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**Office of the
City Attorney
Racine, Wisconsin**



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June 6, 2024

Village Administrator
Village of Mount Pleasant
8811 Campus Drive
Mount Pleasant, Wisconsin 53406

General Manager
Racine Water Utility
800 Center Street, Room 227
Racine, Wisconsin 53403

City Clerk
City of Racine
730 Washington Avenue, Room 103
Racine, Wisconsin 53403

Via First Class Mail

Re: Notice of Potential Material Change of Circumstances

Dear Village Administrator, General Manager, and City Clerk,

The City of Racine (the “City”) hereby provides this notice that a potential Material Change of Circumstance has occurred or may occur in the foreseeable future within the meaning of Section 31 of the Intergovernmental Retail Water Service Agreement between the City of Racine and the Village of Mt. Pleasant dated May 24, 2004 (the “Original Agreement”) as amended by the Intergovernmental Agreement between City of Racine, Racine Water Utility and Village of Mt. Pleasant Relating to Impacts of Public Services Associated with Village of Mt. Pleasant Tax Increment District No. 5 (the “Amended Agreement”), which has the effect of materially altering the structured balance of benefits and burdens that the Parties have extensively negotiated and accepted in the Amended Agreement (the “Cost-Benefit Balance”).

The basis for potential Material Change of Circumstance, which forms the basis for this Notice, includes the following:

1. The State of Wisconsin authorized the Creation of an Information and Technology Zone (the “Zone”), which was designed for the creation of high paying jobs

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to serve the economic needs of the area that include those areas that are experiencing declining populations, job losses, deteriorating condition of property and other indicia of an economically disadvantaged segment of the area's economy (the "Economically Deprived Area").

See: 2017 Wisconsin Act 58, including Wis. Stat. Sec. 238.396(1m), as well as the Legislative History of 2017 Wisconsin Act 58 prepared by the Legislative Fiscal Bureau dated October 4, 2017, (the "Enabling Statute").

2. The Enabling Statute provides significant benefits to the Village of Mt. Pleasant (the "Village") for attracting qualified projects. The benefits include the following:

- a. Tax benefits for qualifying projects including payroll tax credits and supplemental credits for capital expenditures.
- b. A sales tax exemption.
- c. Exemptions from PSC requirements for energy facilities required to serve qualifying projects.
- d. The availability of market-based public utility rates.
- e. Significant regulatory exemptions for permitting administered by the Wisconsin Department of Natural Resources.
- f. Special exemptions to requirements that apply to water diversions for the straddling communities.
- g. Significant expansion of the use of tax incremental financing for qualifying projects within, and in and some instances, outside the Zone, including, but not limited to the following:
 - i. An exemption for a TID in the zone from the 12% limit applied to total equalized value in a municipality applicable to TIDs under existing law.
 - ii. Increases the allowable life of a district for allocation of positive tax increment to recover the cost of eligible projects from 20 to 30 years.
 - iii. An elimination of the five-year limitation prohibiting eligible project costs to be incurred within 5 years of the un-extended termination date of the TID.
 - iv. Allowing payment of project costs made outside of the Zone but within the county containing the Zone provided the expenditures benefit the TID and are approved by the DOA Secretary.

- h. Exemptions from public bidding requirements for municipal infrastructure serving a qualified project.
- i. Exemptions from the Expenditure Restraint Budget Test.
- j. A special exemption from the prohibition for the Village to use increment to fund enhancements for police and fire protection.
- k. Authorization for the Legislature to pay up to 40% of the Village's bonding obligations to serve qualified projects.

(Collectively referred to as the "Enabling Statute Benefits.")

See: Legislative History of 2017 Wisconsin Act 58 prepared by the Legislative Fiscal Bureau dated October 4, 2017 (the "Fiscal Bureau Memo").

- 3. The estimated value of the Enabling Statute Benefits exceeds \$1 billion.

See: Fiscal Bureau Memo.
- 4. In addition to the Enabling Statute Benefits, the State of Wisconsin incurred costs more than \$400 Million to upgrade associated roadway infrastructure to serve the Zone (the "Roadway Benefits").
- 5. The Enabling Statute constitutes a legislative action within the meaning of the Original Agreement.
- 6. The Village relied upon the Enabling Statute when it created TID 5.
- 7. TID 5 was created to serve the Foxconn project (the "Foxconn Project").
- 8. At the request of the State of Wisconsin and the Village, the City filed the application for approval of the water diversion from the Lake Michigan Basin to the Mississippi River Basin that was necessary to serve the Foxconn Project and for the benefit of the Village, (the "Water Diversion Application"), which was approved by the Wisconsin Department of Natural Resources.
- 9. The Foxconn Project was projected to involve an investment of up to \$10 billion in value and the creation of up to 13,000 jobs with an average salary of \$53,875 over a period of up to six years (the "Projections"). *See:* Fiscal Bureau Memo.
- 10. The Projections were consistent with the purposes underlying the Enabling Statute.

11. The City of Racine qualifies as an Economically Deprived Area within the meaning of the Enabling Statute.

12. City of Racine relied upon the estimate of high-paying jobs and other benefits in the Projections that would inure to the substantial benefit of the City and its residents when the City filed the Water Diversion Application and executed the Amended Agreement and agreed to the benefits afforded TID 5 by expanded water infrastructure.

13. After the announcement of the Foxconn Project, the City experienced significant interest for future residential and commercial development within the City as a result of the job projections associated with the project (the "City Development Opportunities").

14. The Village recently undertook an administrative action authorizing Microsoft to develop a substantial portion of TID 5 in lieu of the Foxconn Project (the "Village Administrative Action").

15. It is projected that the Microsoft Project has the potential to create at least \$3 billion in value and possibly as much as \$10 billion given the amount of land it controls in the Zone. In addition, the Village and Microsoft will enjoy many, if not all, of the Enabling Statute Benefits as well as the Roadway Benefits for this project.

16. The Microsoft Project will only generate approximately 200 jobs associated with each of the 5 phases of the development as compared to the up to 13,000 jobs projected for the Foxconn Project (the "Job Disparity").

17. The recent announcement that TID 5 will serve the Microsoft Project rather than the Foxconn Project has the potential to create substantial Enabling Statute and Roadway Benefits for the Village and significantly less benefits to the City resulting from the Job Disparity and thereby adversely impacting the Cost-Benefit Balance relied upon the parties when they executed the Amended Agreement for water infrastructure to serve the Zone.

Based upon the foregoing, the City of Racine hereby invokes the process that applies to a Material Change of Circumstances in accordance with Section 31 of the Original Agreement.

Sincerely,

A handwritten signature in blue ink, consisting of several overlapping loops and a vertical line, positioned above the printed name.

Scott R. Letteney
City Attorney

Cc: Village Attorney Christopher Smith (via email)