



DOC# 1240646

**CITY OF MANITOWOC TID NO. 22
DEVELOPMENT AGREEMENT WITH
RIVER NORTH LLC**

STATE OF WI - MTWC CO
KRISTI TUESBURG REG/DEEDS
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NAME AND RETURN ADDRESS

City Clerk
City of Manitowoc
900 Quay Street
Manitowoc, WI 54220

Parcel Identification Numbers:

Portions of Parcels: 052-000-168-040,
052-000-173-000, 052-000-173-100,
and 052-000-173-160

This instrument was drafted by:

Adam Tegen
City of Manitowoc
Community Development Director



**CITY OF MANITOWOC TID NO. 22
DEVELOPMENT AGREEMENT WITH
ALLIE FAMILY COMPANIES AND RIVER NORTH LLC**

THIS AGREEMENT (hereinafter called the "Agreement") made as of the 12 day of August, 2021, by and between The City of Manitowoc (hereinafter called the "CITY") and ALLIE FAMILY COMPANIES and RIVER NORTH LLC (hereinafter called the "DEVELOPER"). The CITY and DEVELOPER may be referred to individually as a "PARTY" and may collectively be referred to as the "PARTIES."

WITNESSETH:

WHEREAS, DEVELOPER seeks to develop the Project defined below on a parcel of land with an address of 1000 River Point Drive, City of Manitowoc, Manitowoc County Parcels 052-000-168-040, 052-000-173-000, 052-000-173-100, and 052-000-173-160, more specifically described as and shown on Exhibit A (the "Property"); and,

WHEREAS, DEVELOPER and/or its future tenant (the "Tenant") will invest a total of approximately \$14,300,000 on the Property for site preparation, construction, and soft costs (collectively, the "Project"). The purpose of the Project is to construct a new six story apartment building with 87 dwelling units ranging from studios to three bedrooms and featuring other amenities such as indoor and underground parking, outdoor community balcony, outdoor community patio, community room, and fitness center. The Project will serve as the catalyst project for the overall River Point District, setting the tone for additional investment within the area. The redevelopment will also result in construction jobs and the addition of needed residential options within the downtown; and,

WHEREAS, the Property is located in Tax Increment Finance District No. 22 ("TID 22"), and development incentives were identified in the Project Plan for TID 22 to support projects within the district. The use of Tax Incremental Financing is necessary for the Project to take place as the Project is impacted by extraordinary development costs associated with the site. The costs include underground/first floor parking, pilings for the foundation due to high water table and the structural capacity of the soils, site filling, and vapor mitigation systems due to the industrial past of the Property; and,

WHEREAS, the CITY has targeted the downtown core to support additional residential options, development, and tax base for the community; and,

WHEREAS, the completed Project is anticipated to result in additional economic activity, housing options, and quality of life while increasing property values throughout TID 22 and the entire downtown.

NOW, THEREFORE, in consideration of the promises and obligations set forth, it is mutually agreed between the PARTIES as follows:



I. PROPOSED PROJECT SCOPE AND CONSTRUCTION.

- A. DEVELOPER agrees to complete the Project including to construct a new six story apartment building with 87 dwelling units ranging from studios to three bedrooms and featuring other amenities such as indoor and underground parking, outdoor community balcony, outdoor community patio, community room, and fitness center in accordance with the Concept Plan. The total Project costs will be approximately \$14,300,000. The total assessed value for the Property upon project completion shall not be less than \$8,500,000, with a minimum increase of \$8,500,000.
- B. The DEVELOPER shall use its good faith best efforts to complete the Project (the Project shall be deemed complete by the delivery of a final certificate of occupancy) by June 1, 2023 (the "Completion Date") in accordance with site and building plans as approved by the CITY. CITY acknowledges that site and building plans may be subject to change throughout the Project, subject to CITY's further review and approval, which shall not be unreasonably withheld.
- C. The CITY will cooperate and use reasonable efforts with respect to any and all permits necessary for completion of the Project.
- D. The DEVELOPER shall comply with all applicable federal, state, and municipal codes throughout the Project, including submitting site plans and obtaining applicable permits.
- E. The Exterior Concept Plans and Interior Floor Plans for the Project (hereinafter, collectively, the "Concept Plan") are attached as Exhibit B and are incorporated by reference to this Agreement. By execution of this Agreement, the PARTIES expressly approve the Concept Plan. The CITY or the DEVELOPER may at any time propose modifications to the Concept Plan subject to the agreement of the CITY and the DEVELOPER. All site and building plans are subject to review and approval by the CITY for compliance with federal, state and municipal code requirements.
- F. DEVELOPER has obtained an estimate for approximately \$55,000 from Stantec to close out the environmental site at the Property (River North) with the Wisconsin Department of Natural Resources. Per the Terms Sheet signed by the CITY and DEVELOPER, "The City will continue to work towards closure on the site from the WDNR." To that end, the CITY will pay for any grant eligible expenses that DEVELOPER encounters while working towards closure with the WDNR.
- G. The CITY shall sell portions of parcels 052-000-168-040, 052-000-173-000, 052-000-173-100, and 052-000-173-160 to DEVELOPER (or its assignee) totaling 1.646 acres for the fee of \$65,840 by August 30, 2021. The DEVELOPER agrees to grade the parcel consistent with the overall River Point District Development



Plans. The CITY will provide DEVELOPER, at no cost to DEVELOPER, with clean, structural fill from CITY streets projects. If additional fill is needed beyond what is available from such streets projects, CITY will source the structural fill from elsewhere. It is estimated that DEVELOPER will require approximately 4,000 cubic yards of fill to grade the site consistent with the overall River Point District Development Plans. All fill should be delivered to the DEVELOPER's site when needed and coordinated with the DEVELOPER'S general contractor. To that end, should DEVELOPER require more than 4,000 cubic yards of structural fill, access to such fill should not be unreasonably withheld.

- H. The time for performance of any term, covenant, or condition of this Agreement shall be extended by any period of unavoidable delays. In this Agreement, "unavoidable delays" means beyond the reasonable control of the PARTY obligated to perform the applicable term, covenant, or condition under this Agreement and shall include, without limiting the generality of the foregoing, delays attributable to adverse environmental conditions (such as contaminated soil or groundwater), adverse weather conditions, acts of God, pandemic or epidemic, any other PARTY (or such PARTY's failure to perform including failure of CITY to install "River Point District" infrastructure) in this Agreement, strikes, labor disputes, governmental restrictions, court injunctions, riot, civil commotion, acts of public enemy and casualty or delay in obtaining any necessary permit from any governmental agency.
- I. CITY agrees to work in good faith with DEVELOPER to provide 1000 River Point Drive with new, adequately sized water, sanitary sewer, and stormwater laterals as part of the "River Point District" infrastructure that was approved with the City of Manitowoc's 2021 Budget. CITY further agrees to grant easement(s) across CITY owned property and / or otherwise provide access and connection to any storm sewer system (and other related infrastructure) installed by the CITY in/on/under the area commonly known as the "River Point District". Further, the CITY shall provide DEVELOPER use of its stormwater discharge permit to eliminate the need for any stormwater detention on the Property.
- J. CITY agrees to provide an 18 month non-compete Period for the Project within the "River Point District". The 18 month Non-compete Period shall begin on September 1, 2022, irrespective of Project completion date. During the non-compete Period, the City shall not approve another similar development that would be completed within the 18 month of the Project completion date. Similar development is defined as a new, market rate multi-story apartment project and does not include town houses, garden style apartments, condos, or single or multi-family homes. The City may negotiate and enter into a development agreement on similar projects during the non-compete Period as long as the similar project would not obtain a final occupancy permit prior to March 1, 2024.



- K. CITY agrees to work in good faith with DEVELOPER to obtain closure on the Property from the WDNR.
- L. CITY agrees to work in good faith with the DEVELOPER to incorporate overnight on-street parking on York Street between North 10th Street and North 11th Street.
- M. DEVELOPER agrees to work in good faith with the CITY to pursue a Wisconsin Economic Development Corporation Brownfield Cleanup grant to offset environmental remediation costs associated with the Project and the necessary infrastructure. CITY agrees to allow the infrastructure costs for River Point District to be utilized as match for the grant.
- N. CITY agrees to complete phase 1 infrastructure including, without limitation, the following by the following dates:
 - a. water, sanitary sewer, stormwater laterals and roadways no later than December 31, 2021;
 - b. paving, sidewalks and landscaping no later than July 1, 2022.
- O. The CITY agrees to continue to promote downtown development in accordance with the Downtown Master Plan and Downtown and Riverfront Corridor Master Plan.
- P. CITY agrees to work in good faith to ensure, make and keep the River Point District and other areas surrounding the Property (including the areas surrounding the 10th Street bridge) are in a clean, safe, neat and sightly condition at all times.
- Q. CITY agrees to work in good faith to continue to develop (and encourage private development of) the River Point District including, but not limited to, continued development of infrastructure, additional private development including retail shops and restaurants, and promoting the use of the River Point District for festivals, community gatherings, markets and family friendly and other events.

II. FINANCIAL ASSISTANCE

- A. The City shall provide a Total Incentive of 32.9% of the assessed value created by the Completion Date. Based upon the estimated assessed value of \$8,500,000, the Total Incentive is estimated at \$2,800,000. The City shall provide an Initial TIF Payment of \$1,400,000 per subsection II(C) and an estimated Annual TIF Payment of \$1,400,000 to be paid beginning in 2023 per subsection II(D). In the event the Project Stabilization Tax Value on January 1, 2024 is less than or exceeds the estimated assessed value, the Annual TIF Payment shall be adjusted to maintain the Total Incentive at 32.9% of the assessed value. The adjustment shall be accomplished by increasing or reducing the value of the Annual TIF



Payment. The Initial TIF Payment shall remain static at \$1,400,000 and not be adjusted.

- B. The Total Incentive shall be calculated by subtracting the 2020 Base Tax Value, which is \$0, from the Project Stabilization Tax Value and multiplying the increase by 32.9%. The total amount of the Annual TIF Payment shall be calculated by taking the Total Incentive and subtracting the Initial TIF Payment.
- C. The Initial TIF Payment of \$1,400,000 shall be provided in two installments during the course of construction of the Project. The first installment of \$700,000 shall be made no earlier than January 15, 2022 upon proof of the Project completing footing and foundation work. The second installment of \$700,000 shall be made upon the issuance of a final occupancy permit for the Project.
- D. The Annual TIF Payment shall begin in 2023 (based on 2022 real estate taxes) and continue for up to 15 years. CITY shall reimburse the DEVELOPER for the first 10 years in equal payments estimated at \$120,000, or 95% of increment remaining after payment of principal and interest on the Initial TIF Payment; whichever is greater, and then over the remaining five years in equal payments estimated at \$40,000 until the Total Incentive equals 32.9% of the Project Stabilization Tax Value. The City may elect to complete the Annual TIF Payment sooner than the fifteen year period outlined if funding allows.
- E. The CITY shall take no action to terminate or dissolve TID 22 prior to December 31, 2042, unless the Annual TIF Payment has been fully paid to the DEVELOPER. For the avoidance of doubt, the cumulative value of the Annual TIF Payment shall not result in an exceedance of the Total Incentive.
- F. The Annual TIF Payment will be made each year by August 15 following the CITY receiving proof from DEVELOPER that the annual real estate and personal property tax bills for the Property have been paid in full, whether in one payment or in installments as permitted by state law and the Manitowoc Municipal Code.

III. DEVELOPER'S TRANSFER RESTRICTIONS AND OBLIGATIONS

- A. DEVELOPER shall be prohibited from selling the Property to an entity which is exempt from real estate taxes without the approval of the Manitowoc Common Council.
- B. Until completion of the obligations under Sections I and II above, there shall be neither sale of the Property nor any assignment of rights or obligations under this Agreement, without CITY consent, which shall not be unreasonably withheld. This statement shall not prohibit mortgages, leases or easements, which leave DEVELOPER liable to CITY under this Agreement. DEVELOPER may assign their payments to a lending institution as collateral, and the Community Development



Director for CITY is authorized to consent to such an arrangement upon approval of the Finance Director and City Attorney.

- C. Provided the tax assessed value of the Property is within the range anticipated by Paragraph IA, above, DEVELOPER shall not challenge any Property tax assessment within the first twenty years of this agreement unless the assessment increases by more than 20% from the Project Stabilization Tax Value estimated at \$8,500,000, real or personal on the development parcel, nor cause the Property to be used in such a fashion that taxes cannot be assessed.

IV. OTHER RIGHTS AND REMEDIES.

- A. **Termination and Remedies.** Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement, such PARTY shall, upon written notice from any other PARTY, proceed promptly to ensure or remedy such default or breach, and, in any event, within sixty (60) days after receipt of such notice unless such default or breach cannot, with reasonable diligence, be cured within such period in which case said defaulting PARTY shall commence such cure within such period and diligently proceed to cure such default. In case such action is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within a reasonable time, the aggrieved PARTY may institute such proceedings to compel specific performance by the PARTY in default or breach of its obligation.
- B. Completion of the development in accordance with the terms and conditions of this Agreement is the essential and unique consideration for the obligations of the DEVELOPER and the CITY; accordingly, the CITY and the DEVELOPER shall, in the event of legal proceedings, seek remedies to compel the specific performance of the defaulting PARTY as the only adequate remedy and shall not seek damages in lieu of specific performance unless specific performance is legally unavailable, in which event the CITY and the DEVELOPER may seek damages. No other remedies for the PARTIES to this agreement exist outside of this Agreement.
- C. The CITY and the DEVELOPER shall have the right to institute such actions or proceedings as they may deem desirable for effectuating the purpose of this Agreement; provided that any delay in instituting or prosecuting any such actions or proceedings or otherwise asserting such rights, shall not operate as a waiver of such rights to, or deprive it of or limit such rights in any way (it being the intent of this provision that a PARTY should not be constrained, so as to avoid the risk of being deprived of or limited in the exercise of any remedy because of concepts of waiver, laches or otherwise, to exercise such remedy at a time when it may still hope otherwise to resolve the problems involved); nor shall any waiver in fact made with respect to any specific default, be considered or treated as a waiver of any rights with respect to other defaults or with respect to the particular default except to the extent specifically waived in writing.



- D. Except as expressly provided otherwise in this Agreement, the rights and remedies of the PARTIES to this Agreement, whether provided by law or by this Agreement, shall be cumulative, and the exercise by any PARTY of any one or more such remedies shall not preclude the exercise of it, at the same different times, of any other such remedies for any other default or breach by any other PARTY. No waiver made by any such PARTY with respect to the performance or manner of time thereof, of any obligation of any other PARTY or any condition of its own obligation under this Agreement shall be considered a waiver of any rights of the PARTY making waiver with respect to the particular obligation beyond those expressly waived in writing and to the extent thereof, or a waiver in any respect in regard to any other rights of the PARTY making the waiver of any other obligations.
- E. No official or employee of the CITY shall have any personal interest in this Agreement, nor shall any such person voluntarily acquire any ownership interest, direct or indirect, in the legal entities which are PARTIES to this Agreement. No official or employee of the CITY shall be personally liable to the DEVELOPER or any successor in interest, in the event of any default or breach by the CITY, or for any amount which becomes due to the DEVELOPER or its successors under this Agreement. No member of DEVELOPER or any member of its members shall be personal liable to the CITY or any successor in interest, in the event of any default or breach by DEVELOPER, or for any amount which may become due to the CITY by DEVELOPER or its successors under this Agreement.
- F. **Applicable Law, Severability and Entire Agreement.** This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin governing agreements made and fully performed in Wisconsin. If any provision of this Agreement, or the application thereof to any persons or circumstances shall, to any extent, be invalid or unenforceable, then (unless in the judgment of the PARTY or PARTIES thereby adversely affected such provision was a material part of the consideration for their entering into this Agreement, that without it they would not have entered into this Agreement) the remainder of this Agreement or the application of such provision, or portion thereof, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. This Agreement sets forth the entire understanding between the CITY and the DEVELOPER with respect to its subject matter, there being no terms, conditions, warranties or representatives with respect to its subject matter other than that contained herein. This Agreement shall be binding upon and shall inure to the benefit of the PARTIES hereto, their respective successors and assigns.
- G. **Amendments to Agreement.** This Agreement may not be changed orally, but only by agreement in writing and signed by the PARTIES hereto.
- H. **Third Parties.** Except as expressly provided otherwise in this Agreement, the provisions of this Agreement are for the exclusive benefit of the PARTIES hereto and not for the benefit of any other persons, as third party beneficiaries or otherwise, and



this Agreement shall not be deemed to have conferred any rights, expressed or implied, upon any other person.

- I. **No Partnership Created.** This Agreement specifically does not create any partnership or joint venture between the PARTIES hereto, or render any PARTY liable for any of the debts or obligations of any other PARTY.
- J. **Formalities and Authority.** The PARTIES hereto represent and warrant that they are validly existing and lawful entities with the power and authorization to execute and perform this Agreement. The headings set forth in this Agreement are for convenience and reference only, and in no way define or limit the scope of content of this Agreement or in any way affect its provisions.
- K. **Notices and Demands.** A notice, demand or other communications under this Agreement shall be sufficiently given or delivered if it is deposited in the United States mail, registered or certified mail, postage prepaid, return receipt requested or delivered personally:

To DEVELOPER: RIVER NORTH LLC
 Attn: Alex Allie
 100 Maritime Drive, Suite 3C
 Manitowoc, WI 54220

With a copy to: Attorney Trent R. Nelson
 Kummer, Lambert, Fox, Glandt & Nelson LLP
 927 S. 8th Street
 Manitowoc, WI 54220

To CITY: City of Manitowoc
 Attn: City Clerk
 900 Quay Street
 Manitowoc, WI 54220

or to such other address, within the United States, with respect to a PARTY as that PARTY may from time to time designate in writing and forward to the other as provided in this Section. A copy of any notice, demand or other communication under this Agreement given by a PARTY under this Agreement to any other PARTY under this Section shall be given to each other PARTY to this Agreement.

- L. **Nonmerger and Survival.** Any provision in this Agreement which has not been fully performed prior to transfer of possession shall not be deemed to have terminated, but shall, unless expressly waived in writing, survive such transfer of possession and be in force and effect until performed.

{SIGNATURE PAGES FOLLOW}



IN WITNESS WHEREOF, the PARTIES have executed this Agreement as of the year and date set forth above, and by so signing this Agreement, certify that they have been duly and properly authorized by their respective entities to make these commitments, and intend them to be binding upon their respective entities and to execute this Agreement on their behalf.

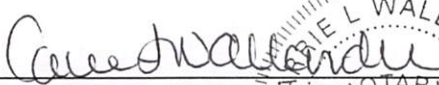

RIVER NORTH LLC: By its Manager, Allie Multifamily Holdings LLC

By: 
Alex C. Allie, Managing Member of Alex & Elizabeth Allie Family Partnership LLC – owner of 50% of Membership Units in Manager, LLC

By: 
Peter C. Allie, Managing Member of Peter & Ashley Allie Family Partnership LLC – owner of 50% of Membership Units in Manager, LLC

STATE OF WISCONSIN)
) ss.
MANITOWOC COUNTY)

Personally came before me this 12 day of August, 2021, the above named Alex C. Allie and Peter C. Allie, to me known be the persons who executed the foregoing instrument on behalf of RIVER NORTH LLC.


Notary Public, State of Wisconsin
My Commission: 9-10-25


{RIVER NORTH LLC SIGNATURE PAGE TO DEVELOPMENT AGREEMENT}



Exhibit A
Legal Description of the Property:

Lot 1 of a Certified Survey Map recorded in the office of the Manitowoc County Register of Deeds on August 17, 2021 as Document Number 1240183, Page 207 in Volume 35, said lot being part of Government Lot 3 of Section 30, Town 19 North, Range 24 East, City of Manitowoc, Manitowoc County, Wisconsin.

Depiction of the Property:

The "Property" is the area identified as Lot 1, below:

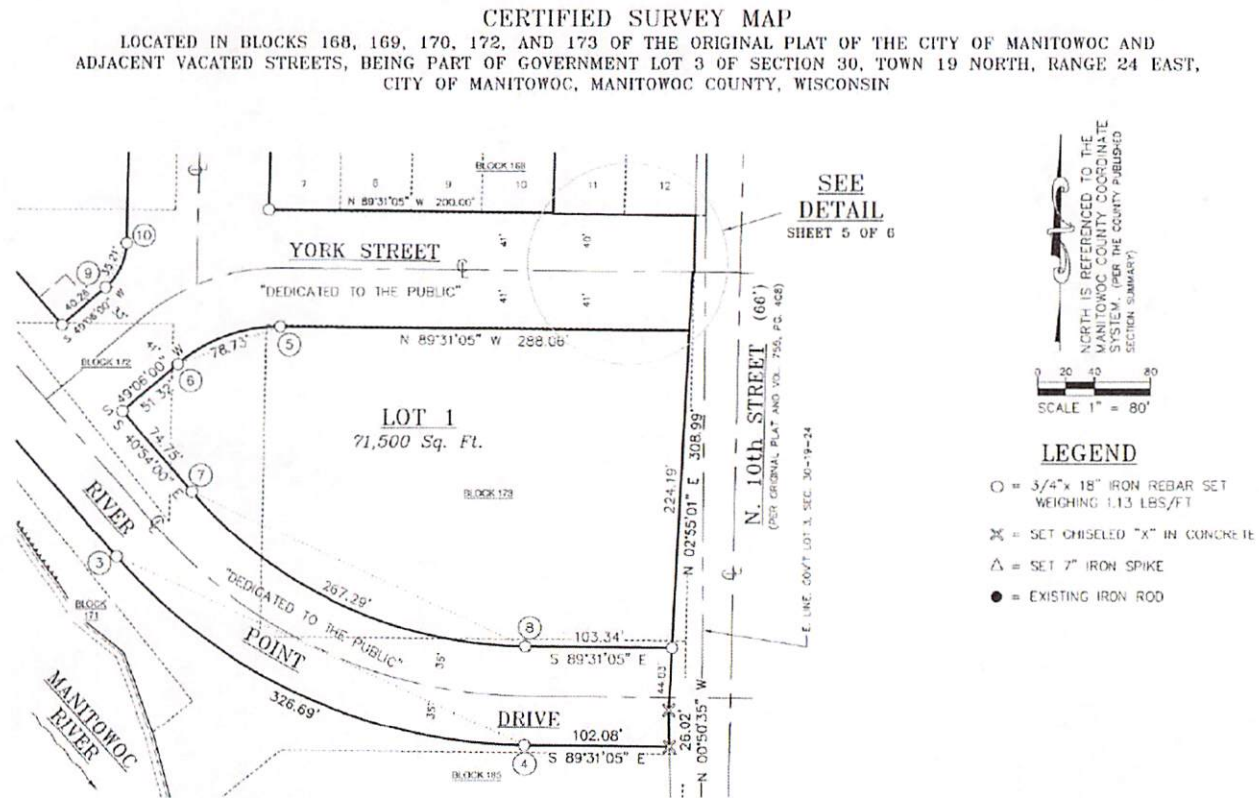
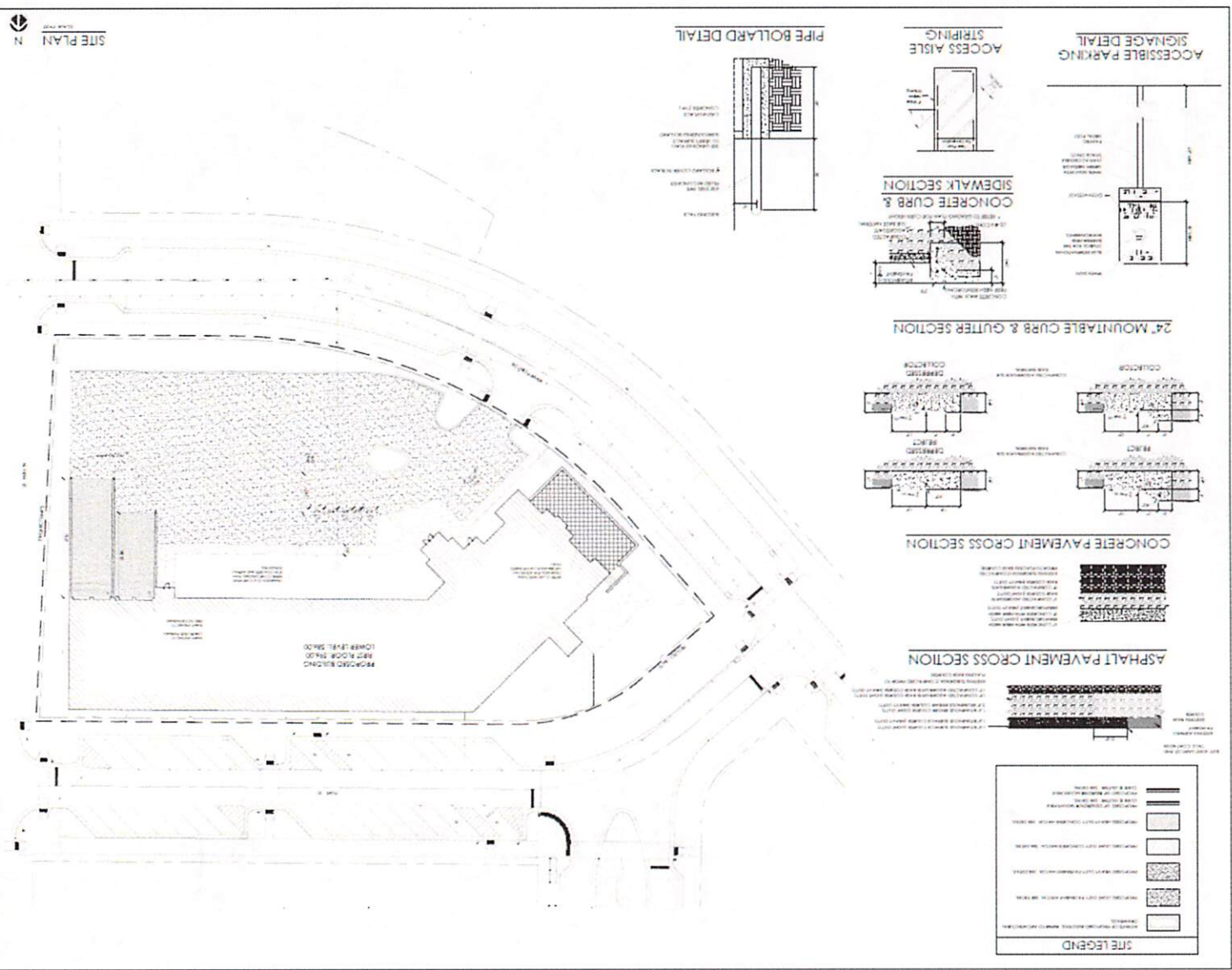




Exhibit B Concept Plans



PROJ. NO. 2020-05

202

CONCEPT PLAN

DATE: 11.2020

RIVER NORTH APARTMENTS

NEW APARTMENT BUILDING

MANASSAS, VIRGINIA

REVISIONS:

ABACUS ARCHITECTS