

Document Escrow Agreement (Seller-Buyer)

Commitment No: _____

THIS DOCUMENT ESCROW AGREEMENT ("Agreement") is made as of April, 2019, by and between Racine Harborside, LLC, a Wisconsin limited liability company ("Buyer"), and City of Racine ("Seller"), and Chicago Title Insurance Company ("Escrow Agent" or "Title Company").

RECITALS:

- A. Seller is selling to Buyer the property with a street address of 1129 Michigan Boulevard, Racine, WI pursuant to a certain WB-13 Vacant Land Offer to Purchase as modified by an Addendum A to WB-13 Vacant Land Offer to Purchase dated March 18, 2019 (the "Offer"). The real estate subject to the Offer is described on Exhibit A to said Addendum A to WB-13 Vacant Land Offer to Purchase dated March 18, 2019 (the "Property").
- B. Escrow Agent has agreed to issue its title insurance policy insuring the Property in accordance with the above-described Commitment.
- C. Seller and Buyer are depositing certain documents with Escrow Agent and are requesting that Escrow Agent deliver, record and disburse the documents and funds as set forth in this Agreement.

THE PARTIES AGREE:

1. **Recitals:** The above recitals are incorporated below as if set forth at length.
2. **Seller's Deliveries.** On or before the date of this Agreement, Seller shall deliver the following items to Escrow Agent with each document duly executed by Seller and, if required, acknowledged:
 - a. Offer by and between Seller and Buyer.
 - b. Developers Agreement by and between Seller and Buyer.
 - c. Tax Increment Financing Agreement by and between Seller and Buyer (the "TIF Agreement").
 - d. WB-15 Commercial Offer to Purchase and Addendum to Offer to Purchase (the "Parking Units Offer") by and between Seller, as buyer, and Buyer, as seller, with respect to the Parking Units (as such term is defined in the Parking Units Offer).
 - e. Lease by and between Seller, as landlord, and Buyer, as tenant, with respect to the Parking Units.
 - f. Subordination Agreement by and between Seller, as junior lender, and Buyer, as debtor.
3. **Buyer's Deliveries:** On or before the Closing Date, Buyer shall deliver the following items to the Escrow Agent, with each document duly executed by Buyer and, if required, acknowledged:
 - a. Offer by and between Seller and Buyer.
 - b. Promissory Note delivered by Buyer to Seller.
 - c. Mortgage and Mortgage Addendum delivered by Buyer to Seller.
 - d. Subordination Agreement by and between Seller, as junior lender, and Buyer, as debtor.
 - e. Developers Agreement by and between Seller and Buyer.
 - f. TIF Agreement by and between Seller and Buyer.
 - g. Parking Units Offer by and between Seller, as buyer, and Buyer, as seller, with respect to the Parking Units.

- h. Lease by and between Seller, as landlord, and Buyer, as tenant, with respect to the Parking Units.
 - i. Condominium Declaration with respect to Buyer's Project (as such term is defined in the TIF Agreement).
- 4. **Disbursement:** When the Escrow Agent has received all of the deliveries set forth in Sections 2 and 3, above, it shall so notify Buyer and Seller of the same. Then Escrow Agent shall hold the documents *until the first of the following events:*
 - A. Closing on Buyer's purchase of the Property, pursuant to the terms more particularly set forth in the Offer.
 - B. In the event that Buyer and Seller do not close on the purchase and sale of the Property pursuant to the Offer on or before October 1, 2019, then Escrow Agent shall return the documents deposited under this Agreement to the depositor of such documents. On the return of such documents, then Escrow Agent shall have no further liability under this Agreement and shall not be a necessary or permitted party in any action brought regarding the documents; OR
 - C. On receipt of an order of a court of competent jurisdiction regarding the documents deposited under this Agreement, Escrow Agent shall proceed as directed in the order and then shall have no further liability under this Agreement and shall not be a necessary or permitted party in any action brought regarding the documents.
- 5. **Liability of Escrow Agent:** Escrow Agent shall not be liable for any act or omission done in good faith under this Agreement. Buyer and Seller agree to hold Escrow Agent harmless for all reasonable actions taken by Escrow Agent in accordance with this Agreement. In addition, Buyer and Seller further agree to pay all expenses of Escrow Agent, including reasonable attorneys' fees, which may arise pursuant to or out of a dispute with reference to the rights of anyone claiming an interest in documents deposited under this Agreement.
- 6. **Action Against Escrow Agent:** The parties agree that any action in relation to an alleged breach of this Agreement by Escrow Agent shall be commenced within three years of the date of the breach, without regard to the date the breach is discovered. Any action not brought against Escrow Agent within that three year time period shall be barred, without regard to any other limitations period set forth by law or statute, and the Buyer and Seller hereby waive any statute of limitations to the contrary.
- 7. **Construction:** In accepting any documents delivered under this Agreement, Seller and Buyer understand and agree that Escrow Agent will not be called upon to construe any contract or instrument deposited with Escrow Agent, and shall be required to act in respect to the deposit under this Agreement only upon the terms of this Agreement or upon the written instructions of Seller and Buyer. In the event a dispute arises under this Agreement, Escrow Agent reserves the right to hold any money in its possession, or any other deposits made pursuant to this Agreement, until a mutual agreement has been reached between Seller and Buyer or pursuant to a final judgment or decree of a court of competent jurisdiction.
- 8. **Escrow Fee:** Seller and Buyer shall each pay Escrow Agent the sum of \$_____ for its services as Escrow Agent under this Agreement, to be paid at the time that the parties enter into this Agreement.
- 9. **Counterparts:** This Agreement may be executed in counterparts. When each party has executed a copy of this Agreement, the executed copies taken together shall have the same force and effect as if executed in one document. Facsimile or electronic ("PDF") signatures on this Agreement shall be deemed original signatures.
- 10. **Notices:** Any notice required under this Agreement shall be given in writing at the addresses set forth at the

end of this Agreement and by: (a) certified or registered mail, postage prepaid, (b) overnight courier guaranteeing next day delivery, (c) personal delivery, (d) facsimile or (e) email. All notices shall be deemed given three (3) business days following deposit in the United States mail with respect to certified or registered letters, one (1) business day following deposit if delivered to an overnight courier guaranteeing next day delivery and on the same day if sent by personal delivery or facsimile (with proof of transmission) or email (with proof of transmission).

11. **Binding:** The terms, covenants and conditions of this Agreement shall binding upon the parties and their respective successors, heirs and assigns.

SELLER:
CITY OF RACINE

By: _____
Cory Mason, Mayor

Address: 730 Washington Ave., Racine, WI 53403,
cory.mason@cityofracine.org

BUYER:
RACINE HARBORSIDE LLC, a Wisconsin limited liability company

By: Royal Capital Group, LLC, its Member

By: _____
Kevin L. Newell, Manager

By: CDS 2018 Racine, LLC, its Member

By: _____
Michael Krolczyk, Manager

Address: 710 N. Plankinton Ave., Suite 310,
Milwaukee, WI 53202, k.newell@royalcapital.net

ESCROW AGENT:
Chicago Title Insurance Company

By: _____
Name: _____
Title: _____

Address: _____