

**LIMITED PERSONAL GUARANTY AGREEMENT
(Couture Project)**

This Limited Personal Guaranty Agreement (“Guaranty”) is made as of the _____ day of _____, 2021, by and among Richard J. Barrett and Tan Lo, each in his individual capacity (collectively referred to herein as the “Guarantors” and sometimes individually as a “Guarantor”), and the City of Milwaukee, a Wisconsin municipal corporation (“City”), in connection with the obligations of The Couture LLC (“Couture”) and The Couture Holdings Group Inc. (“CHG”) (Couture and CHG collectively, the “Developer”) under that certain Amended and Restated Cooperation, Contribution and Redevelopment Agreement (“Development Agreement”) dated March ____, 2021 between Developer, City and the Redevelopment Authority of the City of Milwaukee (“RACM”). The Guarantors, in order to induce City and RACM to enter into the Development Agreement with Developer, voluntarily and knowingly enter into this Guaranty all on the terms and conditions set forth herein.

RECITALS

WHEREAS, the capitalized terms used in this Guaranty which are not defined herein shall have the meanings set forth in the Development Agreement; and

WHEREAS, Guarantors are principles of (i) Barrett/Lo Visionary Development LLC, currently the sole member of Developer, and (ii) CHG, and have a financial interest in Developer successfully developing the Project; and

WHEREAS, this Guaranty is a material term of the Development Agreement without which City would not have entered into the Development Agreement; and

WHEREAS, the Common Council of the City adopted Resolution Files No. 141263 on February 10, 2015; No. 170169 on May 31, 2017; No. 201062 on December 15, 2020; and No. 201365 on March 2, 2021, which created and amended Tax Incremental District No. 82 – East Michigan (“TID 82”), approved the Development Agreement and authorized execution of this Guaranty in accordance with the Development Agreement; and

WHEREAS, in order to guarantee that City does not lose any of the outstanding \$1,411,713 in TIGER Grant funds associated with the Streetcar Amenities (as that term is defined in the Development Agreement) in the event that the FTA does not reimburse City for Streetcar Amenities in the Project or claws back TIGER Grant funds paid to City for the Streetcar Amenities, and to provide for other matters set forth herein, the parties are entering into this Guaranty.

AGREEMENT

NOW, THEREFORE, in order to induce City to enter into the Development Agreement with Developer, and in consideration of the matters described in the foregoing Recitals, which are incorporated herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantors and City agree as follows:

I.

DEFINITIONS AND RULES OF CONSTRUCTION

1.1 Definitions. In addition to the words and terms defined elsewhere in this Guaranty and in the Development Agreement, the following words and terms, when used in this Guaranty, shall have the following meanings:

“Development Agreement” means the Amended and Restated Cooperation, Contribution and Redevelopment Agreement dated March _____, 2021.

“Milestone Deadlines” means collectively the deadline found in Section 2.2.B. of the Development Agreement to commence construction of the Project and the deadlines found in Sections 2.2.F. and 2.2.I. of the Development Agreement, all as may be adjusted pursuant to the terms of the Development Agreement.

“Outstanding TIGER Grant Funds” means the aggregate sum of \$1,411,713 of the TIGER Grant funds awarded to City by FTA, but not yet spent by City and reimbursed by FTA as of the date of this Guaranty, and to be utilized by City for the construction of the Streetcar Amenities in the Project.

“Unavailable TIGER Grant Funds” means any amount of the Outstanding TIGER Grant Funds (but not in excess of 100% of the Outstanding TIGER Grant Funds) that FTA either seeks to claw back from City or refuses to provide to City as reimbursement for the Streetcar Amenities due to delays caused by Developer (or its Affiliates, contractors or suppliers, Conventional Lender(s) or the HUD Insured Lender) that result in the Milestone Deadlines not being met.

1.2. Rules of Construction. Unless the context clearly indicates to the contrary, the following rules shall apply to the construction of this Guaranty:

- (a) Words importing the singular number shall include the plural number and vice versa.
- (b) The captions and headings herein are solely for convenience of reference only and shall not constitute a part of this Guaranty nor shall they affect its meaning, construction or effect.
- (c) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders, and words of the neuter gender shall be deemed and construed to include correlative words of the masculine and feminine genders.

II.

Guaranty

2.1 In the Development Agreement, Developer agreed to meet the Milestone Deadlines in the Project construction schedule that are necessary to be met in order for City to construct the Streetcar Amenities within the timelines required under the TIGER Grant. In the event that one or more of those Milestone Deadlines are not met by Developer, the construction of the Streetcar Amenities by City may be delayed resulting in Unavailable TIGER Grant Funds. In such

circumstances, Guarantors hereby irrevocably guaranty, jointly and severally, the prompt payment or re-payment of such Unavailable TIGER Grant Funds to City (as provided in Section 2.2, below).

2.2 In the event that the Unavailable TIGER Grant Funds are not reimbursed to the City for Streetcar Amenities in the Project, the Guarantors shall pay to the City any Unavailable TIGER Grant Funds on a reimbursement basis as City constructs the Streetcar Amenities in the Project. Alternately, in the event that the Unavailable TIGER Grant Funds are clawed back by the FTA as part of their audit of the TIGER Grant, the Guarantors shall either pay City those Unavailable TIGER Grant Funds within 30 days of the FTA's written notice of its intent to claw back those funds, or make payment directly to FTA for the amount FTA seeks from City.

2.3 Guarantors' obligation to make payments or repayments to City under this Guaranty shall be equal to the amount of the Unavailable TIGER Grant Funds, but shall not exceed the amount of the Outstanding TIGER Grant Funds.

III.

Notices

Any written notice required to be sent to the parties shall be forwarded to the following:

CITY:

Department of City Development
809 North Broadway
Milwaukee, WI 53202
Attn: Commissioner of City Development

With a copy to:

Department of Public Works
841 North Broadway, Suite 501
Milwaukee, WI 53202
Attn: Commissioner of Public Works

With a copy to:

Office of City Attorney
800 City Hall
200 East Wells Street
Milwaukee, WI 53202
Attn: Real Estate Deputy City Attorney

RICHARD J BARRETT:

[Need Address]

With a copy to:

Meissner Tierney Fisher & Nichols, S.C.
111 East Kilbourn Avenue, 19th Floor
Milwaukee, WI 53202
Attn: Adam J. Tutaj, Esq.

TAN LO:

[Need Address]

With a copy to:

Meissner Tierney Fisher & Nichols, S.C.
111 East Kilbourn Avenue, 19th Floor
Milwaukee, WI 53202
Attn: Adam J. Tutaj, Esq.

V

Term

The term of this Guaranty shall commence on the date stated in the introductory paragraph of this Guaranty and terminate upon the earlier of (i) City's receipt of notice from the FTA that the audit of the TIGER Grant has been closed or (ii) December 31, 2025.

VI

Binding Effect / Miscellaneous Terms

6.1 This Guaranty shall be binding upon the Guarantors and their respective heirs, representatives, successors and assigns for the benefit of the City and its successors and assigns. This Guaranty shall be a continuing guaranty and shall not be revoked by death of the Guarantor.

6.2 Each Guarantor covenants that he is married. Each Guarantor further agrees that this Guaranty is being incurred in the interest of such Guarantor's marriage or family.

6.3 This Guaranty is valid and enforceable against Guarantors even if any obligation or liability is invalid, waived, limited or unenforceable against Developer.

6.4 Guarantors and City acknowledge and agree that there is no consumer credit transaction between City and Developer, or between City and Guarantors, and that this Guaranty is not subject to the Wisconsin Consumer Act.

6.5 This Guaranty shall continue in full force and effect notwithstanding any change in structure or status of Developer, whether by merger, consolidation, reorganization, dissolution or otherwise.

6.6 This is a guaranty of payment and not of collection. Guarantors hereby waive the right to require City to pursue any other remedy for the benefit of Guarantors and agree that City may proceed against Guarantors without taking any action against Developer or any other party.

6.7 Guarantors shall be liable for costs and expenses associated with the successful enforcement of the City's rights against Guarantors under this Guaranty, including without limitation the enforcement of such rights in any bankruptcy, reorganization or insolvency proceeding involving either Guarantor. Any and all such fees, costs and expenses incurred by City which are to be paid by the Guarantors shall be paid to City upon demand therefor.

6.8 No delay on the part of City in exercising any rights hereunder or failure to exercise the same shall operate as a waiver of such rights. No modification or waiver of the provisions hereof shall be effective unless in writing, nor shall any waiver be applicable except in the specific instance or matter for which given.

6.9 Each Guarantor represents and warrants that any and all financial materials delivered to or made available for inspection by City or City's agents by Guarantor are true and correct in all material respects. To the extent these materials include financial statements, those statements will have been prepared in accordance with tax basis accounting principles consistently applied unless otherwise noted therein, and fairly present the financial conditions of the subjects thereof as of the respective dates thereof. No materially adverse change has occurred in the financial conditions reflected therein since the respective dates thereof.

6.10 This Guaranty shall be governed by, and construed in accordance with, the laws of the State of Wisconsin.

6.11 NOTICE TO GUARANTOR: You are being asked to guarantee certain contingent obligations resulting from acts or omissions of Developer. If Developer's actions result in Unavailable TIGER Grant Funds, you are obligated to pay such Unavailable TIGER Grant Funds pursuant to the terms herein.

6.12 GUARANTORS KNOWINGLY AND VOLUNTARILY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM BASED UPON, ARISING OUT OF OR IN ANY WAY RELATING TO THIS GUARANTY, THE GUARANTEED OBLIGATIONS OR ANY CONDUCT, ACT OR OMISSION OF CITY OR DEVELOPER, AND AGREES AND CONSENTS THAT ANY SUCH ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM SHALL BE DECIDED BY TRIAL TO THE COURT WITHOUT A JURY. GUARANTORS ACKNOWLEDGE AND UNDERSTAND THAT THIS WAIVER AND CONSENT CONSTITUTES A MATERIAL INDUCEMENT TO CITY TO ENTER INTO THE TRANSACTION WITH THE DEVELOPER.

IN WITNESS WHEREOF, the parties hereto have caused this Guaranty to be executed and delivered as of the day and year first above written.

CITY OF MILWAUKEE

Tom Barrett, Mayor

James R. Owczarski, City Clerk

COUNTERSIGNED:

Aycha Sawa, Comptroller

Approved as to form, execution and content this ____ day of
_____, 2021

Gregg Hagopian, Assistant City Attorney

RICHARD J. BARRETT, an individual

STATE OF WISCONSIN)
)SS.
MILWAUKEE COUNTY)

Personally came before me this ____ day of _____, 2021, Richard J. Barrett, to me known to be the person who executed the foregoing instrument.

(SEAL)

Notary Public, State of Wisconsin
My Commission_____

TAN LO, an individual

STATE OF WISCONSIN)
)SS.
MILWAUKEE COUNTY)

Personally came before me this ____ day of _____, 2021, Tan Lo, to me known to be the person who executed the foregoing instrument.

(SEAL)

Notary Public, State of Wisconsin
My Commission_____

SPOUSAL CONSENT

My spouse has provided a personal guarantee to the City of Milwaukee as evidenced by the Limited Personal Guaranty Agreement to which this Spousal Consent is attached. In connection with this Limited Personal Guaranty Agreement, I hereby provide my consent and acknowledge that I am acting together with my spouse, but by providing my signature below, am not becoming personally liable as a guarantor on the obligations described above.

Dated: _____, 2021

[Name]

Spouse of Richard J. Barrett

SPOUSAL CONSENT

My spouse has provided a personal guarantee to the City of Milwaukee as evidenced by the Limited Personal Guaranty Agreement to which this Spousal Consent is attached. In connection with this Limited Personal Guaranty Agreement, I hereby provide my consent and acknowledge that I am acting together with my spouse, but by providing my signature below, am not becoming personally liable as a guarantor on the obligations described above.

Dated: _____, 2021

[Name]

Spouse of Tan Lo