

Resolution No. 2023-62

RESOLUTION AUTHORIZING THE TRANSFER OF FUNDS,
THE ESTABLISHMENT OF AN ESCROW ACCOUNT WITH RESPECT
TO AND THE DEFEASANCE OF CERTAIN OF THE COUNTY'S
TAXABLE GENERAL OBLIGATION REFUNDING BONDS, SERIES 2019B

WHEREAS, Racine County, Wisconsin (the "County") has outstanding its Taxable General Obligation Refunding Bonds, Series 2019B, dated November 12, 2019 (the "2019 Bonds") which were issued for the public purpose of refunding certain obligations of the County issued to finance regional economic development projects being undertaken in cooperation with the Village of Mount Pleasant, Wisconsin (the "Village");

WHEREAS, the County has paid debt service on the 2019 Bonds from Areas I, II and III special assessments levied by the Village, which special assessments are paid by Foxconn pursuant to a Development Agreement between the County, the Village and Foxconn;

WHEREAS, the Village expects to sell certain land in Areas II and III to a 3rd party and a portion of the sale proceeds of such land will be used to prepay Foxconn's obligation in full with respect to the special assessments for Areas II and III (the "Area II and III Special Assessment Proceeds");

WHEREAS, the County Board of Supervisors deems it desirable and in the best interest of the County to transfer and apply the Area II and III Special Assessment Proceeds to the defeasance and early redemption of a portion of the 2019 Bonds (the "Defeased 2019 Bonds");

WHEREAS, the portion of the 2019 Bonds expected to be paid from Area I special assessments shall remain outstanding and will be paid as the same becomes due; and

WHEREAS, since the 2019 Bonds are not currently callable, it is necessary for the Area II and III Special Assessment Proceeds to be irrevocably deposited into an escrow account, invested in direct obligations of the United States of America, treated as a portion of the debt service fund for the 2019 Bonds and applied to pay the principal of and interest on the Defeased 2019 Bonds.

NOW, THEREFORE, BE IT RESOLVED by the County Board of Supervisors that:

1. Establishment of Escrow Account. The County Board of Supervisors hereby authorizes and directs the officers of the County to enter into an "Escrow Agreement" with U.S. Bank National Association, as Escrow Agent (the "Escrow Agent"), for the purpose of establishing an "Escrow Account" to effect the provisions of the Resolution.
2. Transfer and Deposit to Escrow Account. The County Board of Supervisors hereby authorizes and approves the transfer and deposit of the Area II and III Special Assessment Proceeds into the Escrow Account to be established with the Escrow Agent, and the subsequent use, investment and disbursement thereof by the Escrow Agent in the manner provided by the Escrow Agreement.

3. Determination of the Defeased 2019 Bonds. The County Board of Supervisors hereby authorizes and directs the Finance Director of the County to work with the County's Municipal Advisor, PFM Financial Advisors LLC ("PFM"), to determine the amount of each maturity of the 2019 Bonds to be defeased based on the amount of the Area II and III Special Assessment Proceeds, together with earnings thereon, so that the Escrow Account contains sufficient funds and securities to provide for the payment of the Defeased 2019 Bonds concurrently with the execution of the Escrow Agreement. The Defeased 2019 Bonds shall be set forth in the Escrow Agreement.

4. Professional Services. The County Board of Supervisors hereby authorizes hereby ratifies and approves the retention of (i) PFM to provide general consulting/financial advisory services in connection with this transaction; (ii) Quarles & Brady LLP ("Bond Counsel") to provide limited, special counsel legal services in connection with this transaction; (iii) a bidding agent approved by the Finance Director of the County to provide bidding agent services for the direct obligations of the United States of America to be held by the Escrow Agent in the Escrow Account; and (iv) a certified public accounting firm approved by the Finance Director of the County to provide mathematical verification that sufficient cash securities are held in the Escrow Account to retire the Defeased 2019 Bonds and related services in connection with this transaction.

5. Redemption of the Defeased 2019 Bonds, Notice of Defeasance and Redemption. The Defeased 2019 Bonds maturing on and after December 1, 2030 are hereby called for redemption on December 1, 2029. The County Board of Supervisors hereby directs the Escrow Agent pursuant to the Escrow Agreement to provide a notice of the defeasance of the Defeased 2019 Bonds and a notice with respect to the redemption of the Defeased 2019 Bonds that mature on and after December 1, 2030 at the times and in the manner set forth in the final Escrow Agreement.

6. Authorization of Officers and Agents. The County Board of Supervisors hereby authorizes the appropriate officers and agents of the County to work with PFM, Bond Counsel and the Escrow Agent to review and approve the finalized Escrow Agreement including the escrow deposit and other details, to provide the notices of defeasance and redemption and to execute and deliver all documents required by Bond Counsel with respect to this transaction.

1st Reading _____

Respectfully submitted,

FINANCE AND HUMAN RESOURCES
COMMITTEE

2nd Reading _____

BOARD ACTION

Adopted _____

For _____

Against _____

Absent _____

**SECOND AMENDMENT TO
REAL ESTATE MANAGEMENT AND OPERATION AGREEMENT For
RACINE COUNTY REEFPOINT MARINA**

THIS SECOND AMENDMENT TO THE “Real Estate Management and Operation Agreement For Racine County Reefpoint Marina” (hereinafter “Agreement”) dated November 7, 2013 between Racine County, Wisconsin (hereinafter “Racine County”) and **Founders 3 Management Company**, a Wisconsin Corporation (hereinafter “Manager”) successor in interest to Siegel-Gallagher Management Company is made this ____ day of _____, 2023. This Amendment to the aforementioned Agreement is made with the intent of extending all terms of the Agreement, and is made a part thereof and incorporated by reference by mutual agreement of the parties.

WITNESSETH:

WHEREAS, Manager and Racine County have previously entered into a Real Estate Management Agreement dated November 7, 2013, for management of Reefpoint Marina located at 2 Christopher Columbus Causeway, Racine Wisconsin and;

WHEREAS, Manager and Racine County have previously amended the Real Estate Management Agreement on December 28, 2018, to extend the initial term of the agreement and;

WHEREAS, Manager and Racine County do hereby intend to extend again the term of the Agreement and alter the Contract Price and;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

The term of the Agreement shall be extended to an additional five (5) year term, ending on December 31, 2028.

Section 10 Inspection and Accounting for the renewal term shall be replaced with the following:

10. Inspection and Accounting
 - A. Manager shall make available to Racine County financial statements including balance sheet, income statement, and sales tax reports on a monthly basis. These shall be sent to Racine County by the 20th of each month for the previous month. Any other information requested by Racine County’s Finance Department or outside auditor shall be sent to Racine County in a timely fashion.
 - B. Racine County shall have the right, at any and all reasonable hours, and upon

reasonable notice, to have accounting staff inspect and verify the books of Manager with reference to its handling and disposition of slip rentals, transient fees, and other fees and charges for use of the marina facilities. Racine County shall have the right at Racine County's expense, at any and all reasonable hours, and upon reasonable notice, to have an audit performed upon Manager's handling and disposition of slip rentals, transient fees, and other fees and charges for use of the marina facilities, as Racine County may deem necessary or desirable.

- C. Racine County shall have the right of access to any and all portions of the marina premises, at any and all hours, for the purpose of inspecting, analyzing, and/or gathering information relating to the premises itself.

Section 26 The Contract Price for the renewal term shall be replaced with the following:

1. Contract Price

A. Contract Price. The total price for property management and operations services provided under this agreement (Paragraphs 2 and 3) shall be Seven Hundred Ninety-Five Thousand Dollars (\$795,000.00), payable in sixty (60) monthly installments beginning January 2024 and ending December 2028 on the following schedule:

January 2024 - December 2028: \$13,250.00

All payments will be remitted within 10 days of receipt of invoice, beginning in January 1, 2024, and ending in December, 2028.

B. Incentive Fee. Throughout the term of the agreement, Manager may be paid an incentive fee in addition to the base contract price stated above by calculating the increase in total slip (annual, monthly, and transient) revenue over the Base Amount as defined below. The Incentive Fee will be remitted to Manager within 90 days from the end of the year following the boating season that it is calculated from.

Base Amount: \$1,250,000

C. The incentive fee would be calculated by subtracting the Base Amount from the total annual, monthly, and transient slip revenue the exceeds the base amount. This number will be multiplied by the percentage represented below to determine the Incentive Fee.

<u>Revenue that Exceeds Base Amount</u>	<u>Incentive Fee</u>
\$0 - \$100,000	20%
\$100,001 - \$175,000	35%
\$175,001 +	50%

2. **No Other Amendments.** Except as set forth herein, the Agreement remains unmodified and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and sealed as of the date, month and year first above written.

FOR RACINE COUNTY:

Date: _____

Name and Title

FOR MANAGER:

Date: _____

Name and Title