

DOCUMENT NO.

**CITY OF MANITOWOC TID NO. 20
DEVELOPMENT AGREEMENT WITH
ALLIANCE LAUNDRY SYSTEMS, LLC**

THIS SPACE RESERVED FOR RECORDING DATA

NAME AND RETURN ADDRESS

April Kroner, Community Dev Dir
City of Manitowoc
900 Quay Street
Manitowoc, WI 54220

Part of 052-836-401-010.00

Parcel Identification Number

DRAFT

This instrument was drafted by:

April Kroner, Community Development Director
City of Manitowoc
900 Quay Street
Manitowoc, WI 54220

**CITY OF MANITOWOC TID NO. 20
DEVELOPMENT AGREEMENT WITH
ALLIANCE LAUNDRY SYSTEMS, LLC**

THIS AGREEMENT (hereinafter called the "Agreement") made as of the 15th day of April 2019, by and between The City of Manitowoc (hereinafter called the "CITY") and Alliance Laundry Systems, LLC (hereinafter called the "DEVELOPER"). The CITY and DEVELOPER may collectively be referred to as the "PARTIES."

WITNESSETH:

WHEREAS, DEVELOPER seeks to complete the Project defined below on a parcel of land known as **Insert Legal Description**, City of Manitowoc, Manitowoc County, Part of Parcel 052-836-401-010.00, more specifically described as and shown on Exhibit A (the "Property"); and,

WHEREAS, DEVELOPER will invest a total of approximately \$29.9 million on the Property including acquisition of the approx. 50-acre property including over 400,000 sf of buildings, equipment purchases, site preparation (utility infrastructure), building updates, and soft costs. The purpose of the Project is to house Alliance Laundry Systems, LLC operations, allowing for expansion of the DEVELOPER'S company within Wisconsin, new operations in the City of Manitowoc, and reuse of approximately 350,000 sf of existing manufacturing space. The Project will result in an increase to the value of the property and also in substantial job creation in the City; and,

WHEREAS, the Property is located in the **proposed amended boundary of** Tax Increment Finance District No. 20 ("TID 20"), and planned public investments identified in the existing Project Plan for TID 20 include site development and development project contributions. The use of Tax Incremental Financing is necessary for the Project to take place, as the Project is impacted by extraordinary development costs due to site conditions requiring substantial utility infrastructure improvements; and,

WHEREAS, the CITY created TID 20 to promote industrial development and to accommodate growth of existing manufacturing businesses in the community along with new development, creating tax base and employment opportunities for the community; and,

WHEREAS, the completed Project is anticipated to result in additional economic activity, job creation, and increased property values throughout TID 20; and

WHEREAS, this agreement is null and void if the proposed boundary amendment to TID 20 is not approved.

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

- I. **PROPOSED PROJECT SCOPE.** DEVELOPER agrees to complete the Project including acquisition of the approximately 50-acre property including over 400,000 square feet of manufacturing facility space (\$12.6 million), site preparation - utility infrastructure (\$4.3 million), building updates (\$2.6 million), soft costs (\$2.8 million), and machinery/equipment (\$7.6M) to support business growth and job creation in accordance with this Agreement. The total Project costs will be approximately \$29.9 million with an estimated assessed value increase of approximately \$2.38 million upon completion.
- A. Subject to Section F below, ~~The DEVELOPER shall complete the Project (which shall be deemed achieved by the delivery of a certificate of occupancy or occupancy permit for any portion of the building included in the Project and constructed on the Property) by December 31, 2019 (the "Completion Date") in accordance with site and building plans as approved by the CITY.~~ take occupancy of the property by December 31, 2019 ("Completion Date") and begin site preparation and other improvements to complete Project as soon as practicable.
- B. The CITY will cooperate and use reasonable efforts with respect to any and all permits necessary for completion of the Project.
- C. The DEVELOPER shall comply with all applicable federal, state, and municipal codes throughout the Project, including submitting site plans and obtaining applicable permits.
- D. The Preliminary Concept Plan for the Project (hereinafter "Concept Plan") is attached as Exhibit "B" and is incorporated by reference to this Agreement. By execution of this Agreement, the PARTIES expressly approve the Concept Plan. DEVELOPER shall complete the Project in material conformity with the Concept Plan, as approved by the Parties. 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, which shall not be unreasonably withheld. All site and building plans are subject to review and approval by the CITY for compliance with federal, state and municipal code requirements. Insert concept plan showing needed infrastructure improvements.
- E. 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, any other party 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.

~~E.F. This agreement shall be null and void if DEVELOPER does not close on the Property by December 31, 2019, with no continuing obligations on the party of CITY or DEVELOPER. DEVELOPER may request an extension on the closing timeline for environmental due diligence.~~

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II. FINANCIAL ASSISTANCE

- A. Beginning in 2020 (based on 2020 real estate taxes) and continuing each year thereafter until the expiration of the Payment Term (as defined below), CITY shall reimburse the DEVELOPER for 95% of the Annual TIF Increment Revenue paid to TID 20 for the Property. This annual reimbursement shall be known as the “Annual TIF Payment.” The CITY shall continue the Annual TIF Payments until the earlier of (the “Payment Term”): (a) the expiration of TID 20, or (b) the cumulative value of the Annual TIF Payments paid to DEVELOPER equals ~~\$852,000~~ \$900,000 (the “Total Incentive”), which is based on the extraordinary development costs. The CITY shall take no action to terminate or dissolve TID 20 prior to December 31, 2039, unless the Total Incentive has been fully paid to the DEVELOPER. For the avoidance of doubt, the cumulative value of the Annual TIF Payments shall not exceed the Total Incentive.
- B. This financial assistance plan includes any and all further improvements to the Property during the Payment Term including any additional building improvements or development on the Property that generates Annual TIF Increment Revenue for TID 20 over the Base Year Taxes (as defined below).
- C. The Annual TIF Payment shall be 95% of the amount calculated by subtracting the Base Year Taxes from the actual real property taxes paid on an annual basis starting with the December 2020 tax bill. The “Base Tax Value” is the 2019 assessed real estate value for the Property, which is approximately \$11M. The actual taxes paid on the Base Tax Value is defined to be the “Base Year Taxes.” Real property taxes for purposes of this formula, do not include any special assessments, special taxes, or special charges, and personal property taxes are excluded from this calculation.
- D. Each year, the Annual TIF Payment will be made on 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 allowed under City law.

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 CITY’s consent.
- B. Until completion of the obligations under the Sections I and II above, there shall be no sale, without City consent. The City will not unreasonably withhold consent. The

City is aware of, and consents to, the sale of building C and some surrounding curtilage for access, at the time of this agreement.

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.

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 as authorized. No other remedies for the PARTIES to this agreement exist outside of this Agreement.

- B. 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.
- C. 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.

- D. 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.
- E. Any written notice to the DEVELOPER shall also be delivered to the BANK (as defined below).
- F. **Developer Financing.** Notwithstanding Section III or any other provision contained herein,
 - a. The DEVELOPER may transfer, assign or encumber the Property in order to secure financing for the Property and/or for construction of the Project and any refinancing thereof. Said lender may place a lien and/or mortgage on the Property, including any renewals, extensions, replacements, modifications or refinancing. Lender's mortgage and/or loan may be transferred or assigned by lender in a secondary market without prior CITY approval. In the event of a foreclosure against the DEVELOPER by lender or a deed transfer in lieu of foreclosure, lender shall assume the duties, obligations and rights of the DEVELOPER under this Agreement. In such a circumstance, lender may transfer or assign this Agreement and its accompanying duties, obligations and rights, to another developer without prior CITY approval. In any circumstance, lender shall provide reasonable notice to the CITY of such actions. This Section shall survive any foreclosure proceeding.
- G. **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.

- H. **Amendments to Agreement.** This Agreement may not be changed orally, but only by agreement in writing and signed by the PARTIES hereto.
- I. **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.
- J. **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.
- K. **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.
- L. **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: Alliance Laundry Systems, LLC
Attn: Gary Luckow
221 Shepard St.
Ripon, WI 54971-0990

With a required copy to: **DEVELOPER ATTORNEY, if required**

To CITY: City of Manitowoc
Attention: 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.

M. 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.

“DEVELOPER”:

ALLIANCE LAUNDRY SYSTEMS, LLC

By: _____

Name: Gary Luckow

Its: ~~Sole Member and Manager~~ Chief Value Enhancement Officer

STATE OF WISCONSIN)
) ss.
MANITOWOC COUNTY)

Personally came before me this _____ day of April, 2019, the above named Gary Luckow, to me known to be the person who executed the foregoing instrument as the ~~manager-an officer~~ of Alliance Laundry Systems, LLC, who has the authority to bind the company.

Notary Public, State of Wisconsin
My Commission: _____

“CITY”:

CITY OF MANITOWOC

By: _____
Justin M. Nickels, Mayor

Attest: _____
Deborah Neuser, City Clerk

STATE OF WISCONSIN)
) ss.
MANITOWOC COUNTY)

Personally came before me this _____ day of _____, 2019, the above named, Justin M. Nickels, Mayor, and Deborah Neuser, Clerk, to me known to be the persons and officers who executed the foregoing instrument and acknowledged that they executed the same as such officers by the CITY of Manitowoc’s authority.

Notary Public, State of Wisconsin
My Commission: _____

[Signature Page to City of Manitowoc TID No. 20 Development Agreement]

Exhibit A
Legal Description of the Property

Tax Parcel: Part of 052-836-401-010.00

NEED TO INSERT LEGAL DESCRIPTION OF PROPERTY

Exhibit B
Concept Plan

Insert site map with proposed site prep improvements, building renovations