prejudice of, any provisions of this TIF AGREEMENT, or any documents incorporated herein by reference, DEVELOPER shall indemnify and save harmless the CITY, its officers, agents and employees and shall defend same, from and against any and all liability, claims, loss, damages, interest, actions, suits, judgments, costs, expenses, reasonable attorney's fees, and the like, to whomsoever owed and by whomsoever and whenever brought or obtained, which result primarily from the acts or omissions of DEVELOPER or any of its contractors in constructing the PROJECT and which are not the result of the acts or omissions of the CITY or the reasonable reliance by the DEVELOPER or any of its contractors on the actions or statements of the CITY or its agents. This indemnity shall also include the violation of any law or ordinance by DEVELOPER or any of its contractors, and the intentional infringement of any patent, trademark, trade name or copyright by DEVELOPER or any of its contractors. This indemnity does not apply to any claims arising out of the CITY's negligence or willful acts of bad faith. In every case in which the DEVELOPER is liable pursuant to this Paragraph and a judgment is recovered against the CITY, if written notice and opportunity to defend has been given to the DEVELOPER of the pendency of the suit within twenty-one (21) days after its commencement, the judgment shall be conclusive upon DEVELOPER not only as to the amount of damages, but also as to DEVELOPER's liability to the CITY.

10. TERMINATION.

- A. DEVELOPER shall have the right to terminate this TIF AGREEMENT on or before December 31, 2018 upon written notice to the CITY.
- B. This TIF AGREEMENT shall automatically terminate and be of no further force or effect upon the last to occur of all of the following: (a) timely completion of the PROJECT (excluding phases never begun) in accordance with the APPROVED PLANS; and (b) termination of the DISTRICT. Upon the occurrence of all of the foregoing and upon request of the DEVELOPER, the CITY agrees to execute and

record in the Office of the Register of Deeds for Racine County a memorandum of termination of this TIF AGREEMENT.

11. NOTICES. All notices, requests, demands and other communication (collectively, "Notices") hereunder shall be in writing and given by (i) established express delivery service which maintains delivery records, (ii) personal delivery, or (iii) certified or registered mail, postage prepaid, return receipt requested, to the parties at the following addresses or at such other addresses the parties may designate by notice given in the above described manner.

CITY: City of Racine
730 Washington Avenue
Racine, Wisconsin 53403
ATTN: City Attorney

City of Racine
730 Washington Avenue
Racine, Wisconsin 53403
ATTN: Director of City Development

DEVELOPER: Racine Harborside, LLC
c/o Royal Capital Group, LLC
710 N Plankinton Ave, Suite 300
Milwaukee, WI 53203
Attn: Terrell J. Walter

Notices may also be given by facsimile transmission provided the Notices are concurrently given by one of the above methods. Notices shall be effective upon receipt or upon attempted delivery if delivery is refused or impossible because the recipient has failed to provide a reasonable means for accomplishing delivery.

12. WAIVER. DEVELOPER waives, for itself and its successors in interest, during the life of the DISTRICT, any right to object to the CITY'S valuation of the property, to make any claim for excessive tax, or otherwise raise any legal challenge related thereto, to the extent the Property is valued by the CITY at or less than \$45,000,000.

13. TAX-EXEMPT COVENANT. During the life of the DISTRICT, DEVELOPER agrees that it will not sell, lease, assign or otherwise transfer or convey any interest in the PROJECT or the Property to a person or entity exempt from general property taxation or in a

manner which would cause all or any portion of the Property to be exempt from general property taxation (the "Tax-Exempt Covenant"). This TIF AGREEMENT shall be recorded by the CITY, and DEVELOPER agrees that the Tax-Exempt Covenant will run with the Land and will bind all present and future owners of the Property during the life of this TID. In the event any court finds the Tax-Exempt Covenant is not valid or enforceable or if for any reason the Tax-Exempt Covenant is terminated, then DEVELOPER, or its successors and assigns, shall make payments in lieu of taxes to the CITY in an amount equal to the amount of property taxes that would have been collected were the Property taxable, and by the same date that the last installment tax payment on the Property would have been due were the entire Property taxable.

14. **RECORDING.** This TIF AGREEMENT shall be recorded in the office of the Register of Deeds of Racine County, Wisconsin, prior to the recording of any other mortgage or security on the PROPERTY, it being understood by the parties that until termination of this TIF AGREEMENT, this TIF AGREEMENT will run with the land and will be binding upon the PROPERTY and the PROJECT and any owner and/or lessee and/or mortgagee of all or any portions of the PROPERTY and the PROJECT and their successors and assigns. Upon the termination of this TIF AGREEMENT, the CITY shall execute and deliver a release to DEVELOPER so as to remove this TIF AGREEMENT as a cloud on the PROPERTY's title. However, those provisions by their express terms that indicate a continuing obligation or restriction on the PROPERTY shall not be removed from the title and such provisions shall continue to run with the land and be binding on the PROPERTY for the time period indicated.

15. **SEVERABILITY.** In the event any of the terms and provisions of this TIF AGREEMENT are unenforceable, then to the greatest extent possible the remainder of this TIF AGREEMENT or the application of such term or provision to persons or circumstances other than to which it is invalid or unenforceable shall not be affected thereby and each term and provision of this TIF AGREEMENT shall be valid and shall be enforced to the extent permitted by law.

16. **AUTHORITY.** Each of the individuals and officers who have executed this TIF AGREEMENT represent and warrant that he or she is duly authorized to execute this TIF AGREEMENT on behalf of the CITY or DEVELOPER, as the case may be, and that all action necessary for said party to so execute and perform the terms of this TIF AGREEMENT have been

duly taken by said party and that no other signature and/or authorization is necessary for such party to enter into and perform the terms of this TIF AGREEMENT.

17. **NO PRESUMPTION.** This TIF AGREEMENT shall be interpreted and construed only by the contents hereof and there shall be no presumption or standard of construction in favor of or against any party.

18. **ADDITIONAL AGREEMENT.** It is recognized by both parties that an additional Development Agreement may be necessary prior to construction of the private improvements, to address issues that may arise based upon design.

This TIF AGREEMENT is binding upon the heirs, personal representatives, successors and assigns of both parties.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, DEVELOPER and CITY have caused this TIF AGREEMENT to be signed in two original counterparts the day and year first above written.

DEVELOPER:

RACINE HARBORSIDE, LLC

By: Royal Capital Group, LLC, Manager

By: _____
Name: _____
Title: _____

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) SS
COUNTY OF MILWAUKEE)

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by _____, the _____ of Royal Capital Group, LLC, the manager of Racine Harborside, LLC.

Notary Public, State of Wisconsin
My commission expires: _____

CITY OF RACINE:

By: _____
Cory Mason, Mayor

By: _____
_____, City Clerk

STATE OF WISCONSIN)
) SS
COUNTY OF RACINE)

Personally came before me this ____ day of, 2018, the above-named Cory Mason, Mayor, and _____, City Clerk, of the City of Racine, and to me known to be such Mayor and City Clerk of said municipal corporation and acknowledged that they executed the foregoing instrument as such officers as the deed of said municipal corporation by its authority, and pursuant to the authorization by the Common Council from their meeting on the ___ day of _____, 2018.

Notary Public, State of Wisconsin
My commission expires: _____

APPROVED AS TO FORM:

Scott R. Letteney, City Attorney

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

David Brown, Finance Director

This document was drafted by Attorney H. Stanley Riffle on behalf of the City of Racine.

Exhibit "A"

Property Description

[need to insert]

Exhibit “B”

Conceptual Site Plan

[see attached]

Exhibit “C”

- Low E glass
- Rain gardens
- Reduced storm water runoff
- High efficiency low flow plumbing fixtures
- Energy Star appliances
- High efficiency furnaces
- Low VOC Interior Finishes
- Electric car charging stations
- Resident bike sharing program
- Bike Storage
- Community recycling program in partnership with the City of Racine
- LED common area lighting
- Utilizing existing municipal services
- Highest possible walkable and bikeable location
- Construction waste management and recycling
- Construction Indoor Air Quality Management Plan (clean construction site)
- Use of local reasonable renewable resources/construction materials
- Reduced parking footprint
- Access to Public Transit
- Building on an infill and previously developed parcel of land
- Biophilic design in common areas (incorporation of nature)
- Material Optimization (select products with Environmental Product Declarations / Health Product Declarations)
- Incorporate “smart” apartment thermostat devices for energy and lifestyle management

- Civic Engagement (community volunteer opportunities are posted in common areas)
<https://v2.wellcertified.com/v2.2/en/community/feature/11>
- Light Pollution Reduction (exterior lights shine on the site and not up to the night sky or trespass to neighboring site)
- Environmentally friendly refrigerants

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