

Document Number

AMENDED AND RESTATED  
COOPERATION, CONTRIBUTION AND  
REDEVELOPMENT AGREEMENT

Document Title

**AMENDED AND RESTATED  
COOPERATION, CONTRIBUTION AND  
REDEVELOPMENT AGREEMENT**

**for the**

**COUTURE PROJECT**

**Tax Incremental District No. 82  
(East Michigan Street)**

Recording Area

Name and Return Address

Mary L. Schanning  
Dept. of City Development  
809 N. Broadway  
Milwaukee, WI 53202

Part of 396-0511-000

Parcel Identification Number (PIN)

**Drafted By:**

Mary L. Schanning  
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809 N. Broadway  
Milwaukee, WI 53202

1050-2012-1849:

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**AMENDED AND RESTATED  
COOPERATION, CONTRIBUTION AND  
REDEVELOPMENT AGREEMENT  
for the  
COUTURE PROJECT**

**Tax Incremental District No. 82 – East Michigan**

**THIS AMENDED AND RESTATED AGREEMENT** is made as of the 30th day of April, 2021, by and among the CITY OF MILWAUKEE, a Wisconsin municipal corporation (“CITY”), the REDEVELOPMENT AUTHORITY OF THE CITY OF MILWAUKEE, a public body corporate and politic created and existing under the laws of the State of Wisconsin (“RACM”) on the one hand, and THE COUTURE LLC, a Wisconsin limited liability company (“COUTURE”), and THE COUTURE HOLDINGS GROUP INC., a Wisconsin business corporation (“CHG”), on the other (The Couture and CHG collectively, the “DEVELOPER”).

**RECITALS**

1. CITY, RACM, and DEVELOPER agreed upon the basic terms for redevelopment of property located at 909 East Michigan Street, Milwaukee, Wisconsin, as legally described on **Exhibit A** attached hereto and made a part of this Agreement, (the “Property”) and entered into a Cooperation, Contribution and Redevelopment Agreement dated April 28, 2017 (the “Original Development Agreement”), and documented by a Memorandum of Cooperation, Contribution and Redevelopment Agreement recorded at the Milwaukee County Register of Deeds Office on July 10, 2019 as Document No. 10887022.

2. The Parties now desire to amend and restate the Original Development Agreement to provide as set forth therein.

3. In accordance with the Tax Increment Law, as defined below, by passage of Common Council Resolution Files No. 141263, on February 10, 2015; No. 170169 on May 31, 2017; No. 201062 on December 15, 2020; and No. 201573 on March 19, 2021, CITY authorized the execution of this Agreement, created and amended Tax Incremental District No. 82 – East Michigan (“TID 82”) and approved the Project Plan, as defined below, which provides for up to \$50,500,000 to fund (1) the \$17.5 million Public Infrastructure Project, as defined below, (2) the CITY’s costs of \$31 million for construction of infrastructure for the Milwaukee Streetcar and (3) \$2 million for sewer main relocation and additional public infrastructure work, of which \$1.5 million will fund the Sewer Grant, as defined below, and authorized the CITY to take ownership of Unit 3, as defined below.

4. The Property is located within the boundaries of TID 82.

5. DEVELOPER has acquired the Property and intends to undertake the Project, as defined herein.

6. As part of the Project Plan and as further described herein, CITY, acting through RACM, will provide TID 82 funds to DEVELOPER, up to a maximum of \$17,500,000, to fund the design and construction of the Public Infrastructure Project and up to a maximum of \$1,500,000 to fund the Sewer Project.

7. In order to induce CITY and RACM to undertake the activities set forth in this Agreement, DEVELOPER is willing to cooperate with CITY and RACM in the development of the Project in accordance with the terms of this Agreement.

8. In order to promote redevelopment of the Property and to assist in the creation of tax base and public improvements attending to such redevelopment, CITY and RACM are willing to cooperate with each other and DEVELOPER in the redevelopment of the Property in accordance with the terms of this Agreement.

9. RACM, through the adoption of Resolutions No. 10651 on November 17, 2016, No. 10663 on May 4, 2017, and No. 10847 on December 10, 2020, authorized execution of this Agreement.

10. DEVELOPER has approved this Agreement and authorized its execution.

**NOW, THEREFORE**, in consideration of the above recitals and the mutual obligations of the Parties hereto, CITY, RACM and DEVELOPER hereby covenant and agree as follows:

## **ARTICLE I**

### **DEFINITIONS AND RULES OF CONSTRUCTION**

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

**“Affiliate”** means a person, entity or entities directly or indirectly under the same control or management as DEVELOPER or a person, entity or entities controlling or managing DEVELOPER. DEVELOPER may create one or more Affiliates for the purposes of carrying out the Project, provided, such Affiliate(s) comply with all terms and conditions of this Agreement. Affiliates include, but are not limited to, Couture Holdings LLC, Couture Parking LLC and Transit Hub MKE LLC.

**“Agreement”** means this Amended and Restated Cooperation, Contribution, and Redevelopment Agreement, including all exhibits, as the same may be from time to time modified or amended as allowed herein.

**“Airspace Lease”** means a lease granted by CITY in accordance with Section 66.0915(3) or (4) of the Wisconsin Statutes and Section 245-14 of the Milwaukee Code of Ordinances for a Skywalk.

**“Architect”** means Rinka Inc., a Wisconsin corporation and the architect working with DEVELOPER to design the Project.

**“Certificate of Completion”** means a certification, in a form substantially similar to that attached as **Exhibit C** hereto and made a part of this Agreement, provided to DEVELOPER by RACM in accordance with this Agreement.

**“Closing”** means the closing on all financing for the Project with the HUD Insured Lender and any Conventional Lender for the Project which shall also include (1) providing all executed Project Documents to the Parties; (2) providing the Personal Guaranties to CITY and (3) putting the Grant and Sewer Grant funds into escrow pursuant to the Disbursement Agreement.

**“Condominium Documents”** means collectively, (1) the Declaration of Condominium for the Couture Lakefront, A Condominium, along with the condominium plat attached to it and (2) the Operating Agreement and Bylaws for The Couture Lakefront Condominium Association LLC, both substantially in the form attached hereto as **Exhibit B**.

**“Contractor”** means the general contractor selected after completion of the bidding process described in Section 2.2.C, below.

**“Conventional Lender”** has the meaning set forth in Article XIX.

**“County Transit Center”** means the Milwaukee County Downtown Transit Center building previously located on the Property.

**“Couture Project”** means the demolition of the County Transit Center (including the existing skywalk across E. Michigan Street) and the construction of the Couture Building at an estimated total cost of approximately \$185 million.

**“Couture Building”** means a 44-story mixed use high-rise to be constructed on the Property which shall include approximately 300 market rent apartments, 50,000 square feet of retail and restaurant space, and approximately 900 parking spaces. Couture Building does not include the Transportation Concourse or Natural Spaces.

**“DCD Commissioner”** means CITY’s Commissioner of City Development.

**“Detailed Planned Development”** means the detailed planned development zoning for the Project that was proposed by DEVELOPER and approved by CITY on April 18, 2017, by passage of Common Council File No. 161479 pursuant to Sec. 295-907 of the Milwaukee Code of Ordinances.

**“Disbursement Agreement”** means the disbursement agreement to be negotiated and entered into between RACM, the provider of the Primary Financing, DEVELOPER, Contractor, Architect, Title Company and any other necessary parties governing the disbursement of equity funds, loan funds under the Primary Financing and the Grant and Sewer Grant.

**“DPW Commissioner”** means CITY’s Commissioner of Public Works.

**“Easement & Maintenance Agreement”** means the Transportation & Public Access Easement and Maintenance & Operation Agreement recorded at the Milwaukee County Register of Deeds Office on August 7, 2019 as Document No. 10895602, as the same may be amended by the Amended and Restated

Transportation & Public Access Easement and Maintenance & Operation Agreement that will be recorded at the Milwaukee County Register of Deeds Office following Closing, attached as **Exhibit D**.

**“Environmental Laws”** means all federal, state and local laws including statutes, regulations, ordinances, codes, rules and other governmental restrictions and requirements relating to the discharge of air pollutants, water pollutants or process waste water or otherwise relating to the environment or hazardous substances including, but not limited to, the Federal Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Clean Water Act, the Federal Resource Conservation and Recovery Act of 1976, the Federal Comprehensive Environmental Agency, regulations of the Nuclear Regulatory Agency, and regulations of the Wisconsin Department of Natural Resources now or at any time hereafter in effect.

**“Event of Default”** has the meaning set forth in Article X.

**“Executive Director”** means the Executive Director of RACM or the Assistant Executive Director of RACM.

**“FTA”** means the Federal Transit Administration under the jurisdiction of the United States Department of Transportation.

**“Final Plans”** means plans and specifications prepared by Architect entitled “100% Construction Document Set—Issued for Bid & Permit” and dated May 4, 2018, that will be used by DEVELOPER for the construction of the Couture Project, the Public Infrastructure Project and the Sewer Project and which were prepared by DEVELOPER in accordance with the Detailed Planned Development, the Transit Plans, the Streetcar Specifications, the HNTB Corporation designed drawings dated March 14, 2018 (entitled IFC Plans, Project WI-03-0095-01), the Sewer Plans and this Agreement, and approved in writing by the DCD Commissioner in consultation with the DPW Commissioner before DEVELOPER begins construction of the Project.

**“Grant”** means TID 82 funds in an amount not to exceed \$17,500,000 to be paid to CHG by RACM, pursuant to the Disbursement Agreement, for contribution to COUTURE and/or its Affiliates to reimburse DEVELOPER and/or its Affiliates for the actual costs of design and construction of the Public Infrastructure Project.

**“HUD”** means the U.S. Department of Housing and Urban Development.

**“HUD Insured Lender”** has the meaning set forth in Article XIX.

**“Human Resources Agreement”** means the agreement between CITY and DEVELOPER which sets forth requirements for the utilization of Small Business Enterprises and CITY residents for the construction of the Public Infrastructure Project and attached as **Exhibit E**.

**“Minimum Assessed Value Agreement”** means the document attached as **Exhibit F**.

**“Natural Spaces”** means approximately 30,000 square feet of publically accessible natural spaces to be located both indoors and outdoors on the Property and made available to serve downtown office employees, residents and the general public as initially shown on **Exhibit G**.

**“Original Development Agreement”** has the meaning set forth in Recital 1.

“**Party**” means CITY, RACM or DEVELOPER as the context may require.

“**Parties**” means CITY, RACM, and DEVELOPER.

“**Personal Guaranties**” means personal financial guaranties signed by DEVELOPER’s principals, Rick Barrett and Tan Lo, in substantially the same form as **Exhibit P**.

“**PILOT Agreement**” means the payment in lieu of taxes agreements to be recorded on the Property between CITY and DEVELOPER or Affiliates in substantially the form attached as **Exhibit H**.

“**Primary Financing**” means a HUD 220-enhanced senior loan to DEVELOPER in an aggregate principal amount to be determined by HUD, with a term equal to the construction period plus 480 months of amortization.

“**Project**” means collectively the Couture Project, the Public Infrastructure Project, the Sewer Project and the additional obligations of DEVELOPER described in Sections 2.1, 2.2 and 20.2 of this Agreement.

“**Project Documents**” means this Agreement, the Disbursement Agreement, any required Airspace Lease(s), the Easement & Maintenance Agreement, the PILOT Agreement, the Human Resources Agreement, the Minimum Assessed Value Agreement, the Sewer Easement, the Sewer Project Human Resources Agreement and such other agreements and documents necessary to fulfill the requirements of this Agreement and to complete the Project.

“**Project Plan**” means the CITY-approved project plan, as amended, required by the Tax Increment Law for TID 82 on file in City’s Department of City Development.

“**Property**” has the meaning set forth in Recital 1.

“**Public Infrastructure Project**” means the design and construction of the Transportation Concourse (not including Streetcar Amenities), the Streetcar Structural Support and the Natural Spaces.

“**Public Walkways**” means publicly accessible pedestrian areas within the Transportation Concourse including all walkways, stairways, escalators and elevators connecting the Transportation Concourse to the Skywalks, the Natural Spaces and to public street rights-of-way.

“**Sewer Easement**” means a permanent sewer easement in substantially the same form as the document attached as **Exhibit M**.

“**Sewer Grant**” means TID 82 funds in an amount not to exceed \$1,500,000 to be paid to CHG by RACM pursuant to Section 20.5 of this Agreement for contribution to COUTURE and/or Affiliates to reimburse DEVELOPER and/or Affiliates for the actual costs of the Sewer Project.

“**Sewer Plans**” has the meaning set forth in Section 20.1.

“**Sewer Project**” has the meaning set forth in Section 20.1.

“**Sewer Project Human Resources Agreement**” means the document attached as **Exhibit N**.

**“Skywalks”** means any skywalk(s) that may be constructed linking the Property to O’Donnell Park to the north, the Lake Michigan lakefront to the east, the future development site across Clybourn Street to the south and the building at 833 East Michigan Street to the west.

**“Small Business Enterprise”** means a business that has been certified by CITY’s Office of Small Business Development based on the requirements of section 370-25 of the Milwaukee Code of Ordinances.

**“Streetcar Amenities”** means the “Streetcar Amenities” as defined in the Condominium Documents.

**“Streetcar Lane”** means the “Streetcar Lane” as defined in the Condominium Documents.

**“Streetcar Specifications”** means the Streetcar Design Criteria Manual dated April 28, 2017, on file with and available from CITY’s Department of Public Works, required to be met in the design and construction of the Transportation Concourse and Streetcar Structural Support.

**“Streetcar Structural Support”** means the portion of the Couture Building and the Transportation Concourse that is the superstructure and substructure of the Transportation Concourse that provides structural support to and meets the load requirements as defined in the Streetcar Specifications.

**“Substantial Completion”** means completion of the Project in substantial compliance with the Final Plans and in a condition that is approved by the DCD Commissioner, in consultation with DPW Commission, and DEVELOPER’s compliance with all other requirements of this Agreement.

**“Tax Increment Law”** means section 66.1105, of the Wisconsin Statutes, as amended.

**“Termination Date”** means the date this Agreement terminates, which shall be the earliest of: (i) the date RACM issues the Certificate of Completion, (ii) the expiration of TID 82, or (iii) the date this Agreement is otherwise terminated in accordance with its terms.

**“TID 82”** has the meaning set forth in Recital 3.

**“TIGER Grant”** means the Transportation Investment Generating Economic Recovery Grant, administered by the FTA, awarded to CITY by the United States Department of Transportation for construction of the Streetcar Amenities.

**“Title Company”** means Chicago Title Company or another title company chosen by DEVELOPER.

**“Transit Plans”** means collectively (1) the March 14, 2018, IFC Plans, Project WI-03-0095-01, designed by HNTB Corporation, as may be further amended or revised, and (2) the pages from the Detailed Planned Development attached as **Exhibit I** showing the location of Streetcar Amenities within the Transportation Concourse, as the same may be amended and/or restated by mutual written agreement of the CITY and DEVELOPER. In the event there is a conflict between plans described as (1) and (2), above, the plans in (1) shall control.

“**Transportation Concourse**” means, collectively, the U-1 Walkway and Concourse (as that term is defined in the Condominium Documents), the U-1 Bridge (as that term is defined in the Condominium Documents), and those areas identified on **Exhibit J**, attached hereto, as the Public Elevator Lobby [01-11], [02-01], [03-01], Restroom [01-22], and Elevator 5.

“**Unit 3**” means a condominium unit identified and defined as Unit 3 in the Condominium Documents.

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

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 Agreement 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.

## ARTICLE II

### PROJECT DESCRIPTION AND PARTY RESPONSIBILITIES

**2.1 Overall Project Description.** Subject to the terms and conditions set forth herein, the Project requires DEVELOPER to demolish the County Transit Center including the existing skywalk across East Michigan Street, design and construct the Couture Project and the Public Infrastructure Project in accordance with the Final Plans and comply with all of the obligations of DEVELOPER described in Section 2.2 of this Agreement. To supplement the obligations of DEVELOPER and CITY as described in this Article II, the responsibility matrix attached as **Exhibit K** (as the same may be amended and/or restated by mutual written agreement of CITY and DEVELOPER) provides additional details regarding such obligations.

**2.2 DEVELOPER Obligations.** In furtherance of the Project, DEVELOPER, or an Affiliate, shall do all of the following:

A. Prepare the Final Plans which the Parties acknowledge have been submitted by DEVELOPER to the CITY and will be considered approved by the CITY upon the issuance of a building permit. Any material changes made to DEVELOPER’S design and construction plans that occur after approval of the Final Plans by the DCD Commissioner must also be approved in writing by the DCD Commissioner in consultation with the DPW Commissioner. DEVELOPER shall incorporate environmentally conscious and sustainable features into the Final Plans in accordance with federal, state and local laws.

B. Commence construction of the Couture Building and the Public Infrastructure Project no later than July 1, 2021. The deadline for commencement of construction may be adjusted, but only with the express approval of and confirmation from the FTA that such adjustment will not have a material adverse impact the availability of the TIGER Grant. Upon the DEVELOPER’s determination that an

adjustment is reasonably necessary (either to meet the deadline or to stay within the current Project budget), the DEVELOPER and the CITY shall promptly initiate a request for such an adjustment from the FTA and shall work in good faith to pursue such request to a definitive response.

C. With regard to the construction of the Public Infrastructure Project, allow the DPW Commissioner to review the cost estimates from DEVELOPER's contractor to ensure that construction costs funded by the Grant are reasonable and within industry standards and allow a third-party construction consultant selected by CITY and paid for by the Developer to review such bids. At Closing, DEVELOPER shall pay \$100,000 to CITY to cover CITY's third-party construction consultant costs. In the event CITY's consultant costs exceed \$100,000, DEVELOPER shall pay CITY additional costs as the Project progresses. In the event CITY's consultant costs are less than \$100,000, CITY shall return any unused funds to DEVELOPER after completion of the Public Infrastructure Project. Contractors or firms selected by DEVELOPER to construct the Public Infrastructure Project shall be subject to the prior written approval of the DPW Commissioner. In the event the costs of the Public Infrastructure Project are greater than the Grant, DEVELOPER shall pay the additional costs.

D. Construct and maintain the Transportation Concourse, Natural Spaces and Public Walkways in compliance with the Americans with Disabilities Act, as amended from time to time.

E. Construct the Project in accordance with the Final Plans. Any design changes or construction change orders for the Public Infrastructure Project that are proposed by DEVELOPER, its Architect or Contractor following approval of the Final Plans by the DCD Commissioner must also be approved in writing by the DCD Commissioner in consultation with the DPW Commissioner. If such changes are related to the Streetcar Structural Support, such approval shall be by the DPW Commissioner.

F. Complete construction of the Streetcar Structural Support and the Streetcar Lane (exclusive of any Streetcar Amenities) so that CITY may begin construction of the Streetcar Amenities within the Transportation Concourse no later than May 1, 2022. On or before such completion date, DEVELOPER shall provide documentation reasonably adequate to CITY to demonstrate that construction of the Streetcar Structural Support and the Streetcar Lane have been completed in compliance with the Streetcar Specifications. DPW Commissioner shall be satisfied that construction of the Transportation Concourse has been sufficiently completed such that CITY may safely and effectively begin construction of the Streetcar Amenities without interference or delay caused by continuing construction activities of DEVELOPER and its contractors within the Transportation Concourse. This deadline may be adjusted as the Project progresses, but only upon mutual written consent of DEVELOPER and the DPW Commissioner. Because CITY will need to begin construction on streetcar improvements outside of the Transportation Concourse no later than April 1, 2022, DEVELOPER shall, and shall require its construction contractors to, work with CITY to remove project staging and other impediments that would prohibit CITY from beginning such work outside the Transportation Concourse by April 1, 2022, either on the Property or outside the Property where DEVELOPER may have right-of-way permits for construction activities related to the Project. These deadlines shall be adjusted to conform to the actual Project schedule as it progresses, but only with the express approval of and confirmation from the FTA that such adjustment will not have a material adverse impact the availability of the TIGER Grant. Upon the DEVELOPER's determination that an adjustment is reasonably necessary (either to meet the deadline or to stay within the current Project budget), the DEVELOPER and the CITY shall promptly initiate a request for such an adjustment from the FTA and shall work in good faith to pursue such request to a definitive response.

G. Coordinate construction of the Project to allow reasonably unimpeded access to Unit 3 by CITY and its contractors during construction, installation and testing of the Streetcar Amenities such that the Streetcar Amenities can begin revenue service no later than the time required under Section 2.2.I, below.

H. In the event that DEVELOPER has additional work to do in Unit 3 from the time CITY begins construction of the Streetcar Amenities until Unit 3 is conveyed to CITY or until DEVELOPER no longer needs the right of entry granted by Section 21.6, whichever occurs later, DEVELOPER shall obtain or require its contractors performing such work to obtain builders and liability insurance naming CITY as an additional insured. DEVELOPER shall provide to CITY proof of such insurance coverage at the same time that it provides the documentation required by subsection F, above.

I. Complete construction of the Transportation Concourse such that it can be open to the public and the Streetcar Amenities can begin revenue service no later than June 30, 2022. All lighting, fire life safety equipment, and any other necessary safety equipment to allow temporary occupancy of Unit 3 shall be functional in the Transportation Concourse by June 30, 2022. Furthermore, the DEVELOPER shall take any and all necessary measures to provide a safe environment, including the provision of ADA accessible path(s) between the streetcar loading platform and public sidewalk(s) prior to June 30, 2022. These deadlines shall be adjusted to conform to the actual Project schedule as it progresses, but only with the express approval of and confirmation from the FTA that such adjustment will not have a materials adverse impact the availability of the TIGER Grant. Upon the DEVELOPER's determination that an adjustment is reasonably necessary (either to meet the deadline or to stay within the current Project budget), the DEVELOPER and the CITY shall promptly initiate a request for such an adjustment from the FTA and shall work in good faith to pursue such request to a definitive response.

J. If the Project includes any Skywalks constructed by DEVELOPER or an Affiliate, apply for and enter into an Airspace Lease(s) with CITY in accordance with City of Milwaukee ordinances.

K. Work with CITY and RACM to achieve approval of the Detailed Planned Development zoning and obtain necessary permits and other approvals necessary to complete the Project.

L. Provide evidence reasonably acceptable to the DCD Commissioner of commitments for financing necessary to construct the Project promptly upon receipt of same.

M. Abstain from any actions that would prohibit or preclude CITY from installing and operating the Streetcar Amenities, it being understood that the Grant is being provided to DEVELOPER in exchange for the granting of the Easement & Maintenance Agreement, the conveyance of Unit 3 at no cost to the CITY and for DEVELOPER allowing the Streetcar Amenities to be installed and operated on the Property.

N. Record the Condominium Documents on title to the Property prior to closing on project financing with HUD Insured Lender and make no amendments or revisions to the Condominium Documents prior to conveyance of Unit 3 to CITY as required herein.

O. Convey Unit 3 to CITY at no cost in accordance with Article XXI of this Agreement.

P. Execute and deliver all Project Documents to which it is a party and deliver copies thereof to RACM and CITY to the extent such entities are parties to such documents and obtain from Rick Barrett

and Tan Lo the Personal Guaranties and deliver them to CITY at or before Closing. DEVELOPER's ability to obtain and provide the Personal Guaranties to CITY is a material term of this Agreement upon which CITY relies and without which CITY would not agree to the other terms.

Q. Fulfill all of its other obligations set forth in this Agreement and the Project Documents and reach Substantial Completion no later than 42 months after construction commences. In the event that the deadline for Substantial Completion is not met, but all other deadlines in this Section 2.2. have been met, the deadline for Substantial Completion can be extended by written approval of the DPW Commissioner and DCD Commissioner, which approval shall not be unreasonably withheld or delayed as long as work continues to commence on the Project.

R. Include the following acknowledgement of USDOT support and disclaimer in the construction site signage, whether copyrighted or not: "This material is based upon work supported by the USDOT under FTA FY 2015 TIGER Grant No. WI-2017-008. Any opinions, findings, and conclusions or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the view of the USDOT."

**2.3 RACM Obligations.** In furtherance of the Project, RACM shall:

A. Provide the Grant, as more fully set forth in Article III below, to DEVELOPER as reimbursement for DEVELOPER's actual costs for the Public Infrastructure Project as required by this Agreement and the Disbursement Agreement.

B. Provide the Sewer Grant to DEVELOPER as more fully set forth in Article XX of this Agreement.

C. Assist DEVELOPER in obtaining as expeditiously as possible, all permits, approvals, licenses, certificates, inspections and consents that may be necessary or desirable to enable DEVELOPER to commence and carry out all obligations and actions under this Agreement and the Project Documents.

D. Execute and deliver the Project Documents to which it is a party.

E. Fulfill all of its other obligations set forth in this Agreement and the Project Documents.

**2.4 CITY Obligations.** In furtherance of the Project, CITY shall:

A. Provide funds from TID 82 through RACM in an amount sufficient to fund the Grant prior to execution of the Disbursement Agreement.

B. Provide funds from TID 82 through RACM in an amount sufficient to fund the Sewer Grant as further described in Article XX.

C. Commence and diligently work to complete construction of the Streetcar Amenities so that they can be put into revenue service no later than the time required under Section 2.2.I, above, so long as the TIGER Grant has not been rescinded by the FTA. The Parties agree that construction of the Streetcar Amenities may commence prior to the conveyance of Unit 3 to CITY.

D. Assist DEVELOPER in obtaining, as expeditiously as possible, all permits, approvals, variances, licenses, certificates, inspections and consents that may be necessary or desirable to enable DEVELOPER to commence and carry out all obligations and actions under this Agreement and the Project Documents; provided that nothing contained herein shall be deemed to limit or waive CITY's independent right and authority to review and consider each request for such approvals.

E. Review and, if they meet the requirements of this Agreement, approve the Final Plans.

F. Execute and deliver the Project Documents to which it is a party.

G. Accept ownership of Unit 3 in accordance with Article XXI of this Agreement.

H. Fulfill all of its other obligations set forth in this Agreement and the Project Documents.

### ARTICLE III

#### GRANT & SEWER GRANT

**3.1 Background.** This Agreement is entered into in furtherance of the Tax Increment Law. Under this Agreement:

A. CITY agrees to act on behalf of RACM by using its powers, as necessary, to provide for the accomplishment of RACM's redevelopment goals pursuant to sec. 66.1333(13), Wis. Stats., and in order to aid RACM's redevelopment activities so that the Grant and Sewer Grant will qualify as a project cost for TID 82 pursuant to secs. 66.1105(2)(f)(1)(h) and (j), Wis. Stats.

B. CITY and RACM agree that the Grant and Sewer Grant will be deemed to have been made for the purpose of carrying out redevelopment and assisting in a redevelopment project pursuant to the terms of this Agreement.

C. DEVELOPER agrees to cause the Project to be implemented and brought to Substantial Completion pursuant to the terms of this Agreement.

**3.2 Findings and Representations.**

A. CITY. CITY makes the following findings and representations:

1. The Property lies within TID 82 and exhibits conditions that cause it to be "in need of rehabilitation or conservation work" under the Tax Incremental Law as evidenced by the Project Plan.

2. The Grant is a "project cost" under the Tax Increment Law in multiple respects. *First*, the Grant is a contribution made under sec. 66.1333(13), Wis. Stats., for the purpose of carrying out redevelopment and assisting in a redevelopment project. *Second*, the Grant is a payment towards capital costs including the actual cost to construct public areas for the use of public transportation and pedestrian traffic which is a valid "project cost" pursuant to sec. 66.1105(2)(f)1.a., Wis. Stats.

3. The Sewer Grant is a “project cost” under the Tax Increment Law in multiple respects. *First*, the Sewer Grant is a contribution made under sec. 66.1333(13), Wis. Stats., for the purpose of carrying out redevelopment and assisting in a redevelopment project. *Second*, the Sewer Grant is a payment towards construction of a sewer main as necessary in order to fulfill the Project Plan, which is a valid “project cost” pursuant to sec. 66.1105(2)(f)1.j., Wis. Stats.

4. The Grant and Sewer Grant serve a public purpose by eliminating blighting conditions, enhancing CITY’s tax base, aiding in the creation of new full-time jobs in CITY and inducing appropriate development of the Property.

5. The amounts of the Grant and Sewer Grant are the amounts determined by CITY to be necessary to induce the Project.

6. CITY is incurring the Grant and Sewer Grant as limited and conditional monetary obligations to pay for “project costs” under the Tax Incremental Law, and CITY’s administrative costs in issuing the Grant and Sewer Grant are “project cost[s],” within the meaning of sec. 66.1105(2)(f)1.e., Wis. Stats.

B. RACM. RACM makes the following findings and representations:

1. CITY is assisting RACM in improvement and redevelopment of the Property in accordance with the Project Plan.

2. It is not necessary for RACM to acquire the Property for the purpose of assisting private acquisition, improvement, and development of the Property. Section 66.1333(5)(c)1r., Wis. Stats., gives RACM the same duties, powers, and privileges as if RACM had acquired the Property.

3. RACM endorses the Grant and Sewer Grant as contributions made for the purpose of carrying on redevelopment and assisting in a redevelopment project.

C. DEVELOPER. DEVELOPER declares that “but for” the Grant and Sewer Grant, it would not undertake the Project.

### **3.3 Payments of Grant and Conditions to Payment.**

A. The Grant shall be contributed by CITY to RACM for the Public Infrastructure Project and disbursed to DEVELOPER on a reimbursement basis in accordance with the Disbursement Agreement. The Sewer Grant shall be disbursed in accordance with Article XX of this Agreement.

B. The Grant is a monetary obligation of CITY contributing to the actual costs for the design and construction of the Public Infrastructure Project in an amount not to exceed \$17.5 million. The Sewer Grant is a monetary obligation of CITY contributing to the actual costs for construction of the Sewer Project in an amount not to exceed \$1.5 million.

C. No disbursement of any portion of the Grant shall occur until all of the following have occurred:

1. Detailed Planned Development zoning for the Property has been approved.
2. DEVELOPER has provided CITY with evidence of financing for the Project.
3. DEVELOPER has entered into construction contracts for the Project.
4. DEVELOPER has signed all Project Documents.
5. DEVELOPER has obtained a completion guaranty/bond for the Project.
6. CITY has approved the Final Plans.
7. DEVELOPER has incurred actual costs related to the Public Infrastructure Project.

#### **ARTICLE IV**

#### **INSPECTIONS**

**4.1** CITY is responsible for designing the Streetcar Specifications which DEVELOPER, its Architect, Contractor and subcontractors must abide by in the design and construction of the Streetcar Structural Support. DEVELOPER, its Architect, Contractor and subcontractors shall be solely responsible for the completion of all other design aspects of the Couture Project and the Public Infrastructure Project and shall further be responsible for the completion of the construction of the Couture Project and the Public Infrastructure Project in accordance with the Final Plans. Nothing contained in this Agreement shall create or affect any relationship between CITY or RACM, on the one hand, and Contractor or any subcontractor employed or engaged by DEVELOPER, on the other hand, in the design and construction of the Couture Project and the construction of the Public Infrastructure Project.

**4.2** Upon notice and during normal business hours, RACM may make reasonable inspections of the Project, including but not limited to inspections on behalf of RACM by CITY's Department of Public Works, Department of City Development and Department of Neighborhood Services, during construction, provided that such inspections do not interfere with the progress of the Project. In order to allow RACM and CITY agencies to undertake these inspections in a meaningful fashion, DEVELOPER shall, upon request, provide RACM with any change orders and shop drawings relating to the Project.

**4.3** DEVELOPER shall allow CITY, its staff and its general contractor and project manager for the design and construction of the Streetcar Amenities to access the Property as necessary to conduct inspections for quality assurance purposes during construction of the Streetcar Structural Support and the Transportation Concourse. However, CITY has no obligation to conduct such inspections.

**4.4** DEVELOPER shall provide the Executive Director and DPW Commissioner with a certificate of the Architect, upon which the Executive Director and DPW Commissioner may rely, confirming that the Project, including, but not limited to the Streetcar Structural Support, is in compliance with this Agreement and the applicable plans and specifications.

## **ARTICLE V**

### **ENVIRONMENTAL MATTERS**

**5.1** DEVELOPER covenants and agrees to comply with all Environmental Laws applicable to DEVELOPER's activities at the Property.

**5.2** DEVELOPER covenants and agrees to indemnify and hold RACM and CITY (including, for this purpose, their officers, employees, officials and agents) harmless from and against any and all claims, damages, costs, expenses (including reasonable legal, consulting and engineering fees) and awards of every type and nature arising from any third party claims or causes of action for any violations or alleged violations of Environmental Laws by DEVELOPER (or any persons acting under DEVELOPER's control or direction) or as a result of any environmental contamination present on the Property on the date of this Agreement, excluding any such third party claims or causes of action resulting from or caused by CITY's sewer pipe that exists on the Property on the date of this Agreement and in the future.

**5.3** The Parties agree to provide to each other, immediately upon receipt, copies of any correspondence, notice, pleading, citation, indictment, complaint, order, decree, or other document, from any source, asserting or alleging a circumstance or condition which:

A. Constitutes a violation of any Environmental Laws on the Property;

B. Requires or may require a clean-up, removal, remedial action or other response by or on the part of DEVELOPER or any other person under Environmental Laws; or

C. Seeks damages or penalties (civil, criminal or punitive) from any of the Parties or any other person for an alleged violation of Environmental Laws on the Property.

D. It is acknowledged and agreed that DEVELOPER may indemnify CITY and RACM only to the extent permitted by HUD requirements (i.e., from insurance proceeds, surplus cash, and non-project funds).

## **ARTICLE VI**

### **CERTIFICATE OF COMPLETION**

**6.1** The Project will not be deemed to meet Substantial Completion until DEVELOPER provides RACM with (a) a certificate of substantial completion by the Architect stating that the Project, as constructed, is in compliance with the Final Plans and (b) issuance by CITY of occupancy certificates for the portions of the Couture Building requiring occupancy certificates. Upon receiving this documentation and confirming that Substantial Completion has been met, RACM shall furnish DEVELOPER with the Certificate of Completion.

**6.2** The Certificate of Completion shall constitute a conclusive determination of satisfaction and termination of the covenants and agreements listed in this Agreement, except those terms that have a different termination date or that run with the land as described in this Agreement. The Certificate of Completion shall be in recordable form and may be recorded by DEVELOPER at its discretion and cost.

## **ARTICLE VII**

### **RESTRICTIONS ON USE**

**7.1** DEVELOPER agrees for itself, and its successors and assigns, and every successor in interest to the Property or any part thereof, to:

A. Devote the Property only to uses compatible with the applicable zoning, but shall not be precluded in any way from thereafter changing the use of the Property, or any portion of it, in any manner consistent with applicable ordinances, covenants, or waivers related to applicable ordinances or covenants; and

B. Not discriminate upon the basis of race, color, creed, sex, national origin or sexual orientation in the sale, lease or rental, use or occupancy of any portion of the Property, or any improvements located or to be located thereon.

## **ARTICLE VIII**

### **LIMITATION UPON ENCUMBRANCE OF PROPERTY**

Prior to Substantial Completion of the Project and except as permitted pursuant to Section 18.8 of this Agreement, neither DEVELOPER, any Affiliate, nor any assignee or successor in interest to the Property shall create or cause any partial or total sale, assignment, conveyance, trust or power to transfer in any other mode or form any portion of the Property or engage in any financing or any other transaction creating any mortgage or other encumbrances or lien upon the Property, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attach to the Property except for (a) the Primary Financing, (b) purposes only of obtaining additional funds and/or services to the extent necessary for the construction of the Project, (c) conveyance of Unit 3 to CITY in accordance with Article XXI of this Agreement and (d) entering into a lease with Milwaukee County in accordance with Article XXI of this Agreement. The Parties agree that for purposes of this Article the payment of the Grant and the Sewer Grant shall not create any encumbrance or lien upon the Property. Notwithstanding the foregoing, DEVELOPER or its Affiliate may: (i) collaterally assign this Agreement to HUD, a HUD Insured Lender or a Conventional Lender, if any; or (ii) assign or transfer all or any portion of the Property and all or any portion of DEVELOPER's rights under this Agreement to an Affiliate. Any transfer described in this Article VIII shall be subject to the provisions of this Agreement, such that DEVELOPER, its Affiliate, or the transferee shall comply with the requirements of this Agreement. DEVELOPER shall provide written notice to RACM prior to any assignment or transfer, of any nature, under this Article VIII.

## **ARTICLE IX**

### **LIMITS ON DEVELOPER ACTION**

**9.1** Prior to the issuance of the Certificate of Completion, DEVELOPER shall not do any of the following without the prior written consent of the Executive Director:

A. Merge with another entity;

B. Enter into any transaction that would materially adversely affect the ability of DEVELOPER to complete the Project;

C. Assume additional indebtedness, other than the financing required for the Project (which required financing shall include any predevelopment loans to be satisfied at the time of the Primary Financing), for which the collateral includes any portion of the Property or DEVELOPER's interest in the Property or any portion of the Property;

D. Assume or guarantee the obligations of any other person or entity that would materially adversely affect the ability of DEVELOPER to complete the Project; or

E. Enter into a transaction that would cause a material and detrimental change to the DEVELOPER's financial condition.

**9.2** The Parties acknowledge and agree, however, that the foregoing restrictions shall not apply to prohibit DEVELOPER from taking any actions required to be taken under the terms of the Primary Financing, including (without limitation) that certain Regulatory Agreement for Multifamily Housing Projects (Form HUD-92466) between DEVELOPER and HUD related to the Project.

## **ARTICLE X**

### **DEFAULT PROVISIONS**

**10.1** If any one or more of the following events occur, it is hereby defined as and declared to be and to constitute an "Event of Default" under and for purposes of this Agreement.

A. Any Party shall default in the performance or observance of any of the covenants, agreements or conditions on the part of such Party set forth in this Agreement or any Project Document and fail to cure such default within thirty (30) days following receipt of written notice from another party specifying such default in sufficient detail so as to afford a cure thereof; provided, however, if such default is of a nature such that it cannot be cured in such 30-day period, the defaulting Party shall have such time as is reasonably necessary to cure such default provided such Party is diligently and in good faith proceeding to cure such default.

B. Any Party shall:

1. Become insolvent;
2. Be unable or admit in writing its inability to pay its debts as they become due;
3. Make a general assignment for the benefit of creditors or to an agent authorized to dissolve a substantial amount of its property;
4. Become subject (either voluntarily or involuntarily) to an order for relief within the meaning of the bankruptcy code and, in the case of an involuntary application, such order is not vacated within 60 days of such order;
5. File a petition to effect a plan or other arrangement with creditors;

6. File an answer to a creditor's petition, admitting the material allegations thereof, for dissolution, reorganization or to effect a plan or other arrangements with creditors;
7. Apply to a court for the appointment of a receiver for any of its assets;
8. Have a receiver appointed for any of its assets (with or without consent) and such receiver shall not be discharged within 60 days after appointment; or
9. Otherwise become the subject of any federal or state bankruptcy or insolvency proceedings, which proceedings are not discharge within 60 days after the initiation of such proceedings.

## **ARTICLE XI**

### **REMEDIES**

**11.1** If an Event of Default shall occur, and after notice and the period to cure as provided for in this Agreement, the aggrieved Party may terminate this Agreement and/or pursue any available remedy, either at law or in equity, against the Party in default including but not limited to withholding disbursement of payments provided for in this Agreement, but only to the extent permitted by the Disbursement Agreement.

**11.2** Notwithstanding 11.1, in the event DEVELOPER fails to meet the deadlines described in Sections 2.2.F and 2.2.I, as may be adjusted pursuant to the terms of this Agreement, the CITY can, as its sole remedy, seek reimbursement under the terms of the Personal Guaranties.

## **ARTICLE XII**

### **INSURANCE**

DEVELOPER shall provide, or cause to be provided, general liability insurance in the types and amounts set forth on **Exhibit L** attached hereto and made a part of this Agreement. DEVELOPER shall furnish RACM and CITY a certificate or certificates of insurance naming RACM and CITY as additional insureds with respect to the insurance provided pursuant to this Article XII. The certificates shall provide that the insurance company will furnish RACM and CITY with a 30-day written notice of cancellation, non-renewal or material change. The above insurance requirements shall include CITY and RACM, to the extent CITY and RACM have an insurable interest. DEVELOPER's obligations with respect to this Article XII shall terminate with the issuance of the Certificate of Completion.

## **ARTICLE XIII**

### **INDEMNIFICATION**

**13.1** DEVELOPER shall indemnify and hold harmless CITY and RACM (for purposes of this Article, collectively the "Indemnified Parties" or individually the "Indemnified Party") from and against any and all losses, liabilities, damages, costs and expenses, including reasonable attorneys' fees and costs, arising out of any third party claims, causes of action, or demands made against or suffered by the Indemnified

Parties on account of this Agreement or any actions of DEVELOPER or an Affiliate undertaken pursuant to this Agreement or the making of the Grant or Sewer Grant unless any of the same (i) relate to CITY or RACM failing to perform their obligations to DEVELOPER or (ii) arise out of any negligence or willful misconduct of CITY or RACM. At an Indemnified Party's request, DEVELOPER shall appear for and defend the Indemnified Party, at DEVELOPER's expense, in any action or proceeding to which the Indemnified Party may be made a party by reason of any of the foregoing. CITY and/or RACM shall promptly notify the DEVELOPER in reasonable detail of any such third-party claim, cause of action or demand for which indemnification or defense will be sought hereunder. The Indemnified Party shall have the right to participate, at its own expense, with respect to any such third-party claim, cause of action or demand. In connection with any third-party claim, cause of action or demand for which indemnification will be sought hereunder, the Parties shall cooperate with each other and provide each other with access to relevant books and records in their possession.

**13.2** It is acknowledged and agreed that DEVELOPER may indemnify CITY and RACM only to the extent permitted by HUD requirements (i.e., from insurance proceeds, surplus cash, and non-project funds), but also that if such third party claims, causes of action or demands are based upon DEVELOPER's negligence or willful misconduct, RACM may (subject to the provisions of Article XIX hereof) delay Grant or Sewer Grant payments until such third party claims, causes of action, or demands are resolved.

**13.3** If a firm written offer is made to settle any such third-party claim, cause of action or demand and (i) the DEVELOPER proposes to accept such settlement and (ii) DEVELOPER tenders full payment of all monetary consideration required by such settlement and (iii) the proposed settlement will result in a full and complete release and dismissal of all claims, causes of action, and demands made or possibly made against CITY or RACM and (iv) the proposed settlement is not otherwise contrary to CITY's or RACM's respective interests, as determined by CITY's City Attorney, then if the Indemnified Party refuses to consent to such settlement the DEVELOPER shall be excused from, and the Indemnified Party shall be solely responsible for, all further defense of such third-party claim, cause of action or demand, and the maximum liability of the DEVELOPER relating to such third-party claim, cause of action or demand shall be the amount of the proposed settlement plus the amount of the Indemnified Party's other losses, liabilities, damages, costs and expenses, including reasonable attorneys' fees, up to the point of and including the proposed settlement, if the amount thereafter recovered from the Indemnified Party on such third party claim, demand, action or proceeding is greater than the amount of the proposed settlement; provided DEVELOPER first pays the Indemnified Party cash equal to the amount of the proposed settlement plus the Indemnified Party's other losses, liabilities, damages, costs and expenses, including reasonable attorneys' fees.

**13.4** Notwithstanding anything to the contrary in this Article XIII, in exchange for the Personal Guaranties to be provided to CITY pursuant to this Agreement and in exchange for a contribution to the Anti-Displacement Fund administered by MKE United in the amount of One Hundred Thousand Dollars (\$100,000.00) payable by the DEVELOPER's principals, Rick Barrett and/or Tan Lo, at Closing, CITY hereby limits liability of DEVELOPER and its Affiliates as stated below and waives any potential claims against the Conventional Lender(s) and HUD Insured Lender related to FTA seeking reimbursement of TIGER Grant funds paid to CITY or FTA's refusal to provide TIGER Grant funds 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 deadlines in Sections 2.2.F and 2.2.I. of this Agreement not being met. Any liability related to the TIGER Grant hereunder shall be limited to an

amount not to exceed \$1,411,713, and shall be solely recoverable from Rick Barrett and Tan Lo pursuant to the terms of the Personal Guaranties, and not the DEVELOPER.

#### **ARTICLE XIV**

#### **FORCE MAJEURE**

If any party is delayed or prevented from the performance of any act required by this Agreement by reason of fire, earthquake, war, flood, riot, strikes, labor disputes, judicial orders, public emergency or regulations, or other causes beyond the reasonable control of the party obligated to perform, performance of such act shall be excused for the period of such delay and the time for the performance of any such act shall be extended for a period equivalent to such delay.

#### **ARTICLE XV**

#### **CONFLICT OF INTEREST: REPRESENTATIVES NOT INDIVIDUALLY LIABLE**

**15.1** No member, official, agent or employee of RACM or CITY shall have any personal financial interest, direct or indirect, in this Agreement, nor shall any such member, official, agent or employee participate in any decision relating to this Agreement which affects such person's personal interests or the interests of any corporation, partnership or association in which such person is, directly or indirectly, interested. No member, official, agent or employee of RACM or CITY shall be personally liable to DEVELOPER, any Affiliate or any successor in interest in the event of any default or breach by RACM or CITY or for any amount which may become due to DEVELOPER or any Affiliate under the terms of this Agreement.

**15.2** It is understood and agreed that RACM's obligation to make the Grant and Sewer Grant is absolutely conditioned upon receipt by RACM from CITY of all sums necessary to enable RACM to fulfill its financial obligations under this Agreement. RACM shall not, under any circumstances, be required to advance the Grant or Sewer Grant or any part thereof unless and until the necessary funds have been received by RACM from CITY. RACM shall not in any event be liable to DEVELOPER or any other person by reason of unavailability or delay in availability of the funds intended to be used for the purpose of making the Grant or Sewer Grant.

#### **ARTICLE XVI**

#### **NOTICES**

Any notice required to be sent to any Party shall be in writing and forwarded to the following, as applicable:

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

**RACM:**

Redevelopment Authority of the City of Milwaukee  
809 North Broadway  
Milwaukee, WI 53202  
Attn: Executive Director/Secretary

**DEVELOPER:**

The Couture LLC  
260 East Highland Avenue, Suite 401  
Milwaukee, WI 53202  
Attn: Rick Barrett

With a copy to:

The Couture Holdings Group Inc.  
260 East Highland Avenue, Suite 401  
Milwaukee, WI 53202  
Attn: Rick Barrett

With a copy to:

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

## **ARTICLE XVII**

### **RECORDS AND FINANCIAL STATEMENTS**

**17.1** DEVELOPER shall keep accurate, full and complete books and accounts with respect to the costs to be reimbursed by the Grant and Sewer Grant and shall include a provision in all its contracts related to the Public Infrastructure Project and Sewer Project requiring its contractors and subcontractors to do the same. All such books and accounts shall be maintained in accordance with tax basis accounting principles consistently applied, and shall be kept for a period of seven (7) years subsequent to Substantial Completion.

**17.2** During such seven (7) year period, CITY's Comptroller, or his designee, shall have the right, upon reasonable notice to DEVELOPER, its contractors or subcontractors as the case may be, to examine the books and accounts of DEVELOPER, its contractors or subcontractors relating to the Public Infrastructure Project or Sewer Project during normal business hours; provided, however, that such examination shall not occur more frequently than twice annually prior to the occurrence of an Event of Default hereunder.

**17.3** During the construction period, DEVELOPER shall maintain internally generated financial statements for the Project, certified as to accuracy. At its discretion, CITY may request said financial statements to be provided within 120 days of the close of any fiscal year.

**17.4** To the extent permitted by law, CITY and RACM shall use their best efforts and take all necessary or appropriate measures, in good faith, to maintain the confidentiality of any financial, proprietary or other confidential information received from DEVELOPER or its contractors or subcontractors, and shall cause their respective agents and independent contractors having access to such information to do the same.

**17.5** CITY and RACM are subject to the requirements of the Wisconsin Public Records Law. Wis. Stats. §§ 19.31-39. Under this statute, all documents and records are subject to public disclosure, unless there is a statutory, common law, or public policy reason for nondisclosure. In the event that CITY or RACM receives a public records request for confidential information provided pursuant to this Agreement, DEVELOPER's claim of confidentiality will be considered in conjunction with the requirements of the Wisconsin Public Records Law as to whether or not to release such materials. In all cases, the Parties will abide by the requirements of the Wisconsin Public Records Law. CITY and RACM agree to provide notice to DEVELOPER in the event that we receive such a request, or in the event of the initiation of legal action to compel the release of such records.

## **ARTICLE XVIII**

### **MISCELLANEOUS PROVISIONS**

**18.1 Limitations of Waivers.** If any term contained in this Agreement should be breached by any Party and thereafter waived by another Party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive the same or other or any future breach hereunder on any other occasion. No remedy herein conferred upon or reserved to any Party is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement now or hereafter existing at law or in equity or by virtue of other contracts. No delay or omission to exercise any right or power occurring upon any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof but any such right or power may be exercised from time to time and as often as may be deemed expedient. To entitle any Party to exercise any remedy reserved or available to it, it shall not be necessary to give any notice other than such notice as may be expressly required by this Agreement.

**18.2 Amendments.** This Agreement shall not be amended, changed, modified, altered or terminated without the written consent of all Parties.

**18.3 Successors.** It is intended and agreed that, for the period specified in this Agreement, the covenants of DEVELOPER, or any of its Affiliates, provided in this Agreement shall be covenants running with the land binding to the fullest extent permitted by law and equity for the benefit and in favor of, and enforceable by, RACM and CITY, against the interests of DEVELOPER or any Affiliate (including their respective successors) in and to the Property.

**18.4 Exhibits and Recitals.** The various exhibits appended to this Agreement and the opening recitals herein are incorporated herein and for all purposes are a part of this Agreement.

**18.5 Governing Law and Termination.** The laws of the State of Wisconsin shall govern this Agreement. This Agreement shall terminate on the Termination Date.

**18.6 Severability.** If any provision of this Agreement shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or in all jurisdictions, in all cases because the provision conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstance shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstances, or of rendering any other provision herein contained invalid, inoperative or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or sections of this Agreement shall not affect the remaining portions of this Agreement, or any part thereof.

**18.7 Approvals.** Whenever this Agreement requires the consent or approval of RACM or allows the discretion of RACM to be exercised, the Executive Director shall have the authority to provide such consent or approval or to exercise such discretion. Whenever in this Agreement the consent or approval of CITY is required or the discretion of CITY may be exercised, the DCD Commissioner shall have the authority to provide such consent or approval or to exercise such discretion, except as otherwise provided in this Agreement where that authority is given to the DPW Commissioner. Any and all approvals and consents required of any Party hereunder shall not be unreasonably withheld or unduly delayed and shall be granted or withheld consistent with the agreements of the Parties set forth in this Agreement and the Project Documents and with respect to the nature and scope of the development of the Project.

**18.8 Assignment.** Neither CITY nor RACM shall assign this Agreement without the written consent of DEVELOPER. Prior to Substantial Completion and except as provided in Article VIII, DEVELOPER may not assign its rights or obligations under this Agreement to a third-party without prior written consent of CITY and RACM. DEVELOPER may however, with written notice to CITY and RACM, assign its rights and obligations under this Agreement without the consent of CITY or RACM to any Affiliate or to The Couture Lakefront Condominium Association LLC. DEVELOPER shall be liable for the actions of any assignee fulfilling or attempting to fulfill DEVELOPER's obligations under the terms of this Agreement if such assignee is not party to a written assignment as provided herein.

**18.9 Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument. Any Party may execute this Agreement by facsimile; provided that the Party provides an original of the facsimile signature to each other Party within five calendar days of transmission of the facsimile signature.

**18.10 Recording.** Any Project Documents to be recorded with the Register of Deeds Office shall be recorded at DEVELOPER’s expense. DEVELOPER may record a memorandum of this Agreement rather than this Agreement. In the event that a memorandum is the preferred method to record the terms of this Agreement, the Executive Director and DCD Commissioner shall sign such Memorandum on behalf of RACM and CITY, respectively.

## **ARTICLE XIX**

### **HUD AND FTA REQUIRED PROVISIONS**

The Parties acknowledge that the Streetcar Amenities will be funded in part by the TIGER Grant awarded to CITY by the FTA. Notwithstanding any provision in this Agreement, CITY and RACM acknowledge that this Agreement and all of the terms, covenants and provisions hereof and all rights, title, interests, and remedies of CITY and RACM hereunder (and the instruments referenced herein) are, and shall at all times continue to be, subject and subordinate in all respects to the right, title, interest and remedies of any person or entity who, at any time, provides financing for all or any portion of the Project that is insured by or through any program administered by HUD or any subdivision thereof, including (without limitation) the Federal Housing Administration (any such person or entity being hereinafter referred to as a “HUD Insured Lender”). In the event that any of the provisions of HUD’s 220 program used to finance a portion of the Project (including, without limitation, the HUD-required 220 program loan documents) are inconsistent with the terms of this Agreement, then the provisions of the HUD 220 program shall govern, and any inconsistent provision hereof shall be deemed modified or severed to the extent necessary to eliminate any such inconsistency. If such controlling provisions of the HUD 220 program result in a conflict with or default by CITY under any grant agreement between CITY and FTA related to the TIGER Grant and the Streetcar Amenities, CITY and DEVELOPER shall first use their best efforts to meet and confer with representatives from HUD and FTA in an effort to reach a solution that avoids such conflict or default. In the event that DEVELOPER proposes to encumber the Property to secure financing for all or any portion of the Project from any person or entity who is not a HUD Insured Lender (each a “Conventional Lender”), all rights, title, interests, and remedies of CITY and RACM hereunder (and the instruments referenced herein) shall be subject and subordinate to the rights of the Conventional Lender; provided, however, that each such Conventional Lender shall provide an agreement under which such Conventional Lender agrees to recognize all rights, title, interests and remedies of the FTA, pursuant to any grant agreement between CITY and FTA, and of CITY and RACM hereunder (and the Project Documents) in the event of foreclosure, if CITY and RACM are not then in default, so long as CITY and RACM observe and perform all of the obligations, provisions, covenants, and conditions required of CITY and RACM hereunder (and the Project Documents).

## **ARTICLE XX**

### **SEWER PROJECT**

**20.1 Sewer Project Description.** A CITY-owned sewer main is currently located on the Property in a location that is not compatible with the Couture Project. To accommodate the Couture Project, the DEVELOPER shall relocate that sewer main to another location on the Property as described in Plan File Numbers 246-24 and 246-25 dated March 22, 2017, or alternative plans approved in writing by the DPW Commissioner (the “Sewer Plans”) and comply with the requirements of this Article XX (collectively, the “Sewer Project”).

**20.2 DEVELOPER Obligations.** In furtherance of the Sewer Project, DEVELOPER, or Affiliate, shall do all of the following:

A. With regard to the construction of the Sewer Project, allow the DPW Commissioner to review the cost estimates from DEVELOPER's contractor to ensure that construction costs funded by the Sewer Grant are reasonable and within industry standards. Contractors or firms selected by DEVELOPER to construct the Sewer Project shall be subject to the prior written approval of the DPW Commissioner. In the event the costs of the Sewer Project are greater than the Sewer Grant, DEVELOPER shall pay the additional costs.

B. Construct the Sewer Project in accordance with the Sewer Plans. Any design changes or construction change orders for the Sewer Project that are proposed by DEVELOPER following approval of the Sewer Plans by the DPW Commissioner must also be approved in writing by the DPW Commissioner. DEVELOPER'S obligation to construct the Sewer Project means that DEVELOPER shall be responsible for all construction activities related to the Sewer Project including, but not limited to, bidding, contract letting, construction in accordance with the Sewer Plan, construction inspections, change orders, and providing CITY with as-built surveys. DEVELOPER shall allow CITY, at the discretion of the DPW Commissioner, to inspect and monitor the Sewer Project work by DEVELOPER and its contractors as that work progresses.

C. Grant the Sewer Easement to CITY.

D. Enter into the Sewer Project Human Resources Agreement with CITY.

E. At Closing, DEVELOPER shall pay \$30,000 to CITY to cover CITY's costs for sewer inspection and disbursement review for the Sewer Grant. In the event CITY's sewer inspection and disbursement review costs exceed \$30,000, DEVELOPER shall pay CITY additional costs as the Sewer Project progresses. In the event CITY's sewer inspection and disbursement review costs are less than \$30,000, CITY shall return any unused funds to DEVELOPER after completion of the Sewer Project.

**20.3 CITY Obligations.** In furtherance of the Sewer Project, CITY shall:

A. Provide funds from TID 82 to RACM in an amount sufficient to fund the Sewer Grant within 30 days after the execution of the Amendment.

B. Accept the Sewer Easement.

**20.4 RACM Obligations.** In furtherance of the Sewer Project, RACM shall pay the Sewer Grant to DEVELOPER as reimbursement for DEVELOPER's actual costs for the Sewer Project as required by this Article XX and in accordance with the disbursement procedure described in Section 20.5.D., below.

## **20.5 Sewer Grant.**

A. The Sewer Grant shall be contributed by CITY to RACM for the Sewer Project and disbursed to DEVELOPER in monthly payments on a reimbursement basis in accordance with this Article XX.

B. The Sewer Grant is a monetary obligation of CITY contributing to DEVELOPER's actual costs of the Sewer Project in an amount not to exceed \$1.5 million.

C. In the event the costs of the Sewer Project are greater than the Sewer Grant, DEVELOPER shall pay the additional costs. In the event the costs of the Sewer Project are less than the Sewer Grant, the excessive funds in the Sewer Grant shall be retained by RACM and returned to CITY.

D. The process for disbursing the Sewer Grants shall be as follows:

1. After work commences on the Sewer Project, DEVELOPER shall provide to RACM and the DPW Commissioner on a monthly basis a sworn statement setting forth all contractors and materialmen with whom DEVELOPER, or Affiliate, or its general contractor has contracted, amounts of contracts, total amounts paid to date, amounts of current payments and balances due with proof of payments made by DEVELOPER during the preceding month for costs related to the Sewer Project (with supporting documentation) and copies of all change orders (collectively the "Sewer Project Documentation");

2. With each monthly disbursement request, DEVELOPER shall provide to RACM and the DPW Commissioner a report or a certification by its general contractor certifying that work included in the disbursement request has been completed and materials are in place as indicated by the request for payment of the DEVELOPER evidenced by the Sewer Project Documentation;

3. With each monthly disbursement request, DEVELOPER shall provide to RACM and the DPW Commissioner written certification from the DEVELOPER's project engineer that the work and materials included in the disbursement request as described in the Sewer Project Documentation are consistent with the requirements of the Sewer Easement, the Sewer Plans and this Agreement;

4. The DPW Commissioner shall approve or reject DEVELOPER's request for disbursement of funds within 30 business days of receipt of all of the items in subsections 1 through 3, above. Such approval or rejection shall be provided in writing to DEVELOPER and RACM. If DEVELOPER's request for disbursement is rejected, the DPW Commissioner shall provide to DEVELOPER written explanation of the reason(s) for the rejection. Non-compliance with the terms of any Project Document is a legitimate reason to reject a disbursement request;

5. Upon approval by the DPW Commissioner of the requested disbursement, RACM shall verify that the requirements of subsection E, below, have been met and, if they continue to be met, then transmit to CHG sufficient funds to cover the requested disbursement, not to

exceed a total of \$1.5 million. Disbursement of the Sewer Grant funds shall be made by RACM directly to CHG. It is the intention of the parties named herein that no person that is not a signatory to this Agreement shall be a third party beneficiary of this Agreement, and neither CITY nor RACM owes any duty of care to any such party; and

6. The final disbursement, either at the completion of the Sewer Project or when the cost of the Sewer Project reaches or exceeds \$1.5 million, or 15% of the total Sewer Grant (whichever is greater), shall be withheld by RACM until (a) DEVELOPER provides to the DPW Commissioner lien waivers or releases of lien executed by all parties who provided work or materials as named on the Sewer Project Documentation and (b) DEVELOPER has completed construction of the Sewer Project and CITY has accepted the new sewer, such acceptance shall be in writing by the DPW Commissioner.

E. No disbursement of any portion of the Sewer Grant shall occur until all of the following have occurred:

1. DEVELOPER has provided CITY with evidence that is has obtained sufficient financing for the Project and has closed on such financing.

2. DEVELOPER has signed all Project Documents.

3. DEVELOPER has incurred actual costs related to the Sewer Project and reimbursable by the Sewer Grant.

4. DEVELOPER has provided the DPW Commissioner with evidence (such as construction contracts, financing approvals, timelines from contractors, etc.), sufficient in DPW Commissioner's determination, to confirm that the Couture Project and Public Infrastructure Project are expected and likely to be completed by DEVELOPER in accordance with the Agreement.

F. Approval and payment of DEVELOPER's disbursement requests shall not be construed as CITY's or RACM's agreement or acceptance (a) that the Sewer Project was constructed in accordance with the Sewer Plans or the Project Documents; (b) that the Sewer Project is free from defects; or (c) that the certifications of the DEVELOPER, its general contractor or project engineer are correct.

G. CITY shall be authorized to make inspections of the Sewer Project during the course of construction, and shall determine to its own satisfaction that the work done or materials supplied by DEVELOPER and/or its general contractor and all subcontractors and suppliers have been properly made or supplied in accordance with the Sewer Plans.

## ARTICLE XXI

### CONVEYANCE OF UNIT 3

**21.1 Conveyance Requirement.** DEVELOPER shall convey Unit 3 to CITY no later than the date required under Section 2.2.I, above, for the commencement of revenue service of the Streetcar Amenities,

in accordance with this Article XXI after DEVELOPER completes construction of the Streetcar Structural Support and all improvements that are DEVELOPER's responsibility within the Transportation Concourse and Unit 3 and provides to CITY written certification from the Architect that the Streetcar Structural Support, Transportation Concourse and Unit 3 were constructed in accordance with the Final Plans and the Streetcar Specifications. This deadline may be adjusted as the Project progresses, but only upon mutual written consent of DEVELOPER and DPW Commissioner. In the event that Unit 3 cannot be conveyed to CITY prior to commencement of revenue service of the Streetcar Amenities, the right of entry granted to CITY pursuant to Section 21.6 shall also be for the purpose of operating the Streetcar Amenities.

**21.2 Precondition of Closing.** Closing on the conveyance of Unit 3 from DEVELOPER to CITY shall be at the CITY's Real Estate Office at a mutually agreeable date and time, unless some other location is agreed to in writing by DEVELOPER and CITY, but only after the following preconditions have been satisfied:

A. DEVELOPER shall submit the documentation required by Section 21.1 to CITY and CITY has had at least 60 days to review such documentation and to make whatever inspections deemed necessary or appropriate by the DPW Commissioner.

B. DEVELOPER shall certify to CITY in writing that no amendments have been made to the Condominium Documents that have not been reviewed and approved by CITY.

C. DEVELOPER shall obtain a title commitment for Unit 3 and provide a copy to CITY. If the title commitment shows defects or other encumbrances on title that are unacceptable to CITY, CITY shall notify DEVELOPER of such defects or encumbrances and DEVELOPER shall cure and remove such title defects and encumbrances and present CITY with an updated title insurance commitment prior to closing as evidence that the defects and encumbrances have been cured and removed from title. Project Documents and the Condominium Documents shall not be considered objectionable encumbrances on title under this subsection. Liens, mortgages or other encumbrances related to the financing of the Project are presumed to be objectionable to CITY unless waived in writing by CITY.

D. In the event that DEVELOPER has additional work to do on the Project following conveyance of Unit 3 to CITY, DEVELOPER shall provide to CITY proof that DEVELOPER or its contractors performing such work have builders and liability insurance and that CITY is named as an additional insured on such policies for any work performed after closing on Unit 3. DEVELOPER shall maintain or require its contractors to maintain such insurance coverage at all times that DEVELOPER uses the right of entry granted to it under section 21.6, below.

**21.3 Form of Deed.** DEVELOPER shall convey Unit 3 to CITY by warranty deed at no cost to the CITY, except as provided herein. The warranty deed may contain a deed restriction requiring Unit 3 to be used for public transportation uses. The deed and deed restriction shall be in substantially the same form as the deed and deed restriction attached to this Agreement as **Exhibit O**. The warranty deed and deed restriction shall be promptly recorded at the Milwaukee County Register of Deeds. DEVELOPER shall pay costs for recording the warranty deed and deed restriction including the real estate transfer return fee.

**21.4 Proration of Taxes.** There shall be no proration of property taxes at closing. DEVELOPER will pay all property taxes for the year during which the closing occurs. Payment of property taxes will be made when the property tax invoice is issued at the end of the year in which the closing occurs rather than based on estimated taxes at closing.

**21.5 Recording of Deed.** CITY shall promptly file the warranty deed for recording at the Milwaukee County Register of Deeds and shall pay costs for recording the warranty deed except that DEVELOPER shall pay the real estate transfer return fee.

**21.6 Continuation of Construction.** CITY and DEVELOPER acknowledge that both before and after closing on Unit 3 both DEVELOPER and CITY may be performing work on and within Unit 3. After CITY's commencement of work on installation of the Streetcar Amenities, whether before or after closing on Unit 3, DEVELOPER and CITY agree to use reasonable efforts to not interfere with each other's construction activities. DEVELOPER, CITY and their contractors shall work together to develop mutually agreeable locations for their trailers and staging areas, if needed, and will formulate plans to allow work to continue without delay for either DEVELOPER or CITY. In the event that DEVELOPER and CITY cannot mutually agree, the work of CITY on the Streetcar Amenities shall take priority over any other work still needing to be completed within Unit 3. As necessary for CITY to complete work on the Streetcar Amenities prior to closing on Unit 3, DEVELOPER hereby grants to CITY a right of entry over Unit 3 as necessary for the purpose of installing the Streetcar Amenities. As necessary for DEVELOPER to complete work on the completion of Unit 3 after closing on Unit 3, CITY hereby grants to DEVELOPER a right of entry over Unit 3 as necessary for the purpose of completing such construction.

**21.7 Warranty.** Upon completion of Unit 3 by DEVELOPER, DEVELOPER shall cause all warranties obtained by DEVELOPER in connection with the construction of Unit 3 to be assigned to CITY in writing.

**21.8 Lease with Milwaukee County.** The Parties acknowledge that Milwaukee County is expected to have a lease for part of Unit 3 to operate their bus rapid transit through the Transportation Concourse. DEVELOPER may enter into such a lease with Milwaukee County prior to conveyance of Unit 3 to CITY, but only in a format and with terms and conditions approved in writing by CITY. Such lease, if entered into by DEVELOPER prior to conveyance of Unit 3 to CITY, may not be amended prior to the conveyance of Unit 3 to the CITY without prior written approval from CITY.

***SIGNATURES ON FOLLOWING 3 PAGES***

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duty authorized representatives as of the date first set forth above.

CITY OF MILWAUKEE

*Tom Barrett*

Tom Barrett, Mayor

*James R. Owczarski*  
James R. Owczarski, City Clerk  
COUNTERSIGNED:

*Aycha Sawa*  
Aycha Sawa, Comptroller

CITY ATTORNEY APPROVAL/AUTHENTICATION

Teerman Spencer, as a member in good standing of the State Bar of Wisconsin, hereby approves the signatures of the City representatives above per M.C.O. § 304-21, and also authenticates the signatures of those City representatives/signatories per Wis. Stat. § 706.06 so this document may be recorded per Wis. Stat. § 706.05 (2)(b).

By: *Teerman Spencer*  
Name: TEERMAN SPENCER  
City Attorney's Office  
State Bar No. 1030674  
Date: 3-19-21

REDEVELOPMENT AUTHORITY  
OF THE CITY OF MILWAUKEE

*Frances Hardrick*

Frances Hardrick, Chairperson

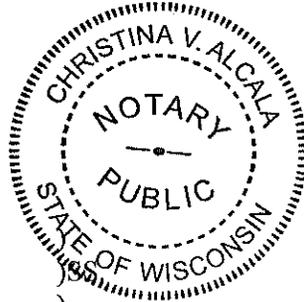
*David P. Misky*

David P. Misky, Assistant Executive  
Director/Secretary

STATE OF WISCONSIN     )  
  )SS.  
MILWAUKEE COUNTY     )

Personally came before me this 24 day of March, 2021, Frances Hardrick, Chairperson, of the Redevelopment Authority of the City of Milwaukee, to me known to be the person who executed the foregoing instrument, and to me known to be such Chairperson of the Redevelopment Authority of the City of Milwaukee, and acknowledged that he executed the foregoing instrument as such officer of the Redevelopment Authority of the City of Milwaukee.

(SEAL)



*Christina V. Alcalá*

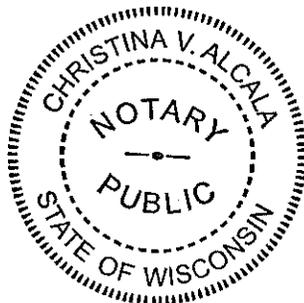
Notary Public, State of Wisconsin

My Commission 5/7/2023

STATE OF WISCONSIN     )  
MILWAUKEE COUNTY     )

Personally came before me this 24 day of March, 2021, David P. Misky, Assistant Executive Director-Secretary of the Redevelopment Authority of the City of Milwaukee, to me known to be the person who executed the foregoing instrument, and to me known to be such Assistant Executive Director-Secretary of the Redevelopment Authority of the City of Milwaukee, and acknowledged that he executed the foregoing instrument as such officer of the Redevelopment Authority of the City of Milwaukee.

(SEAL)



*Christina V. Alcalá*

Notary Public, State of Wisconsin

My Commission 5/7/2023

**THE COUTURE LLC**

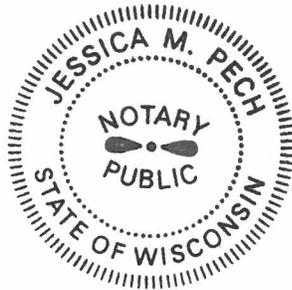


By: \_\_\_\_\_  
Richard J. Barrett, Manager

STATE OF WISCONSIN )  
 )SS.  
MILWAUKEE COUNTY )

Personally came before me this 20<sup>th</sup> day of April, 2021, Richard J. Barrett, Manager of The Couture LLC, to me known to be the person who executed the foregoing instrument, and acknowledged that he executed the foregoing instrument as such officer of The Couture LLC.

(SEAL)



  
Notary Public, State of Wisconsin  
My Commission 7-23-24

**THE COUTURE HOLDINGS GROUP INC.**



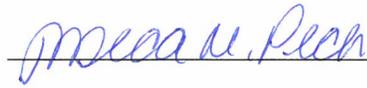
By: \_\_\_\_\_  
Richard J. Barrett, President

STATE OF WISCONSIN )  
 )SS.  
MILWAUKEE COUNTY )

Personally came before me this 20<sup>th</sup> day of April, 2021 Richard J. Barrett, President of The Couture Holdings Group Inc., to me known to be the person who executed the foregoing instrument, and acknowledged that he executed the foregoing instrument as such officer of The Couture Holdings Group Inc.

(SEAL)



  
Notary Public, State of Wisconsin  
My Commission 7-23-24

## EXHIBIT A

### Property Description

#### **PARCEL A:**

Units One (1), Two (2) and Three (3), together with said units' undivided appurtenant interest in the common elements, and the use of the limited common elements appurtenant to said unit, all in THE COUTURE LAKEFRONT, A CONDOMINIUM, being a condominium created and existing under and by virtue of the Condominium Ownership Act of the State of Wisconsin and by Declaration of Condominium of The Couture Lakefront, a Condominium, and recorded April 6, 2021 as Document No. 11099452 (the "Declaration"); and Condominium Plat recorded April 6, 2021, as Document No. 11099453, said condominium being located in the City of Milwaukee, Municipal Grantor of Milwaukee, State of Wisconsin on the real estate described in and made subject to said Declaration and incorporated herein by this reference thereto.

Tax Key No. 396-0511-000 (pt)

Address: 909 E. Michigan Street, Milwaukee, WI

#### **PARCEL B:**

Easements benefitting the above-described Units as set forth in Sections 14.7, 14.8 and 14.9 of the Declaration and/or otherwise under Article XIV of the Declaration

EXHIBIT B

Condominium Documents

100



8 1 1 2 3 0 4 3

Tx:40648503

LICENSED TO  
Document Number

**DECLARATION OF  
CONDOMINIUM  
OF THE COUTURE  
LAKEFRONT, A  
CONDOMINIUM**

DOC # 11099452  
RECORDED:  
04/06/2021 02:16 PM  
ISRAEL RAMON  
REGISTER OF DEEDS  
MILWAUKEE COUNTY, WI  
AMOUNT: 30.00  
FEE EXEMPT #:  
TRANSFER FEE:

**Recording Area**

**Name and Return Address:**

William T. Stuart, Esq.  
Meissner Tierney Fisher & Nichols SC  
111 East Kilbourn Avenue, 19<sup>th</sup> Floor  
Milwaukee, WI 53022

3960511000

Parcel Identification Number

This instrument was drafted by Atty. William T. Stuart  
and Atty. Garrett Soberalski

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LICENSED TO PROPERTY GROUP, INC. AND NOT FOR SUB-LICENSE, RE-LICENSE, OR FOR RESALE IN BULK FORM.



LICENSED PROPERTY AS A DIVISION OF PURCHASING.COM INC. AND NOT FOR SUBLICENSE, RELICENSE, OR FOR RESALE IN BULK FORM.

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DECLARATION OF CONDOMINIUM

**The Couture Lakefront, A Condominium**

RECITALS

This Declaration of Condominium for The Couture Lakefront, A Condominium (“Declaration”) is made as of April 2, 2021, by The Couture LLC, a Wisconsin limited liability company (“Couture”), and Couture Parking LLC, a Wisconsin limited liability company (“Couture Parking”), and Transit Hub MKE LLC, a Wisconsin limited liability company (“Hub MKE”) (Couture, Couture Parking and Hub MKE being hereinafter collectively defined as “Declarants”), to subject the land located within the City of Milwaukee, Milwaukee County, Wisconsin, described on **Exhibit A** attached to this Declaration (the “Land”), together with all improvements now or hereafter located on the Land (collectively, the “Buildings”), to the Wisconsin Condominium Ownership Act, Chapter 703 of the Wisconsin Statutes (the “Condominium Act”). The Declarants intend to subject the Land and the Buildings to the Condominium Act to create a condominium consisting of three separate units (each defined as a “Unit” and collectively defined as the “Units”), Limited Common Elements (as defined in Section 3.3 hereof), General Common Elements (as defined in Section 3.2 hereof) (the Limited Common Elements and General Common Elements collectively defined as the “Common Elements”), Service Facilities (as defined in Section 16.1(ddd) hereof) and all other components described in this Declaration (the Land, Buildings, Units, Common Elements, Service Facilities and other components collectively defined as the “Condominium”). Each Unit will be initially owned by a Declarant as provided in this Declaration and may be sold or transferred in whole or in part to a Person or a combination of Persons who hold legal title in one or more Units (each Declarant and each such Person being defined as a “Unit Owner”).

PREAMBLE

Declarants intend to develop the Condominium as a mixed-use condominium substantially in accordance with the Plat attached hereto as **Exhibit C** (the “Plat”) and the 100% Construction Document Set—Issued for Bid & Permit issued on May 4, 2018 with HUD Project Number 074-32014 prepared and/or compiled by Rinka Inc. as may be further amended or revised (the “RCA Drawings”). The Land is currently zoned as a Detailed Planned Development known as The Couture for a mixed-use development pursuant to City of Milwaukee Common Council File No. 161479 (the “DPD”).

The Plat consists of a survey of the Land (the “Survey”) and floor plans showing the locations of all currently planned Buildings, Units and, to the extent feasible, Common Elements in the Condominium (hereinafter collectively defined as the “Floor Plans”). The Plat also contains a Designation of Areas section on Sheets 22 through 28 identifying certain areas of the Condominium defined in Section 2.1 of this Declaration (“Designation of Areas”).

On or prior to the date that this Declaration is made, Declarants have organized The Couture Lakefront Condominium Association LLC, a Wisconsin limited liability company (the “Association”) formed under Chapter 183 of the Wisconsin Statutes (the “LLC Act”) to be

managed by a board of managers (as constituted from time to time, the "Board"), to serve as the Association for the Condominium. The Association has adopted an Operating Agreement and Bylaws (collectively, the "Bylaws") to serve as the Bylaws of the Condominium as provided in Section 703.10 of the Condominium Act. The percentage ownership interest in the Common Elements (collectively, the "Percentage Interests" and otherwise the "Percentage Interest(s)"), the number of votes at Association meetings (collectively, the "Votes"), and the percentage interest for the allocation of Common Expenses (as defined in Section 7.1 of this Declaration) (the "Assessment Interests") that are appurtenant to each of the Units are set forth on **Exhibit B** attached hereto (the "Unit Schedule"), and the use, occupancy and other rights with respect to the Condominium are further governed by this Declaration, the Bylaws and any rules and regulations adopted pursuant to the Bylaws (the "Rules & Regulations") (this Declaration, the Plat, the Bylaws and the Rules & Regulations being hereinafter collectively defined as the "Condominium Documents").

The Condominium will consist of three Units, and each Declarant will initially own one Unit in the Condominium. The Unit 1 Owner (as defined in Section 16.1(uuuu) of this Declaration), the Unit 2 Owner (as defined in Section 16.1(vvvv) of this Declaration) and the Unit 3 Owner (as defined in Section 16.1(wwww) of this Declaration) shall have the right to alter, modify or construct structures within their respective Units as provided in the Condominium Act and Condominium Documents. The Unit 1 Owner and the Unit 2 Owner shall have the right to divide their respective Units into one or more sub-condominiums, with one or more sub-units and one or more sub-associations, all as provided in this Declaration. It is further contemplated that the Unit 2 Owner may construct a tower or other structure on and within the boundaries of Unit 2 or as otherwise permitted by this Declaration, in other portions of the Condominium (the "Future Tower").

Each of the Declarants hereby acknowledges and agrees that the Units in the Condominium have fundamentally separate and distinct structures and uses which share few Common Elements. As a result, primary management and operation of each Unit may be more practically allocated and/or delegated to the Unit Owners themselves and/or to the sub-associations of any sub-condominiums created within such Units. The Declarants have therefore intentionally designed the Condominium to allow for the potential allocation and/or delegation of as much of the administration, management and operation of the Units to such Unit Owner and/or sub-associations as may be desired.

## **ARTICLE I**

### **General Information; Declaration**

1.1 **Name and Address.** The name and address of the Condominium shall be The Couture Lakefront, A Condominium, 909 East Michigan Street, Milwaukee, Wisconsin 53202.

1.2 **Description of Land and Statement of Intent.** The land on which the Condominium is located is the Land described on **Exhibit A** attached to this Declaration. The Declarants, who are the sole owners of the Land and all improvements located thereon as tenants in common as of the date hereof, hereby state their intention to subject the Land, Buildings and

Condominium to the condominium form of ownership under this Declaration and the Condominium Act.

1.3) **Resident Agent.** The name and address of the initial resident agent of the Condominium under Section 703.23 of the Condominium Act shall be the same as the registered agent of the Association under the LLC Act and set forth in the records of the Wisconsin Department of Financial Institutions, who shall initially be Richard J. Barrett.

**ARTICLE II**  
**Units**

2.1 **Description of the Units and Statement of Purposes.** The Condominium shall consist of three Units: Unit 1, Unit 2 and Unit 3, each of which are defined and described below in this Article II. A Unit Owner of a Unit is entitled to the exclusive ownership and possession of such Unit. A general description of each Unit, including its approximate perimeters, location and other data sufficient to identify such Units with reasonable certainty are shown on the Plat. Additional information about each Unit, including a general statement as to each Unit's intended purposes and uses, is described in this Section 2.1.

(a) **Unit 1.** Unit 1 is hereby conveyed to Couture by the Declarants and shall be owned by Couture through the construction of the Condominium, and has been approved to be developed as an integrated mixed-use project consisting of a residential tower, a retail structure, a below-ground parking garage, and a public walkway and concourse to access various portions of the Condominium, all as more fully described herein and in the Plat. It is intended that the construction of Unit 1 will be substantially financed through a loan held or insured by HUD (as defined in Section 16.1(dd) of this Declaration). Unit 1 is to substantially consist of the areas and improvements described below. Each of the areas defined in Section 2.1(a)1. through Section 2.1(a)8., below, are shown in the Designation of Areas.

1. The area at and below the foundation of that portion of Unit 1 (the "U-1 Foundation") as substantially described on Below B2 of the Plat, including but not limited to, all piles, foundations, footings, structural foundation elements, sump pumps, drainage facilities, utility facilities and/or other Service Facilities located under what is described as Unit 1 on Below B2 of the Plat which exclusively serve Unit 1. The U-1 Foundation is intended to be primarily used for all purposes related to structural support, drainage, utilities and other facilities or services for Unit 1. For clarity, no part of Unit 2 or Unit 3 are included within the U-1 Foundation. The U-1 Foundation is shown on the Below B2 sheet in the Designation of Areas.

2. A below-ground two-story parking deck (the "U-1 Parking Deck") as substantially described on the B2 Floor Plan, B1 Floor Plan, Transit Area Section, East Section, West Section, Cross Section View B-B and Cross Section View C-C of the Plat which is intended to be primarily used by Couture and its successor(s) for purposes of (i) personal, rental and/or licensed parking of

LICENSED TO PROPERTY INSURANCE COMPANY

automobiles, motorcycles, trucks and other like vehicles; (ii) bicycle storage; (iii) general storage; and/or (iv) any services, activities and other uses associated with, accessory to and/or ancillary to all such primary uses described in (i) through (iii) of this Section 2.1(a)2 (including, but not limited to, car wash stations). The U-1 Parking Deck is shown on the B2 Floor Plan and B1 Floor Plan in the Designation of Areas.

3. An above-ground forty-five story tower (the "U-1 Tower") as substantially described on each Floor Plan of the Plat (other than the Below B2 Floor Plan of the Plat) which is intended to be primarily used by Couture and its successors for rental residential use and/or other rental or non-rental uses associated with, accessory to and/or ancillary to all such rental residential use (including, but not limited to, any Commercial Purposes defined in Section 16.1(i) of this Declaration). All or any part of the U-1 Tower may also be used for non-rental residential uses and/or other rental or non-rental uses associated with, accessory to and/or ancillary to all such non-rental residential use (including but not limited to any Commercial Purposes defined in Section 16.1(i) of this Declaration). A portion of the U-1 Tower may also be used for access to the U-1 Greenspace and Retail Connection (defined below), loading and unloading for Unit 1, or the placement of communications devices and facilities, including but not limited to, radios, antennas and all other equipment, apparatuses, gear and facilities related thereto. Couture and any successor(s) in interest as owner of all or any part of the U-1 Tower—whether through ownership of all or any part of Unit 1 or any subdivision or sub-unit of the Unit 1 Tower—may at any time and from time to time use any such portion of the U-1 Tower they own for direct non-rental residential use. The U-1 Tower is shown on the L1 Floor Plan, L2 Floor Plan, L3 Floor Plan and L4 Floor Plan To Top of Units in the Designation of Areas. **NOTWITHSTANDING ANYTHING IN THIS SECTION 2.1(a)3, NO PORTION OF THE U-1 TOWER THAT IS SUBJECT TO A MORTGAGE EITHER HELD BY OR INSURED BY HUD SHALL BE PRIMARILY USED FOR NON-RENTAL RESIDENTIAL PURPOSES WITHOUT THE PRIOR WRITTEN CONSENT OF HUD AND THE MORTGAGEE OF A HUD-INSURED MORTGAGE.**

4. An above-ground three-story building (the "U-1 Retail Building") as substantially described on the L1 Floor Plan, Cross Section View of A-A, Cross Section View of B-B, L2 Floor Plan and L3 Floor Plan of the Plat, which is intended to be primarily used by Couture and its successor(s) for rental Commercial Purposes and any rental or non-rental uses associated with, accessory to and/or ancillary to any such Commercial Purposes (including, but not limited to, other Commercial Purposes). All or any part of the U-1 Retail Building may also be used for non-rental Commercial Purposes and/or other rental or non-rental uses associated with, accessory to and/or ancillary to any such non-rental Commercial Purposes (including, but not limited to, other Commercial Purposes). A portion of the U-1 Retail Building may also be used for loading and unloading for Unit 1. Couture and any successor(s) in interest as owner of all or part of the U-1 Retail

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Building—whether through ownership of all or any part of Unit 1 or any subdivision or sub-unit of the U-1 Retail Building—may at any time and from time to time utilize any such portion of U-1 Retail Building they own for direct non-rental Commercial Purposes. The U-1 Retail Building is shown on the L1 Floor Plan, L2 Floor Plan, and L3 Floor Plan in the Designation of Areas. **NOTWITHSTANDING ANYTHING IN THIS SECTION 2.1(a)4., NO PORTION OF THE U-1 RETAIL BUILDING THAT IS SUBJECT TO A MORTGAGE EITHER HELD BY OR INSURED BY HUD SHALL BE USED FOR NON-RENTAL COMMERCIAL PURPOSES WITHOUT THE PRIOR WRITTEN CONSENT OF HUD AND THE MORTGAGEE OF A HUD-INSURED MORTGAGE.**

5. An above-ground one-story amenity deck (the “U-1 Amenity Deck”) as substantially described on the L4 Floor Plan of the Plat, which is intended to be primarily used by Couture and its successor(s) as an amenity area for some or all of the U-1 Tower, and/or other rental or non-rental uses associated with, accessory to and/or ancillary to any such primary use as an amenity area (including, but not limited to, Commercial Purposes). The U-1 Amenity Deck may contain a swimming pool and/or related facilities and/or other amenities. The U-1 Amenity Deck is shown on the L4 Floor Plan To Top of Units in the Designation of Areas.

6. An above-ground pedestrian walkway and concourse area (the “U-1 Walkway and Concourse”) as substantially described on the L1 Floor Plan and the L2 Floor Plan of the Plat, which is intended to be primarily used for public access to, from, within, about and/or through the Condominium, and/or other rental or non-rental uses associated with, accessory to and/or ancillary to such public access use (including, but not limited to, other Commercial Purposes). It is expressly intended that a public bridge may be attached to the U-1 Walkway and Concourse at Level 2 across North Lincoln Memorial Drive and that other future public bridges may be constructed within Unit 1 as provided in Section 5.2 of this Declaration. Nothing in this Declaration shall require that any such public bridges be constructed. The U-1 Walkway and Concourse is shown on the L1 Floor Plan and L2 Floor Plan in the Designation of Areas.

7. An above-ground bridge located at Level L2 (the “U-1 Bridge”) as substantially described on the Transit Area Section, L2 Floor Plan, L3 Floor Plan and L4 Floor Plan of the Plat, which is intended to be primarily used for public access to, from, within, about and/or through the Condominium. The U-1 Bridge is shown on the L2 Floor Plan in the Designation of Areas.

8. A public area (the “U-1 Greenspace and Retail Connection”) as substantially described on the Transit Area Section, Cross-Section View B-B, Cross-Section View C-C, and the L3 Floor Plan, which is intended to be primarily used as a public park and connection to the U-1 Retail Building and/or other rental or non-rental uses associated with, accessory to and/or ancillary to such public park

(including, but not limited to, other Commercial Purposes). The U-1 Greenspace and Retail Connection is shown on the L3 Floor Plan in the Designation of Areas.

(b) **Unit 2.** Unit 2 is hereby conveyed to Couture Parking by the Declarants and is intended to be owned by Couture Parking through construction of the Condominium. Unit 2 has been approved to be developed as an above-ground parking garage, all as more fully described herein and in the Plat. It is intended that the construction of Unit 2 will be financed separately from Unit 1 and will not involve HUD. Unit 2 is to substantially consist of the areas and improvements described below. Each of the areas defined in Section 2.1(b)1. through Section 2.1(b)4. are more particularly identified in the Designation of Areas.

1. The area at and below the foundation of that portion of Unit 2 (the “U-2 Foundation”) as substantially described on Below B2 of the Plat, including but not limited to, all piles, foundations, footings, structural foundation elements, sump pumps, drainage facilities, utility facilities and/or other Service Facilities located under what is described as Unit 2 on Below B2 of the Plat and exclusively serving Unit 2. The U-2 Foundation is intended to be primarily used for all purposes related to structural support, drainage, utilities and other services for Unit 2. For clarity, no part of Unit 1 or Unit 3 are included within the U-2 Foundation. The U-2 Foundation is shown on the Below B2 sheet in the Designation of Areas.

2. A below-ground area (the “U-2 Utility Area”) as substantially described on the B2 Floor Plan, B1 Floor Plan, Cross Section View B-B, Cross Section View C-C of the Plat which is intended to be owned by Couture Parking after the construction of the Condominium and primarily used by Couture Parking and its successor(s) to construct, use, operate, maintain, repair, replace and/or reconstruct public utilities, which may or may not service all or any part of the Condominium, and to perform the uses and activities relating to the Future Tower as described in Section 2.1(b)4. of this Declaration. Couture Parking and its successor(s) shall have the right to provide an easement to the City of Milwaukee to construct, use, operate, maintain, repair, replace and/or reconstruct a sewer line within the U-2 Utility Area. The U-2 Utility Area is shown on the B2 Floor Plan in the Designation of Areas.

3. An above-ground three-story parking garage (“U-2 Parking Garage”) as substantially described on the L1 Floor Plan, East Section View, West Section View, Cross Section View A-A, Cross Section View B-B, Cross Section View C-C, L2 Floor Plan, L3 Floor Plan and L4 Floor Plan of the Plat which is intended to be primarily used by Couture Parking and its successor(s) for purposes of (i) personal, rental and/or licensed parking of automobiles, motorcycles, trucks and other like vehicles; (ii) bicycle storage; (iii) general storage; and/or (iv) any services, activities and other uses associated with, accessory to and/or ancillary to all such primary uses described in (i) through (iii) of this Section 2.1(b)3. (including, but not limited to, car wash stations). Couture Parking and/or any subsequent Unit 2 Owner may install any LED screens and/or other signage on the

U-2 Parking Garage. The U-2 Parking Garage is shown on the L1 Floor Plan, L2 Floor Plan and L3 Floor Plan in the Designation of Areas.

4. Unit 2 has been designed by the Declarants for the possible future development of the Future Tower. Each of the Declarants hereby acknowledge that the Future Tower may be used for (i) any rental or non-rental residential purposes; (ii) any rental or non-rental Commercial Purposes; (iii) any other use allowed by any zoning applicable to Unit 2 or the Future Tower; and/or (iv) any combination of the items identified in this Section 2.1(b)(4)(i), (ii) and/or (iii) above. The Future Tower designations are shown on the Below B2, B2 Floor Plan, B1 Floor Plan, L1 Floor Plan, L2 Floor Plan, L3 Floor Plan, and L4 Floor Plan To Top of Units of the Designation of Areas.

(c) **Unit 3.** Unit 3 is hereby conveyed to Hub MKE by the Declarants and is intended to be owned by Hub MKE through construction of the Condominium. Unit 3 is substantially shown on the L1 Floor Plan, Transit Area Section, Cross Section View A-A, Cross Section View B-B, Cross Section View C-C, the L2 Floor Plan, L3 Floor Plan, and L4 Floor Plan of the Plat. It is intended that Hub MKE and/or its successor(s) will construct certain improvements within Unit 3 and then convey Unit 3 to the City of Milwaukee upon acceptance by the City of Milwaukee that (i) Unit 3 has been constructed in accordance with the RCA Drawings and (ii) that the Transit Support Slab (as defined in the Bylaws) and support structure within Unit 3 have been constructed in accordance with the Streetcar Design Criteria Manual dated April 28, 2017, on file with and available from City of Milwaukee's Department of Public Works (the "Streetcar Specifications"). It is intended that Hub MKE's construction of improvements within Unit 3 will be financed separately from Unit 1 and will not involve HUD. After the conveyance of Unit 3 to the City of Milwaukee, the City of Milwaukee is expected and authorized to (i) construct further improvements relating to the City of Milwaukee's public streetcar (the "Streetcar") as provided in Section 2.1(c)1.(i) below, and (ii) permit any further improvements relating to transit operations as provided in Section 2.1(c)1(ii) below. Each of the areas defined in Section 2.1(c)1. through Section 2.1(c)3. are more particularly identified in the Designation of Areas.

1. A portion of Unit 3 is intended to be used as a transit lane (the "Transit Lane") for public transportation as provided in this Section 2.1(c)1. The Transit Lane is shown on the L1 Floor Plan in the Designation of Areas.
  - i. A portion of the Transit Lane will be used as a lane for (i) the Streetcar (the "Streetcar Lane") and (ii) a loading platform for the Streetcar which may include ramps, railings, tactile warning strips and safety painting on the face of the loading platform (collectively, the "Streetcar Loading Platform"). The Streetcar Lane shall be the twelve feet nine inches portion of the Transit Lane centered on the City streetcar rail guideway. The Streetcar Lane and Streetcar Loading Platform are shown on the L1 Floor Plan in the Designation of Areas. The City of Milwaukee is expected and authorized to construct the Streetcar Lane and the



above), the provisions of this Section 2.1(c) of this Declaration and the portions of the Plat referenced in this Section 2.1(c) shall not be amended without the written consent of the Unit 3 Owner.

**2.2 Location and Perimeters.** Each Unit shall consist of the three (3)-dimensional space located within the boundaries set forth in the Plat and as otherwise provided herein. For purposes of this Section 2.2, any discrepancy between the description of the perimeters and boundary lines of the Units between this Section 2.2 and the Plat shall be resolved in favor of the Plat (and, as a result of this provision, such discrepancy shall not be deemed to be a conflict in the provisions of this Declaration and the Plat as described in Section 703.30(4) of the Condominium Act). The perimeter boundary lines of each Unit shall be as follows:

(a) **Boundaries of Unit 1.**

1. **Horizontal Perimeters.** The horizontal boundaries of Unit 1 shall be the following horizontal planes extended to intersect with the vertical boundaries of such Unit:

i. **Lower Boundaries.** The lower boundaries of Unit 1 shall be as follows:

(a) For those portions of Unit 1 below Level B2 (as shown on Below B2 of the Plat), the lower boundary of Unit 1 shall be the horizontal plane located at a depth of three hundred (300) feet below the elevation of Level 1 as shown on the Plat.

(b) For those portions of Unit 1 consisting of the U-1 Bridge, the lower boundary of Unit 1 shall be the lowest portion of the outer surface of the beams supporting the U-1 Bridge (whether finished or unfinished), with such U-1 Bridge being located approximately sixteen feet, ten inches (16'-10") above Level 1. Thus, the slab for the U-1 Bridge will be part of Unit 1.

(c) For those portions of Unit 1 consisting of the U-1 Greenspace and Retail Connection, the lower boundary of Unit 1 shall be the lowest portion of the outer surface of the beams supporting the U-1 Greenspace and Retail Connection (whether finished or unfinished) in those areas where there is a beam and the lowest portion of the surface of the slab for the U-1 Greenspace and Retail Connection (whether finished or unfinished) in those areas without a beam. Thus, the entire concrete slab and all support beams for the

U-1 Greenspace and Retail Connection will be part of Unit 1.

ii. Upper Boundaries. The upper boundaries of Unit 1 shall be as follows:

(a) For those portions of Unit 1 below Level 1 and under the U-2 Parking Garage (i.e., west of the eastern side of Column Line PC on the RCA Drawings), the upper boundary of Unit 1 shall be the horizontal plane in the air space immediately below the finished outer surface of the lowest portion of the concrete slab separating Unit 1 from Unit 2 in this area as more particularly described on the East Section, West Section, Cross-Section B-B, and Cross Section C-C of the Plat. Thus, the concrete slab separating Unit 1 from Unit 2 in this area will be part of Unit 2 instead of Unit 1.

(b) For those portions of Unit 1 below Level 1 and under Unit 3 (i.e., east of the eastern side of Column Line PC on the RCA Drawings), the upper boundary of Unit 1 shall be the horizontal plane defined by the following:

1. For those portions of Unit 1 below the Transit Lane, the upper boundary of Unit 1 shall be the horizontal plane defined by the upper surface of the topping slab, all as more particularly described on the Cross Section View B-B Details and the Cross Section View C-C Details of the Plat. Thus, in those areas of Unit 1 below the Transit Lane, the portion of the slab at and below the topping slab will be part of Unit 1.

2. For those portions of Unit 1 below the Transit Concourse, the upper boundary of Unit 1 shall be the horizontal plane defined by the upper surface of the FAMR-1: Monolithic Membrane Roofing with Protection Layer (described as "<FAMR-1>" on the Plat), all as more particularly described on the Cross Section View B-B Details and the Cross Section View C-C Details of the Plat. Thus, those portions of the slab in the Transit Concourse at and below the <FAMR-1> layer will be part of Unit 1, but that those portions of the Transit Concourse above the <FAMR-1> layer will be part of Unit 3.

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- (c) For those portions of Unit 1 consisting of the U-1 Bridge and the U-1 Greenspace and Retail Connection, the upper boundary of Unit 1 shall be the horizontal plane located at Level 4, which is located fifty-nine feet and two inches (59'-2") above Level 1 as shown on the Transit Area Section, Cross-Section B-B (specific to the U-1 Greenspace and Retail Connection), Cross Section C-C (specific to the U-1 Greenspace and Retail Connection), L2 Floor Plan, L3 Floor Plan, and L4 Floor Plan of the Plat.
- (d) For those portions of Unit 1 above Level 3 and east of the U-1 Greenspace and Retail Connection, the upper boundary of Unit 1 shall be the horizontal plane located at a point that is seven hundred (700) feet above the elevation at Level 1 as shown on Cross-Section A-A, Cross-Section B-B, Cross Section C-C, and L4 Floor Plan of the Plat. Thus, the air rights in this area of Unit 1 will be part of Unit 1 up to the upper boundary described herein.

2. Vertical Perimeters. The vertical boundaries of Unit 1 shall be the vertical planes extending upward and downward from the perimetrical boundary lines of Unit 1 as described in the Plat until such lines intersect with the upper and lower boundaries of Unit 1. For purposes of clarity, Unit 1 shall be deemed to include:

- i. For those portions of Unit 1 below Level B2, the vertical boundaries of Unit 1 shall be as shown on Below B2 of the Plat as extended down to the lower horizontal boundary line in this area.
- ii. For those portions of Unit 1 at Levels B1 and B2, the vertical boundaries of Unit 1 shall be as shown on the B2 Floor Plan and the B1 Floor Plan of the Plat. In this area, Unit 1 shall extend to and include the outer surface of the foundation walls.
- iii. For those portions of Unit 1 at Level 1, the vertical boundaries of Unit 1 shall be as shown on the L1 Floor Plan of the Plat. For clarity, the western boundary of Unit 1 at Level 1 north of the northwest corner of the Retail BOH [01-16] on the RCA Drawings shall be the western side of Column Line PD on the RCA Drawings. The western boundary of Unit 1 at Level 1 south of the northwest corner of the Retail BOH [01-16] on the RCA Drawings shall be the outer finished western surface of the

Retail BOH [01-16] and Loading Dock [01-17] as extended to the southern boundary line of the Land.

- iv. For those portions of Unit 1 at Level 2, the vertical boundaries of Unit 1 shall be as shown on the L2 Floor Plan of the Plat. In this area, the vertical boundaries of Unit 1 shall include the outer finished surface of the concrete slab for the U-1 Bridge. Thus, the finished concrete slab for the U-1 Bridge at Level 2 will be part of Unit 1.
- v. For those portions of Unit 1 at Level 3, the vertical boundaries of Unit 1 shall be as shown on the L3 Floor Plan of the Plat. For clarity, the western boundary of Unit 1 at Level 3 shall extend to the *eastern side of Column Line PC* on the RCA Drawings. Unit 1 shall not include Column Lines PC or PC.1, and/or any other improvements associated with the U-2 Parking Garage as shown on the RCA Drawings (including, but not limited to, the RCS-1 stainless steel cable railing with square tube framing between the Column Lines PC and PC.1).
- vi. For those portions of Unit 1 at Level 4, the vertical boundaries of Unit 1 shall be as shown on the L4 Floor Plan of the Plat as extended up to the upper horizontal boundary line in this area.

(b) **Boundaries of Unit 2.**

1. Horizontal Perimeters. The horizontal boundaries of Unit 2 shall be the following horizontal planes extended to intersect with the vertical boundaries of such Unit:

- i. Lower Boundaries: The lower boundaries of Unit 2 shall be as follows:
  - (a) For those portions of Unit 2 consisting of the U-2 Utility Area, the lower boundary of Unit 2 shall be the horizontal plane located at a depth of three hundred (300) feet below the elevation of Level 1 as shown on the Plat.
  - (b) For those portions of Unit 2 consisting of the U-2 Parking Garage (at Level 1 and above), the lower boundary of Unit 2 shall be the horizontal plane defined by the outer surface of the lowest portion of the concrete slab (whether finished or unfinished) separating Unit 1 from Unit 2 in this area on or around Level 1 as more particularly described on the East

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Section, West Section, Cross-Section B-B, and Cross Section C-C of the Plat. Thus, the concrete slab separating Unit 1 from Unit 2 in this area will be part of Unit 2.

- (c) For those portions of Unit 2 over Unit 3 (but below U-1 Greenspace and Retail Connection), the lower boundary of Unit 2 shall be sixteen feet (16') above Level 1.
  - (d) For those portions of Unit 2 over the U-1 Greenspace and Retail Connection, the lower boundary of Unit 2 shall be the horizontal plane located immediately above Level 4 which is fifty-nine feet and two inches (59'-2") above Level 1 as shown on the Transit Area Section, Cross-Section B-B, Cross Section C-C, L2 Floor Plan, L3 Floor Plan, and L4 Floor Plan of the Plat.
- ii. Upper Boundaries: The upper boundaries of Unit 2 shall be as follows:
- (a) For those portions of Unit 2 consisting of (i) the portion of the U-2 Utility Area not below the Transit Area; (ii) the U-2 Parking Garage; and (iii) the portion of Unit 2 above the U-1 Greenspace and Retail Connection, the upper boundaries of Unit 2 shall be the imaginary horizontal plane located at a point that is seven hundred (700) feet above the elevation of Level 1 as shown on the Transit Area Section, East Section, West Section, Cross-Section B-B, Cross Section C-C, L3 Floor Plan, and L4 Floor Plan of the Plat. Thus, the air rights in these areas of Unit 2 will be part of Unit 2 up to the upper boundary described herein.
  - (b) For those portions of Unit 2 consisting of the portion of the U-2 Utility Area below the Transit Area, the upper boundary of Unit 2 shall be the horizontal plane defined by the lowest portion of the concrete slab-on-grade or concrete pavement N.I.C., all as more particularly described on the Cross Section View A-A Details. Thus, the compacted granular base shall be part of Unit 2, but the entire concrete slab-on-grade or concrete pavement N.I.C. in this area shall be part of Unit 3.

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- (c) For those portions of Unit 2 in the Transit Area below the U-1 Bridge, the upper boundaries of Unit 2 shall be the horizontal plane of air space just below the lowest portion of the outer surface of beams supporting the U-1 Bridge (whether finished or unfinished), with such U-1 Bridge being located approximately sixteen feet, ten inches (16'-10") above Level 1. Thus, the entire finished concrete slab for the U-1 Bridge will not be part of Unit 2, but instead part of Unit 1.
- (d) For those portions of Unit 2 in the Transit Area below the U-1 Greenspace and Retail Connection, the upper boundaries of Unit 2 shall be the horizontal plane of air space just below the outer surface of the beams supporting the U-1 Greenspace and Retail Connection (whether finished or unfinished) in those areas where there is a beam or the lowest portion of the unfinished surface of the slab for the U-1 Greenspace and Retail Connection (whether finished or unfinished) in those areas without a beam. Thus, the entire concrete slab and all support beams for the U-1 Greenspace and Retail Connection will not be part of Unit 2, but instead part of Unit 1.

2. Vertical Perimeters. The vertical boundaries of Unit 2 shall be the vertical planes extending upward and downward from the perimetrical boundary lines of Unit 2 as shown in the Plat to intersect with the upper and lower boundaries of Unit 2. For purposes of clarity,

- i. For those portions of Unit 2 below Level B2, the vertical boundaries of Unit 2 shall be shown on Below B2 of the Plat as extended down to the lower horizontal boundary line in this area.
- ii. For those portions of Unit 2 at Levels B1 and B2, the vertical boundaries of Unit 2 shall be shown on the B2 Floor Plan and the B1 Floor Plan of the Plat. In this area, Unit 2 shall extend to and include the outer surface of any foundation walls on the western and southern boundary lines of Unit 2 (including without limitation the continuous pile cap and/or frost wall along the western border), but shall not include any foundation walls relating to Unit 1 on the eastern boundary line of Unit 2 in this area.

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- iii. For those portions of Unit 2 at Level 1, the vertical boundaries of Unit 2 shall be as shown on the L1 Floor Plan of the Plat. For clarity, the eastern boundary of Unit 2 at Level 1 shall extend to the eastern side of Column Line PC on the RCA Drawings. Unit 2 shall not include Column Lines PC or PC.1. Unit 2 shall include any improvements associated with the U-2 Parking Garage as shown on the RCA Drawings (including, but not limited to, the RCS-1 stainless steel cable railing with square tube framing between the Column Line PC).
- iv. For those portions of Unit 2 at Level 2, the vertical boundaries of Unit 2 shall be as shown on the L2 Floor Plan of the Plat. For clarity, the eastern boundary of Unit 2 at Level 2 shall extend to the eastern side of Column Line PC on the RCA Drawings. Unit 2 shall not include Column Lines PC or PC.1. Unit 2 shall include any improvements associated with the U-2 Parking Garage as shown on the RCA Drawings (including, but not limited to, the RCS-1 stainless steel cable railing with square tube framing between the Column Lines PC). In this area, the vertical boundaries of Unit 2 do not include the concrete slab for the U-1 Bridge. Thus, the concrete slab for the U-1 Bridge at Level 2 will be part of Unit 1.
- v. For those portions of Unit 2 at Level 3, the vertical boundaries of Unit 2 shall be as shown on the L3 Floor Plan of the Plat. For clarity, the eastern boundary of Unit 2 at Level 3 shall extend to the eastern side of Column Line PC on the RCA Drawings. Unit 2 shall not include Column Lines PC or PC.1. Unit 2 shall include any improvements associated with the U-2 Parking Garage as shown on the RCA Drawings (including, but not limited to, the RCS-1 stainless steel cable railing with square tube framing between the Column Line PC).
- vi. For those portions of Unit 2 at Level 4, the vertical boundaries of Unit 2 shall be as shown on the L4 Floor Plan of the Plat as extended up to the upper horizontal boundary line in this area.

(c) **Boundaries of Unit 3.**

1. Horizontal Perimeters. The horizontal boundaries of Unit 3 shall be the following horizontal planes extended to intersect with the vertical boundaries of such Unit:

- i. Lower Boundaries:

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(a) For those portions of Unit 3 consisting of the Transit Area over Unit 1, the lower boundary of Unit 3 shall be the horizontal plane defined by the following:

1. For those portions of Unit 3 in the Transit Lane over Unit 1, the lower boundary of Unit 3 shall be the horizontal plane defined by the upper surface of the topping slab, all as more particularly described on the Cross Section View B-B Details and the Cross Section View C-C Details of the Plat. Thus, in those areas of Unit 3 in the Transit Lane over Unit 1, that portion of the slab above the topping slab will be part of Unit 3.
2. For those portions of Unit 3 in the Transit Concourse over Unit 1, the lower boundary of Unit 3 shall be the horizontal plane defined by the upper surface of the FAMR-1: Monolithic Membrane Roofing with Protection Layer (described as "<FAMR-1>" on the Plat), all as more particularly described on Cross Section View B-B Details and the Cross Section View C-C Details of the Plat. Thus, those portions of the slab in the Transit Concourse at and below the <FAMR-1> layer will be part of Unit 1, but that those portions of the Transit Concourse above the <FAMR-1> layer would be part of Unit 3.

(b) For those portions of Unit 3 consisting of the Transit Area over Unit 2, the lower boundary of Unit 3 shall be the horizontal plane defined by the lowest portion of the concrete slab-on-grade or concrete pavement N.I.C., all as more particularly described on the Cross Section View A-A Details. Thus, the compacted granular base shall be part of Unit 2, but the entire concrete slab-on-grade or concrete pavement N.I.C. in this area shall be part of Unit 3.

ii. Upper Boundaries:

1. The upper boundary of Unit 3 shall be sixteen feet (16') above Level 1.

2. Vertical Perimeters. The vertical boundaries of Unit 3 shall be the vertical planes extending upward and downward from the perimetrical boundary

lines of Unit 3 as shown in the Plat to intersect with the upper and lower boundaries of Unit 3. For purposes of clarity,

- i. The western boundary of Unit 3 shall be as shown on the L1 Floor Plan of the Plat. For clarity, the western boundary of Unit 3 shall extend to the *eastern side of Column Line PC* on the RCA Drawings. Unit 3 shall not include Column Lines PC or PC.1 or any improvements associated with the U-2 Parking Garage as shown on the RCA Drawings (including, but not limited to, the RCS-1 stainless steel cable railing with square tube framing between the Column Line PC).
- ii. The eastern boundary of Unit 3 shall be as shown on the L1 Floor Plan of the Plat. For clarity, the eastern boundary of Unit 3 at Level 1 north of the northwest corner of the Retail BOH [01-16] on the RCA Drawings shall be Column Line PD on the RCA Drawings. The eastern boundary of Unit 3 at Level 1 south of the northwest corner of the Retail BOH [01-16] on the RCA Drawings shall be the outer finished western surface of the Retail BOH [01-16] and Loading Dock [01-17] as extended to the southern boundary line of the Land.
- iii. The vertical boundaries of Unit three shall be as shown on the L1 Floor Plan, Cross-Section A-A, Cross Section A-A Details, Cross-Section B-B, Cross-Section B-B Details, Cross Section C-C and Cross Section C-C Details.

2.3 **Additional Items Included within Units.** In addition to the foregoing Sections 2.1 and 2.2, and except as otherwise provided in this Declaration, each Unit shall include the following:

(a) All structural components contained within each Unit, including but not limited to, all piles, rafts, caps, footings, columns, beams, pads, foundations, girders, slabs, posts, pillars, pilasters, supports, walls (both load bearing and non-load bearing), and all other structural parts within such Unit;

(b) All physical spaces and amenities within such Unit, including but not limited to, all entrances, vestibules, hallways, elevators, shafts, chutes, stairways, landings, corridors, lobbies, rooms, offices, apartments, community rooms, fitness centers, swimming pools, restrooms, closets and any other space identified within such Unit on the Plat;

(c) Any Service Facilities located within a Unit and exclusively serving such Unit (the "Unit Service Facilities");

- (d) All exterior walls, facades, roofs, floors, doors, windows, screens, ceilings, internal walls (including studs and framing), interior partitions, parking ramps, garage doors, garage door opening mechanical systems, and/or loading docks within such Unit;
- (e) All driveways and other facilities exclusively providing ingress and egress to and from such Unit;
- (f) All retaining walls, open space, landscaped areas and similar areas and related improvements within such Unit; and
- (g) All other items depicted as being part of the Unit on the Plat.

2.4 **Uses.** In addition to the foregoing Sections of this Article II, the following uses shall be allowed within the Units:

- (a) Any of the rights and uses associated with the public bridges and/or structures referenced in Section 2.1(a)6. and Section 5.2 of this Declaration.
- (b) As to Unit 1 and Unit 2, the placement of any signage within such Units described and/or allowed in the DPD and/or otherwise determined by the Unit Owner of such Unit to be desirable, including, but not limited to, the LED screens and/or other signage for the U-2 Parking Garage identified in Section 2.1(b)3. of this Declaration. As to Unit 3, the placement of any signage or pavement markings within Unit 3 related to the Streetcar and Milwaukee County's transit operations (i) described in the HNTB Drawings; (ii) required for transit operations, by any regulation or for public safety (including but not limited to traffic control); (iii) signage on the streetcar loading platform related to station sponsorship or (iv) otherwise approved by the Unit 1 Owner and the Unit 2 Owner, which approval shall not be unreasonably withheld. Also as to Unit 3, a smart kiosk on the Streetcar Loading Platform that will incorporate advertisements, a surveillance camera, and other public content. Installation of a ticket vending machine and/or smart kiosk located elsewhere in Unit 3 is subject to approval of Unit 1 and Unit 2 Owners, which approval shall not be unreasonably withheld.
- (c) The placement of communications devices and facilities, including but not limited to, radios, antennas and all other equipment, apparatuses, gear and facilities related thereto. The communications devices and facilities described herein include those identified in Section 2.1(a)3.
- (d) Notwithstanding any other provision of this Declaration, each Unit may be used for any purpose identified for such Unit in the Plat, the RCA Drawings, DPD (as the DPD may be amended from time to time) and any applicable current or future zoning applicable to the Unit.

**ARTICLE III**  
**Common Elements**

1 **Common Elements.** The Common Elements of the Condominium shall be those portions of the Condominium that are not part of any Units. The Common Elements shall consist of General Common Elements and Limited Common Elements. The Common Elements shall only be used for the purposes stated in the Condominium Documents or the RCA Drawings or, if not expressly stated, those purposes for which the Common Elements were designed or intended.

3.2 **General Common Elements.** The General Common Elements shall be those portions of the Condominium which are not designated as either a Unit or a Limited Common Element. It is intended that there will be few General Common Elements in the Condominium. The General Common Elements shall be those areas designated on the Plat and/or in this Section 3.2, and shall include, but not be limited to, the following:

- (a) Any and all rights and easements appurtenant to the Land;
- (b) Any rights associated with the Land in the Land immediately below the horizontal plane located at a depth of three hundred (300) feet below the elevation of Level 1 as shown on Below B2 of the Plat;
- (c) Any Service Facilities wherever located serving all of the Units; and
- (d) Any other items depicted as General Common Elements on the Plat.

3.3 **Limited Common Elements.** The Limited Common Elements shall be those portions of the Condominium which are designated as Limited Common Elements on the Plat and/or in this Section 3.3, and/or which otherwise constitute the fixtures described in Section 703.09(1)(d) of the Condominium Act. The following Limited Common Elements shall be appurtenant to those Units:

- (a) **Limited Common Elements of Unit 1.** The following shall be Limited Common Elements appurtenant to Unit 1 and shall be reserved for the exclusive use of the Unit 1 Owner (the "U-1 LCEs"):
  - 1. Those portions of the ventilation system for the U-1 Parking Deck located at and above Level 1 in the U-2 Parking Garage (including, but not limited to, all makeup air units, tempering units, fans, returns, intakes, inlets, louvers, dampers, ducts, chases, shafts, exhausts, lines, pipes, and/or connections for such system).
  - 2. Any Service Facilities exclusively serving Unit 1 that are located outside of Unit 1, including but not limited to those portions of the gas and condensing lines located within Unit 2, but only serving the chiller units located within the U-2 Parking Garage.



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service Unit 1 or only service Unit 2 shall be deemed as Limited Common Elements only for the Unit they service.

- 4. Any Service Facilities wherever located serving both Unit 1 and Unit 2.
- 5. The air space within the walls of the Security Command Center (as defined in Section 16.1(ccc)). The Security Command Center shall be for the exclusive benefit of, and shall only provide security services for, Unit 1 and Unit 2. The Unit 3 Owner shall, at its sole cost, be responsible for all security services within Unit 3.
- 6. Any rights associated with the Land in the air space immediately above the horizontal plane located at a point that is seven hundred (700) feet above the elevation at Level 1 as shown on the Plat;
- 7. All other items depicted on the Plat as Limited Common Elements appurtenant to Unit 1 and Unit 2.

(d) Limited Common Elements of Unit 3. It is not anticipated that there will be any Limited Common Elements appurtenant to Unit 3 in relation to Unit 1 and Unit 2, either before or after the construction of the Condominium. To the extent there are any Service Facilities wherever located exclusively serving Unit 3, all such Service Facilities shall be part of Unit 3's Unit Service Facilities.

(e) Rights and Interests to Limited Common Elements.

- 1. Except as otherwise provided in the Condominium Act or the Condominium Documents, the Unit Owner of the Unit to which Limited Common Elements are appurtenant shall have the exclusive right to use and occupy such Limited Common Elements for all purposes described in this Declaration and/or incidental to the use and occupancy of their respective Unit, which right shall be appurtenant to and run with such Unit. A Unit Owner of a Unit to which a Limited Common Element is appurtenant may, at such Unit Owner's cost and expense, alter or improve such Limited Common Elements provided such alteration or improvement complies with Section 703.13(5m)(a) and (b) of the Condominium Act.
- 2. Notwithstanding any other provision of the Condominium Documents, the U-1/U-2 LCEs shall be appurtenant to both Unit 1 and Unit 2, and the Unit 1 Owner and Unit 2 Owner shall be the only Unit Owners entitled to use and occupy the U-1/U-2 LCEs. The U-1/U-2 LCEs shall only be used for the purposes described in this Declaration and/or incidental to the use and occupancy of Unit 1 or Unit 2. Except as otherwise provided in the Condominium Documents, the Unit 1 Owner



maintenance, repair, replacement and/or restoration of all such improvements (including, but not limited to, builder's risk insurance) during such construction. Couture Parking and its successor(s) shall have the right to enforce any warranties associated with such work.

(c) Unit 3. Hub MKE and any successor Owners of Unit 3 shall have and hereby reserves the exclusive right to construct Unit 3, any U-3 LCEs, and any and all other improvements connected to Unit 3, substantially in accordance with the Condominium Plat, the RCA Drawings, and any lease or license entered into as contemplated in Section 2.1(c)1(ii). Hub MKE shall be solely responsible for the entire cost of the construction, insurance, maintenance, repair, replacement and/or restoration of all such improvements (including, but not limited to, builder's risk insurance) during such construction. Hub MKE and its successor(s) shall have the right to enforce any warranties associated with such work. In addition, the City of Milwaukee shall have the right to construct the Streetcar Amenities within Unit 3 as provided in Section 2.1(c)1.(i) of this Declaration in accordance with the HNTB Drawings.

(d) U-1/U-2 LCEs. Couture and Couture Parking shall both have and hereby reserve the right to construct the U-1/U-2 LCEs and any and all other improvements connected therewith, substantially in accordance with the Condominium Plat and the RCA Drawings. Couture and Couture Parking shall be jointly responsible for the entire cost of the construction, insurance, maintenance, repair, replacement and/or restoration of all such improvements (including, but not limited to, builder's risk insurance) during such construction in proportion to their respective Assessment Interests. Couture and Couture Parking shall each have the right (either jointly or severally) to enforce any warranties associated with such work.

(e) Design.

1. As to the construction of Unit 1, Couture shall have, and hereby reserves, the right to change the layout, location, dimensions and other construction details and specifications for Unit 1 and/or the U-1 LCEs from those shown in the Plat and/or the RCA Drawings at any time and from time to time prior to the completion of the construction of Unit 1 and the U-1 LCEs. Prior to completion of Unit 1, Couture may revise the RCA Drawings as they relate to Unit 1 without the consent of any other Unit Owner. Couture may, at any time and from time to time, supplement, restate or otherwise amend the Plat and/or this Declaration without the consent of any other Unit Owner for the purpose of reflecting the changes described in this Section 5.1(e)1. and/or the actual location, size, dimensions and other characteristics of Unit 1 and/or the U-1 LCEs after construction is completed, and to record any documents associated with such supplement, restatement and/or amendment.
2. As to the construction of Unit 2, Couture Parking shall have, and hereby reserves, the right to change the layout, location, dimensions and other construction details and specifications for Unit 2 and/or the U-2 LCEs

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from those shown in the Plat and/or the RCA Drawings at any time and from time to time prior to the completion of the construction of Unit 2 and the U-2 LCEs. Prior to completion of Unit 2, Couture Parking may revise the RCA Drawings as they relate to Unit 2 without the consent of any other Unit Owner. Notwithstanding the previous sentence, if the construction of Unit 1 is completed before the construction of Unit 2, Couture Parking shall not make any revisions to the RCA Drawings as to Unit 2 which would have a material adverse impact on Unit 1 without the Unit 1 Owner's consent. Couture Parking may, at any time and from time to time, supplement, restate or otherwise amend the Plat and/or this Declaration without the consent of any other Unit Owner for the purpose of reflecting the changes described in this Section 5.1(e)2. and/or the actual location, size, dimensions and other characteristics of Unit 2 and/or the U-2 LCEs after construction is completed, and to record any documents associated with such supplement, restatement and/or amendment.

- 3. As to the construction of Unit 3, Hub MKE and any successor Owners of Unit 3 shall be limited to the layout, location, dimensions, improvements and other construction details and specifications for Unit 3 and/or any U-3 LCEs shown in the Plat and the RCA Drawings.
- 4. As to the construction of the U-1/U-2 LCEs, Couture and Couture Parking shall have, and hereby reserve, the right upon their mutual agreement to change the layout, location, dimensions and other construction details and specifications for any of the U-1/U-2 LCEs from those shown in the Plat and/or the RCA Drawings at any time and from time to time prior to the completion of the construction of U-1/U-2 LCEs. Prior to the completion of the construction of the U-1/U-2 LCEs, the RCA Drawings can only be amended as to the U-1/U-2 LCEs with the written consent of Couture and Couture Parking. Couture and Couture Parking may, at any time and from time to time, jointly supplement, restate or otherwise amend the Plat and/or this Declaration without the consent of the Unit 3 Owner, for the purpose of reflecting the changes described in this Section 5.1(d)4. and/or the actual location, size, dimensions and other characteristics of the U-1/U-2 LCEs after completion, and to record documents associated with such supplement, restatement and/or amendment.

5.2 **Pedestrian Access Bridges.**

(a) Unit 1. The Declarants acknowledge and agree (for themselves and all subsequent Unit Owners) that Unit 1 has been designed to allow for the connection of pedestrian access bridges from East Michigan Street, East Clybourn Street and/or North Lincoln Memorial Drive (individually, a "Pedestrian Bridge" or together the "Pedestrian Bridges") to Unit 1 at Level 2 (as Level 2 is described on the L2 Floor Plan). Couture

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and/or any subsequent Unit 1 Owner may allow any Pedestrian Bridge to be attached to Unit 1 at Level 2. In addition, Couture and/or any subsequent Unit 1 Owner shall have and hereby reserves the exclusive right, at its sole cost and expense, to construct, improve, reconstruct, maintain, alter, repair, replace, restore and/or relocate any structures within Unit 1 or Unit 2 (with the Unit 2 Owner's written consent) to allow for the connection of any Pedestrian Bridge to Unit 1 (the "U-1 Pedestrian Bridge Structures"). If the Pedestrian Bridge is built, the Unit 1 Owner and Unit 2 Owner may enter into an easement, lease or other arrangement to implement the rights under this Section 5.2(a) of this Declaration. The U-1 Pedestrian Bridge Structures shall comply with Sections 703.06 and 703.13(5) of the Condominium Act. By accepting ownership of a Unit, each of the Declarants and all subsequent Unit Owners shall be deemed to have acknowledged, agreed and consented (i) to the rights described in this Section 5.2(a); (ii) to any changes in the exterior appearance of Unit 1 caused by any Pedestrian Bridge and associated U-1 Pedestrian Bridge Structures; (iii) that the Pedestrian Bridges and associated U-1 Pedestrian Bridge Structures will not reduce the value of the Condominium or create a nuisance substantially affecting the use and enjoyment of other Units or the Common Elements; and (iv) that such Declarant or other Unit Owner will assist with any reasonable measures necessary to obtain Board approval for any Pedestrian Bridge and associated U-1 Pedestrian Bridge Structures. Couture and/or any subsequent Unit 1 Owner shall have no obligation to allow any Pedestrian Bridge to attach to Unit 1, or to construct any of the U-1 Pedestrian Bridge Structures. No provision of this Section 5.2(a) may be revoked or otherwise modified without the prior written consent of Couture and/or any subsequent Unit 1 Owner. **NOTWITHSTANDING THE PROVISIONS OF THIS SECTION 5.2(a), FOR SO LONG AS HUD IS THE HOLDER OR INSURER OF A MORTGAGE ON ALL OR ANY PORTION OF UNIT 1, NO PEDESTRIAN BRIDGE SHALL BE ALLOWED TO ATTACH TO UNIT 1 AND NO PEDESTRIAN BRIDGE STRUCTURES SHALL BE CONSTRUCTED WITHIN UNIT 1 WITHOUT THE PRIOR WRITTEN CONSENT OF HUD AND THE MORTGAGEE OF A HUD-INSURED MORTGAGE.**

(b) Unit 2. Couture Parking, and/or any subsequent Unit 2 Owner, may allow for the connection of a pedestrian walkway from the property immediately west of the Condominium (individually, a "Pedestrian Walkway" or together the "Pedestrian Walkways") to Unit 2 at Level 2 (as Level 2 is described on the L2 Floor Plan). In addition, Couture Parking and/or all subsequent Unit 2 Owners shall have and hereby reserves the exclusive right, at its sole cost and expense, to construct, improve, reconstruct, maintain, alter, repair, replace, restore and/or relocate any structures within Unit 2 to allow for the connection of any Pedestrian Walkway to Unit 2 at Level 2 (the "U-2 Pedestrian Walkway Structures"). The U-2 Pedestrian Walkway Structures shall comply with Sections 703.06 and 703.13(5) of the Condominium Act. By accepting ownership of a Unit, each of the Declarants and all subsequent Unit Owners shall be deemed to have acknowledged, agreed and consented (i) to the rights described in this Section 5.2(b); (ii) to any changes in the exterior appearance of Unit 2 caused by any Pedestrian Walkway and associated U-2 Pedestrian Walkway Structures; (iii) that the Pedestrian Walkway and associated U-2 Pedestrian Walkway Structures will not reduce the value of the Condominium or create a nuisance substantially affecting the use and enjoyment of other Units or the Common

Elements; and (iv) that such Declarant or other Unit Owner will assist with any reasonable measures necessary to obtain Board approval for any Pedestrian Walkway and associated U-2 Pedestrian Walkway Structures. Couture Parking and/or all subsequent Unit 2 Owners shall have no obligation to allow any Pedestrian Walkway to attach to Unit 2 or to construct any of the U-2 Pedestrian Walkway Structures. No provision of this Section 5.2(b) involving rights granted to Couture Parking and/or all subsequent Unit 2 Owners may be revoked or otherwise modified without the prior written consent of Couture Parking and/or any such subsequent Unit 2 Owner.

5.3 **Future Tower.** Notwithstanding any other provisions of the Condominium Documents, Couture Parking and any subsequent Unit 2 Owner shall have and hereby reserve the exclusive right, at its sole cost and expense, to design, construct, improve, reconstruct, maintain, alter, repair, replace, restore and/or relocate the Future Tower on and within Unit 2 or any other Unit for which they have approval from the Unit Owner. The approximate location of the Future Tower is shown on the Designation of Areas. Nothing in this Section 5.3 of this Declaration creates any obligation on Couture Parking and any subsequent Unit 2 Owner to construct the Future Tower.

5.4 **Assignability.** All rights granted to any Unit Owner under the foregoing Sections of this Article V are fully assignable by such Unit Owner to any subsequent owner of such assigning Unit Owner's Unit without the consent of any of the other non-assigning Unit Owners. **NOTWITHSTANDING ANYTHING IN THIS SECTION 5.4, FOR SO LONG AS HUD IS THE HOLDER OR INSURER OF A MORTGAGE ON ALL OR ANY PORTION OF UNIT 1, ANY RIGHTS GRANTED TO COUTURE AND ANY SUBSEQUENT UNIT 1 OWNER UNDER SECTION 5.1 AND SECTION 5.2 OF THIS DECLARATION MAY NOT BE ASSIGNED WITHOUT THE PRIOR WRITTEN CONSENT OF HUD AND THE MORTGAGEE OF THE HUD-INSURED MORTGAGE.**

## **ARTICLE VI**

### **Association, Voting Rights**

6.1 **Membership, Duties and Obligations.** All Unit Owners, by virtue of their ownership of Units, shall be entitled and required to be members of the Association. Except as otherwise set forth in this Declaration, the Bylaws and/or the Condominium Act, the Board shall be responsible and have exclusive authority for all policy and operational decisions of the Association. By accepting ownership of a Unit and/or exercising any rights appurtenant thereto, each Unit Owner shall be deemed to have agreed to such mandatory membership in the Association, and shall be entitled and subject to all of the rights and obligations of Unit Owners under the Condominium Act, this Declaration and the other Condominium Documents.

6.2 **Voting Rights.** The Association shall have only one class of voting membership, to which all of the Unit Owners shall belong. The aggregate number of Votes appurtenant to all of the Units combined shall be One Hundred (100). The number of Votes which the Unit Owner(s) of each Unit shall be entitled to cast at any meeting of the Association is set forth in the Unit Schedule. Such voting rights shall be exercised in the manner provided in the Bylaws. Each

Declarant shall be entitled to cast the Votes attributable to each Unit owned by such Declarant (whether actually built or not), unless and until such Unit is transferred to a third party.

**Declarant Control.** Each Declarant hereby waives the right to assert any rights for declarant control under Section 703.15(2)(c) of the Condominium Act. By accepting ownership of a Unit and/or exercising any rights appurtenant thereto, each Unit Owner shall be deemed to have acknowledged, agreed and consented to the waiver in the preceding sentence and that each Declarant's exercise of their respective voting rights as a Unit Owner shall not constitute impermissible Declarant control under Section 703.15 of the Condominium Act.

6.4 **Association's Acquisition and Transfer of Units.** The Association shall have the ability to acquire, and then if acquired, transfer by deed, land contract or other means of conveyance, any Units, including Units acquired or reacquired by foreclosure or otherwise.

## ARTICLE VII

### Expenses

#### 7.1 **Expenses and Assessments.**

(a) **Common Expenses.** All expenses paid or incurred by the Association in connection with the Condominium ("Common Expenses"), whether or not relating to Common Elements and whether attributable to one (1) or more of the Units, including any and all costs of administration, utilities, insurance, maintenance, repair and replacement, landscaping and lawn care, cleaning and janitorial service, security, fire protection, snow shoveling and plowing, trash collection, security lighting, and salaries and wages, shall be allocated and assessed among the Units in accordance with this Declaration and the Bylaws. The Common Expenses may include amounts to fund reserve accounts, including statutory reserve accounts established pursuant to Section 703.163 of the Condominium Act (to the extent any such statutory reserve account is created in the future). The Declarants have elected *not* to establish a Statutory Reserve Account under Section 703.163 of the Condominium Act. The liability protections of Section 703.163(1) of the Condominium Act shall apply.

(b) **Separate Expenses.** Real estate taxes, utility and all other charges billed separately to a Unit and/or a Unit Owner thereof shall be the personal obligation of such Unit Owner and shall not be considered Common Expenses unless paid by the Association in the discretion of the Board, in which case such expenses may be allocated to such Unit as provided in the Bylaws. If the Association is ever assessed for any such taxes and charges with respect to a Unit, the Unit Owner of such Unit shall still be personally responsible for and timely pay such taxes and charges. Utility and other charges and expenses attributable to each Unit shall be separately metered and charged to such Unit and/or the Unit Owner thereof whenever feasible, and such charges and expenses shall remain the personal obligation of such Unit Owner.

(c) **Assessments.** Subject to the terms and conditions provided herein or in the Bylaws, the Association shall allocate the Common Expenses (including, in the discretion

of the Board, the amounts required to fund any statutory or other reserve account) among the Units, and shall assess the Unit Owners for the share of such Common Expenses so allocated to their respective Units.

(d) **Commencement of Assessments.** The assessment obligation with respect to each Unit shall commence upon the earlier of, the date the architect for the construction of such Unit certifies that the construction of such Unit has been substantially completed; the date a certificate of occupancy is issued for such Unit; or the date on which such Unit is occupied and its use has commenced.

7.2 **Payment of Assessments.** All assessments relating to the Condominium, whether general, special or otherwise, shall be made, allocated, paid and collected as provided in the Bylaws and this Declaration. Each Unit Owner shall be personally liable to the Association for any amount so assessed with respect to such Unit Owner's Unit. In addition, payment of any amount so assessed with respect to a Unit shall be secured by a lien against such Unit and may be enforced by foreclosure of such lien, all in accordance with the provisions of Section 703.165 of the Condominium Act. The waiver or abandonment by a Unit Owner of the use or enjoyment of all or any portion of the Common Elements or such Unit Owner's Unit or any services attributable to either, shall not relieve such Unit Owner of liability for the payment of assessments.

7.3 **Transfers.**

(a) **Assessments.** In the event of a sale or other transfer of a Unit, both the grantor of such Unit and grantee of such Unit shall be personally liable, jointly and severally, for all amounts assessed against such Unit for Common Expenses paid or incurred by the Association through the date of the conveyance, until all amounts so assessed have been paid to the Association. Notwithstanding the preceding sentence, a grantee of a Unit is entitled, within ten (10) business days of a request therefor, to receive a statement from the Association setting forth the amount of any unpaid assessments with respect to such Unit, whereupon such grantee shall not be liable for, nor shall such Unit be subject to a lien in respect of, any prior assessments not reflected on such statement. However, such grantee shall be personally liable for, and such Unit shall be subject to a lien in respect of, all unpaid assessments reflected in such statement, as well as any amounts assessed in accordance with the Bylaws after the effective date of such statement. A grantee of a Unit is also entitled to receive a payoff statement from the Association pursuant to Section 703.335 of the Condominium Act.

(b) **Transfer Expenses.** Upon compliance with the proper procedures under the Condominium Act, the Association may charge fees for providing a payoff statement under Section 703.165(4) or Section 703.335 of the Condominium Act or for providing the disclosure information as required under Section 703.20(2) of the Condominium Act. The payment of such fees, if any, shall be as set forth in the Bylaws.

7.4 **Assessment Liens.** The liens for assessments created under the Condominium Act or pursuant to this Declaration or the Bylaws upon a Unit shall have the priority specified in Section 703.165 of the Condominium Act.

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**ARTICLE VIII**  
**Maintenance, Repairs and Casualty**

8.1 **Unit Owners' Responsibilities.** Each Unit Owner shall, at such Unit Owner's expense, repair and maintain such Unit Owner's Unit and the Limited Common Elements appurtenant thereto as provided in this Declaration and the Bylaws. The Unit 1 Owner and the Unit 2 Owner shall be jointly and severally liable for the expense of repairing and maintaining the U-1/U-2 LCEs. In addition, each Unit Owner shall maintain, at such Unit Owner's expense, such insurance for such Unit Owner's Unit as required under the Bylaws. Each Unit Owner shall also be solely responsible for the cost of repairing any damage to the Condominium caused by such Unit Owner's failure to fulfill such Unit Owner's obligations under this Section 8.1 of this Declaration or any other provision of the Condominium Documents.

8.2 **Association.** The Association shall, at its expense, maintain the Common Elements as provided in the Bylaws. In addition, the Association shall maintain, at its expense, such insurance with respect to the Condominium as it may be required to maintain from time to time under the Bylaws.

8.3 **Damage and Destruction.** The process and percentage votes determinative of whether to rebuild, repair, restore, or sell all or any part of the Condominium after a casualty or loss to same shall be as set forth in the Bylaws.

**ARTICLE IX**  
**Insurance**

9.1 **Bylaws.** The Association and each Unit Owner shall procure and maintain the insurance as required in the Bylaws.

**ARTICLE X**  
**Condominium Within A Condominium**

10.1 **Sub-Condominiums.** Notwithstanding any other provision of the Condominium Documents, each of the Declarants and all subsequent Unit Owners shall have and hereby reserve the exclusive right, at their sole cost and expense, to further submit any property (as defined under the Condominium Act) in each of their respective Units to a condominium form of ownership under the Condominium Act to create one or more sub-condominiums within their respective Units (each, a "Sub-Condominium"). For clarity, any portion of any Unit may be further subjected to a condominium form of ownership as part of one or more Sub-Condominium under the Condominium Act under this Article X. Each Sub-Condominium shall comply in all respects with the provisions of the Condominium Documents and the Condominium Act. Each such Sub-Condominium shall be subject to its own sub-declaration (the "Sub-Declaration") and sub-plat ("Sub-Plat") dividing the Unit into one or more sub-units (each, a "Sub-Unit" and collectively, the "Sub-Units"). The Sub-Condominium may have its own common elements, general common elements and/or limited common elements (collectively, the "Sub-Common Elements"), and shall have its own sub-association ("Sub-Association") subject to its own sub-bylaws ("Sub-Bylaws").

Each Sub-Unit shall be subject to the provisions of the documents applicable to the Sub-Condominium, including, but not limited to, any Sub-Declaration, any Sub-Bylaws, any Sub-Plat and any rules and regulations applicable to such Sub-Condominium (collectively, the "Sub-Condominium Documents"). A Sub-Condominium can be created by any Declarant or any Unit 1 Owner, Unit 2 Owner or Unit 3 Owner in their respective Units without the consent of the other Unit Owners.

10.2 **Sub-Associations.** Except as otherwise provided by the Condominium Documents, the Association shall have no direct management or control over any Sub-Condominium. All owners of a Sub-Unit shall be members of the Sub-Association governing such Sub-Unit, and any Sub-Association shall have a board of directors. Except as otherwise provided in the Sub-Condominium Documents and the Condominium Act, all policy and operational decisions for the Sub-Association shall be made by the Sub-Association's board of directors. The Sub-Condominium Documents shall provide for the allocation of any Condominium assessments and any other procedures necessary to comply with the Condominium Documents. The Association may delegate one or more of the powers granted to the Association under the Condominium Documents and/or the Condominium Act for acts relating to a specific Unit to a Sub-Association for such Unit. The delegation of such powers may include, but not be limited to, the right to receive rental agreements under Section 703.315(3) of the Condominium Act. The Association may also delegate one or more of the Association's obligations under the Condominium Documents and/or the Condominium Act to a Sub-Association for such Unit. The delegation of such obligations described under this Section 10.2 may include, but not be limited to, the requirements to obtain any insurance under Section 703.17 of the Condominium Act.

10.3 **Condominium Liens.** Any lien imposed by the Condominium on a Unit for unpaid assessments shall be a lien on each Sub-Unit in such Unit.

10.4 **Cooperation.** Each of the Declarants and all subsequent Unit Owners hereby covenant and agree to reasonably assist any other Declarant or Unit Owner seeking to create a Sub-Condominium in their respective Unit and to take whatever reasonable actions may be reasonably necessary to accomplish that purpose. In furtherance of this provision, in the event that a Sub-Condominium cannot be accomplished, either because the Condominium Act prohibits the creation of a Sub-Condominium or that title to any of the Sub-Units of a Sub-Condominium cannot be insured by one or more national title insurance companies authorized to do business in the State of Wisconsin, the Unit Owners and the Association shall cooperate in the amending and restating of the Condominium Documents in a manner that causes the functional equivalent of a Sub-Condominium within the condominium structure permitted by the Condominium Act or insurable by national title insurance companies authorized to do business in Wisconsin (the "Functional Equivalent Amendment").

10.5 **Relationship to Condominium.** The Condominium Documents shall control in the event of any conflict between any Condominium Documents and any Sub-Condominium Documents.

10.6 **HUD Approval.** NOTWITHSTANDING ANY OTHER PROVISION OF THE CONDOMINIUM DOCUMENTS, FOR SO LONG AS HUD IS EITHER A HOLDER

**OR INSURER OF A MORTGAGE ON UNIT 1, NO SUBCONDOMINIUM MAY BE CREATED IN UNIT 1 AND NO FUNCTIONAL EQUIVALENT AMENDMENT SHALL BE IMPLEMENTED FOR UNIT 1 WITHOUT THE PRIOR WRITTEN CONSENT OF HUD AND THE MORTGAGEE OF A HUD-INSURED MORTGAGE.**

**ARTICLE XI**  
**Master Association**

11.1 **Delegation.** Any or all of the powers or obligations allocated to the Association in the Condominium Documents and/or the Condominium Act (including, but not limited to, any or all of the powers described in Section 703.15(3) of the Condominium Act) may be delegated to a Master Association (as defined in Section 16.1(nn)) for the benefit of one or more of the Unit Owners. Such Master Association may exercise any and all such delegated powers for the benefit of one or more of the Unit Owners in the Condominium. Matters delegable to such Master Association may include the receipt of rental agreements under Section 703.315(3) of the Condominium Act and any acts required under the insurance provisions of Section 703.17 of the Condominium Act.

11.2 **Creation.** One or more Unit Owners may request that a Master Association be created and specifically delegated one or more of the powers described in Section 11.1 of this Declaration. Such request shall be made to the Board. The Board shall thereafter vote on such action. If the Board approves such action, the requesting Unit Owners shall create the Master Association and prepare and submit any and all instruments and documents necessary to implement the delegation of powers approved by the process described in this Section 11.2 of the Declaration to the Board. Upon approval of such submittal, the Board shall execute such instruments and documents implementing the delegation. Once created, the board of any such Master Association shall be elected by the Unit Owners that are benefitted by the Master Association.

11.3 **HUD Approval.** **NOTWITHSTANDING ANY OTHER PROVISION OF THE CONDOMINIUM DOCUMENTS, FOR SO LONG AS HUD IS EITHER A HOLDER OR INSURER OF A MORTGAGE ON UNIT 1, NO MASTER ASSOCIATION MAY BE CREATED THAT GOVERNS UNIT 1 WITHOUT THE PRIOR WRITTEN CONSENT OF HUD AND THE MORTGAGEE OF A HUD-INSURED MORTGAGE.**

**ARTICLE XII**  
**Use Restrictions**

12.1 **General.** Each Unit shall be restricted to those uses specifically applicable to such Unit as set forth in Article II of this Declaration and the following Sections of this Article XII. The use and enjoyment of the Condominium shall be further subject to such restrictions as may be contained in the Bylaws and the Rules & Regulations. Except as otherwise provided in the Condominium Documents or the Condominium Act, no Unit Owner shall conduct, nor allow any Invitees (as defined in Section 16.1(gg)) to conduct, or otherwise allow such Unit Owner's Unit to be used to conduct, any noxious or offensive activity within the Condominium or any other activity

that may be or become an annoyance or nuisance to other Unit Owners or such Unit Owners' Invitees.

12.2 **Leasing.**

(a) **Unit 1.** Couture and any subsequent Unit 1 Owner shall have the right to lease, sublease or license all or any part of Unit 1 on any terms they desire without the prior written consent of the Association or any other Unit Owner. Any rental of any apartments in the U-1 Tower shall comply with the provisions of Section 703.315 of the Condominium Act. However, any lease or sublease of any non-residential portions of Unit 1 shall not be required to comply with the provisions of Section 703.315 of the Condominium Act. **NOTWITHSTANDING ANYTHING IN SECTION 12.2(a), (I) FOR SO LONG AS HUD IS THE HOLDER OR INSURER OF ANY MORTGAGE ON THE PORTION OF UNIT 1 COMPRISING THE U-1 RETAIL BUILDING, THE UNIT OWNER OF SUCH PORTION OF THE U-1 RETAIL BUILDING SHALL NOT ENTER INTO ANY LEASES OR SUBLEASES FOR THE U-1 RETAIL BUILDING WITHOUT THE PRIOR WRITTEN CONSENT OF HUD AND THE MORTGAGEE OF THE HUD-INSURED MORTGAGE AND (II) FOR SO LONG AS HUD IS THE HOLDER OR INSURER OF ANY MORTGAGE ON THE PORTION OF UNIT 1 COMPRISING THE ROOF OF THE U-1 TOWER, THE UNIT OWNER OF SUCH PORTION OF UNIT 1 SHALL NOT ENTER INTO ANY LEASES FOR ANY TELECOMMUNICATIONS EQUIPMENT ON THE ROOF OF THE U-1 TOWER WITHOUT THE PRIOR WRITTEN CONSENT OF HUD AND THE MORTGAGEE OF THE HUD-INSURED MORTGAGE.**

(b) **Unit 2.** Couture Parking and any subsequent Unit 2 Owner shall have the right to lease, sublease or license all or any part of the Unit 2 Parking Garage on any terms they desire without the prior written consent of the Association or any other Unit Owner. Couture Parking and any subsequent Unit 2 Owner shall have the right to lease, sublease, or license all or any part of Unit 2 that is associated with the Future Tower, if constructed, on any terms that such Unit Owner desires without the prior written consent of the Association or any other Unit Owner.

(c) **Unit 3.** The Unit 3 Owner may lease or sublease a portion of the Transit Lane in the Transit Area to Milwaukee County for purposes of Milwaukee County's bus system and/or other similar public transit system (and any improvements related thereto), provided that (i) such use conforms to the restrictions in Section 12.5 of this Declaration, and (ii) the Unit 2 Owner shall have the right to approve any such lease, or amendment thereto, in advance, which approval shall not be unreasonably withheld. The Unit 3 Owner may also lease or sublease a portion of Unit 3 for use as a bike share station. All other leases or subleases of all or any portion of the Transit Area or Unit 3 shall be subject to the Association's prior written consent. Notwithstanding any other provision of this Declaration, for so long as the City of Milwaukee is the Unit 3 Owner and is operating the Streetcar within the Condominium, the provisions of this Section 12.2(c) of this Declaration shall not be amended without the written consent of the City of Milwaukee.

12.3 **No Build Area.** For purposes of facilitating the construction of the Future Tower, each of the Declarants hereby imposes the restrictions set forth in this Section 12.3 of the Declaration within the area identified as the No Build Area on the L4 Floor Plan contained within

the Designation of Areas of the Plat (the "No Build Area"). The perimeters of such restricted No Build Area shall be the areas described on such L4 Floor Plan. The lower boundary of such No Build Area shall be Level 4, and the upper boundary of such No Build Area shall be the upper boundary of Unit 1 and Unit 2 in this area (both of which are seven-hundred feet (700') above L1). Except as otherwise provided herein, Couture and all subsequent Unit 1 Owners and Couture Parking and all subsequent Unit 2 Owners shall not place or construct, or allow any Persons to place or construct, any improvements or structures within those portions of the No Build Area that are located within the boundary lines of their respective Units. The provisions of this Section 12.3 shall not prohibit Couture Parking and/or any subsequent Unit 2 Owner from using the No Build Areas, accessing the No Build Areas, or constructing anything within the No Build Areas for any purpose related to the construction of the Future Tower. Thus, if authorized by Couture or any subsequent Unit 1 Owner, Couture Parking and any subsequent Unit 2 Owner may place or construct, or allow others to place or construct, improvements or structures for the Future Tower within that portion of the No Build Area inside of the boundary lines of Unit 1. Each of the Declarants hereby expressly agrees to the restrictions in this Section 12.3, and by accepting ownership of a Unit in the Condominium, all subsequent Unit 1 Owners, Unit 2 Owners and Unit 3 Owners shall be deemed to have agreed to the restrictions in this Section 12.3. The covenants and restrictions of this Section 12.3 shall run with the Land and to Unit 1 and Unit 2, and shall inure to the benefit of Couture Parking and all subsequent Unit 2 Owners, and shall be binding upon Couture, Couture Parking and all subsequent Unit 1 Owners and Unit 2 Owners.

12.4 **Mechanical-Utility Room and IT Room.** Couture and any subsequent Unit 1 Owner and each of their respective Designees may only place, construct, improve, reconstruct, maintain, alter, repair, and/or replace facilities and/or equipment in the Mechanical-Utility Room and IT Room that are for the benefit of Unit 1 and are either identified in the RCA Drawings or otherwise necessary for the operation of Unit 1 for its intended purposes. Couture Parking and any subsequent Unit 2 Owner and each of their respective Designees may only place, construct, improve, reconstruct, maintain, alter, repair, and/or replace facilities and/or equipment in the Mechanical-Utility Room and IT Room that benefit Unit 2 and are either identified in the RCA Drawings or otherwise necessary for the operation of Unit 2 for its intended purposes. Notwithstanding any other provisions of this Section 12.4, Couture and any subsequent Unit 1 Owner and/or Couture Parking and any subsequent Unit 2 Owner (or any of their respective Designees) may place, construct, improve, reconstruct, maintain, alter, repair and/or replace any U-1/U-2 LCEs in the Mechanical-Utility Room and IT Room that are shown on the RCA Drawings. All facilities and equipment placed in the Mechanical-Utility Room and IT Room shall be consistent with the facilities and/or equipment identified in the RCA Drawings for such rooms and placed in substantially the same locations identified in the RCA Drawings.

12.5 **Unit 3 Transit Lane.** The Transit Lane shall only be used for the purposes set forth in Section 2.1(c)1. Notwithstanding any other provision in the Condominium Documents, any use of any portion of the Transit Lane for a bus or similar public transit operation shall be operated in accordance with all applicable federal, state and local laws, statutes, ordinances, codes, regulations and requirements now or hereinafter in effect.. Any Unit Owner in the Condominium shall have the right to enforce the restrictions regarding any lessee's bus or other similar public transit operations set forth in this Section 12.5. The City of Milwaukee shall be solely responsible for the design and engineering of the Streetcar Amenities and for ensuring the safety of the public

when using the Streetcar Amenities and crossing through the Streetcar Lane. The City of Milwaukee shall construct the Streetcar Amenities, at its cost, in accordance with the HNTB Drawings, the Cooperation, Contribution and Redevelopment Agreement dated April 28, 2017 (as such Redevelopment Agreement may be amended from time to time), and all applicable federal, state and local laws, statutes, ordinances, codes, regulations and requirements now or hereinafter in effect. Notwithstanding any other provision of this Declaration, for so long as the City of Milwaukee is the Unit 3 Owner and is operating the Streetcar within the Condominium, the provisions of this Section 12.5 of this Declaration shall not be amended without the written consent of the City of Milwaukee.

12.6 **Non-Amendment.** Notwithstanding any other provision of the Condominium Documents, the rights granted to any Unit Owners under this Article XII may not be revoked or modified without the prior written consent of such Unit Owner.

### **ARTICLE XIII** **Unit Changes**

13.1 **Alterations within Units.** Each of the Declarants and each Unit Owner shall have and hereby reserve the right to make any modification, penetration, decoration, installation, build-out, renovation, removal, reconstruction, repair or other alteration within any Unit owned by such Declarant or Unit Owner, provided all such modifications, penetrations, decorations, installations, removals, reconstruction, repairs and/or alterations comply with the Condominium Documents, Condominium Act and all applicable Governmental Regulations (as defined in Section 16.1(bb)). In connection therewith, each of the Declarants and each Unit Owner will have and hereby reserve an easement for themselves and for their Designees (as defined in Section 16.1 (u)) over, under, upon and through all or any portion of the Condominium to engage in such activities. By accepting ownership of a Unit, each of the Declarants and all subsequent Unit Owners shall be deemed to have further acknowledged, agreed and consented that alterations to Units as described in this Section 13.1 may lead to noise, vibration, traffic, dust, and other conditions that temporarily impact the use and enjoyment of the other Units in the Condominium (including but not limited to temporary restrictions on individuals' ability to access such other Units and/or the Common Elements) in a manner consistent with usual construction conditions ("Temporary Construction Conditions") and (ii) that such Temporary Construction Conditions will not constitute a nuisance substantially affecting the use and enjoyment of those Units or of the Common Elements. Each Unit Owner or other Person asserting any interest in the Condominium hereby waives and otherwise releases any and all rights to compensation and other claims for relief connected to such Temporary Construction Conditions. **NOTWITHSTANDING ANY OTHER PROVISIONS IN THE CONDOMINIUM DOCUMENTS AND FOR SO LONG AS HUD IS THE HOLDER OR INSURER OF ANY MORTGAGE ON ANY PORTION OF UNIT 1, THE OWNERS OF SUCH PORTION OF UNIT 1 SHALL NOT MAKE ANY OF THE CHANGES TO UNIT 1 DESCRIBED IN THIS SECTION 13.1 WITHOUT THE PRIOR WRITTEN CONSENT OF HUD AND ANY MORTGAGEE OF A HUD-INSURED MORTGAGE.**

13.2 **Relocation of Perimeters.** Unit Owners of contiguous Units, subject to the application process and approval of the Board as provided in Section 13.5 below, shall have the

right to relocate the perimeters between their adjoining Units pursuant to Section 703.13(6) of the Condominium Act.

13.3 **Separation of Units.** Each Unit Owner, subject to the application process and approval of the Board as provided in Section 13.5 below, shall have the right to separate such Unit Owner's Unit pursuant to Section 703.13(7) of the Condominium Act. The creation of a Sub-Condominium pursuant to Article X shall not be deemed a separation of a Unit pursuant to Section 703.13(7) of the Condominium Act. In the case of the restatement of the Condominium Documents to create the functional equivalent of a Sub-Condominium pursuant to Article X, the Association shall cooperate in such process as set forth in Section 10.4.

13.4 **Merger of Units.** Each Unit Owner, subject to the application process and approval of the Board as provided in Section 13.5 below, shall have the right to merge two (2) or more contiguous Units owned thereby into a single unit in the Condominium pursuant to Section 703.13(8) of the Condominium Act.

13.5 **Application.** Unit Owner(s) desiring to make any of the changes set forth in Sections 13.2, 13.3, and 13.4 of this Declaration or which otherwise require the approval of the Board under the Declaration, Bylaws and/or the Condominium Act shall first make application to the President (as defined in Section 16.1(w)) proposing the desired change and shall also provide written notice to all other Unit Owners (the "Application"). The Application shall include a proposed amendment to this Declaration, an addendum to the Plat reflecting the proposed changes, plans of each Unit showing the proposed new perimeters of each affected Unit(s), and all other information required by the Condominium Act. The addendum to the Plat and all plans submitted shall be certified as to accuracy and compliance with the Condominium Act by a qualified civil engineer, architect or land surveyor licensed to practice in the State of Wisconsin as required by Sections 703.13(6)(e), 703.13(7)(c), and 703.13(8)(c) of the Condominium Act. If the Application involves a relocation of perimeters between contiguous Units, it shall propose (a) how the Percentage Interests, Votes and rights to use Limited Common Elements appurtenant to such Units should be reallocated, if at all, and (b) how existing liabilities and reserve funds for Common Expenses appurtenant to such Units should be reallocated, if at all. If the Application involves a separation of a Unit, it shall propose (a) new identifying numbers for the proposed new units in the Condominium; (b) how the Percentage Interest, Vote and rights to use Limited Common Elements appurtenant to the existing Unit would be allocated among such new units in the Condominium; and (c) how existing liabilities and reserve funds for Common Expenses appurtenant to the existing Unit should be allocated among such new units in the Condominium. If the Application involves a merger, it shall propose the identifying number for the surviving merged unit. All information in each Application shall be provided by the applying Unit Owner at each applying Unit Owner's sole expense. Upon submittal, the Board may require any applying Unit Owner to provide, at such Unit Owner's sole expense, any other information reasonably necessary to consider the Application, including but not limited to, a signed statement from a Wisconsin-licensed structural engineer or professional engineer specializing in structural engineering that the merger, separation or relocation will not impair the structural integrity or lessen the support of any portion of the Condominium. Each Unit Owner submitting an Application shall be liable for all expenses incurred by the Association to review the Application or to prepare any documentation related to the Application, including but not limited to any

engineering, surveying, and legal fees incurred by the Association in considering the Application and/or preparing any documentation, whether or not the Application is ultimately approved. Where any separation, merger or relocation requires the approval of any municipality in which the Condominium is located, the applying Unit Owner shall, at its sole cost, obtain such approval. The Association may recover all unpaid expenses in connection with any Application by imposing a special assessment against the applying Unit Owner's Unit or through any other process allowed by law.

13.6 **Review.** Within thirty (30) days after written notice of the Application is given to all Unit Owners, the President shall convene a meeting of the Board to consider the Application. At such meeting, the Board shall either approve, request additional information to be considered at the next meeting of the Board (to be held within thirty (30) days of receipt of such requested information), or reject the Application. The Board may not unreasonably withhold its approval of any Application. Delaying approval or rejection of an Application while obtaining sufficient information in order to consider such Application shall not be deemed unreasonable delay in approving or rejecting an Application.

13.7 **Recording.** If an Application is approved, an amendment to this Declaration and the Plat shall be finalized and circulated for execution, pursuant to the applicable requirements of Section 703.13 of the Condominium Act, but only after the applying Unit Owner(s) have paid all of the expenses incurred by the Association to review the Application or to prepare any documentation related to the Application as described in Section 13.5 of this Declaration. Such amendment shall not be recorded until it has been executed as required by the Condominium Act.

#### **ARTICLE XIV** **Easements**

14.1 **Association.** Notwithstanding any other provision in the Condominium Documents, the Association and its Designees are hereby granted an irrevocable, perpetual and non-exclusive easement to, on, across, over and/or through all or any portion of the Condominium for (i) the installation, maintenance, operation, repair and replacement of any Common Elements and (ii) the purpose of exercising all powers and responsibilities under the Condominium Documents or the Condominium Act, including making inspections, correcting conditions originating in a Unit and/or as otherwise provided in Section 703.32 of the Condominium Act.

14.2 **Limited Common Elements.** Notwithstanding any other provision in the Condominium Documents, any Unit Owner of a Unit to which Limited Common Elements are appurtenant and its Designees are hereby granted an irrevocable, perpetual and non-exclusive easement to (i) access any other Unit or any Common Elements for any purpose incidental to the use and occupancy of such Unit Owner's Unit or Limited Common Elements and (ii) to place, construct, improve, reconstruct, maintain, alter, repair, and/or replace any such Limited Common Elements in such other Units.

14.3 **Neighboring Unit Owners.** Each Unit Owner shall have an irrevocable, perpetual and non-exclusive easement to enter any other Unit to the extent necessary to construct, improve, reconstruct, maintain, alter, repair, and/or replace any such Unit Owner's Unit, any Unit Service

Facilities connected to such Unit Owner's Unit and/or any other Service Facilities for which such Unit Owner is responsible under the Condominium Documents. The rights of such Unit Owner under this Section 14.3 shall be exercised only to the extent reasonably necessary for the foregoing purposes and may be subject to reasonable rules imposed on the Unit Owner of the servient estate.

14.4 **Encroachments.** The actual as-built perimeters of a Unit or any Common Elements constructed or reconstructed in substantial conformity with the Plat and the RCA Drawings shall be conclusively presumed to be the perimeters for such Unit or Common Elements, regardless of any settling or shifting of any of the Buildings and regardless of minor variations between the perimeters described in this Declaration and/or shown on the Plat and the actual perimeters thereof after such construction or reconstruction. In the event that by reason of the design, construction, reconstruction, settlement or shifting of all or any portion of the Condominium, any portion of the Common Elements encroaches or shall hereafter encroach upon any Unit, or any portion of any Unit encroaches or shall hereafter encroach upon any of the Common Elements or any other Unit, an irrevocable, perpetual and exclusive easement is hereby granted and reserved to allow such encroachment for so long as the encroachment remains in place. The easement rights granted in this Section 14.4 shall include the right to maintain, repair and/or replace such encroaching Unit or Common Elements. No changes in, adjustments of, or presumptions regarding the location of the Units under this Section 14.4 shall impact the Percentage Interests of such Units set forth in Exhibit B.

14.5 **Support.** The Association shall have an irrevocable, perpetual and non-exclusive easement over all of the Units and General Common Elements for the maintenance, repair, and/or replacement of any structural facilities supporting any Unit and/or the General Common Elements, as set forth in the RCA Drawings.

14.6 **General Common Elements.** Each Unit Owner shall have an irrevocable, perpetual and non-exclusive easement over, under, upon and through the General Common Elements for any purpose consistent with the purposes of the Condominium, subject to such restrictions as may be imposed from time to time under the Condominium Documents.

14.7 **Easements for the Benefit of Unit 1.** To the extent applicable to their respective interests in the Condominium, Couture Parking and Hub MKE hereby grant, convey, reserve, and/or confirm to Couture and all subsequent Unit 1 Owners the following easements:

- (a) **Access to U-1 Parking Deck.** To Couture and any subsequent Unit 1 Owner and each of their Invitees, an irrevocable, perpetual and non-exclusive easement to, on, across, over and/or through the U-2 Parking Garage to access any ramp leading to the U-1 Parking Deck as shown in the Plat and the RCA Drawings (the "U-1 Ramps"). To Couture and any subsequent Unit 1 Owner and each of their Designees, an irrevocable, perpetual and non-exclusive easement through the U-2 Parking Garage to construct, improve, reconstruct, maintain, alter, repair, replace and/or relocate any improvements necessary to access and use the U-1 Ramps and/or the U-1 Parking Deck for their intended purposes, including but not limited to interior gates restricting access to the U-1 Ramps. Any easement to access

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and use the U-2 Parking Garage pursuant to this Section 14.7(a) shall be subject to any reasonable rules created by Couture Parking or any subsequent Unit 2 Owner.

- (b) Access to Unit 1 Porte Cochere. To Couture and any subsequent Unit 1 Owner and each of their Invitees, an irrevocable, perpetual and non-exclusive easement to, on, across, over and/or through that part of the Transit Area necessary for vehicular access to the driveway and/or porte cochere servicing the U-1 Tower. To Couture and any subsequent Unit 1 Owner and each of their Designees, an irrevocable, perpetual and non-exclusive easement to construct, improve, reconstruct, maintain, alter, repair, replace and/or relocate any improvements to Unit 1 necessary for Unit 1's uses described in the preceding sentence. Any easement to access and use the Transit Lane pursuant to this Section 14.7(b) shall not unreasonably impede the Transit Lane or negatively impact the use of Unit 3 for the Streetcar or Milwaukee County's transit operations and shall be subject to any reasonable rules created by Hub MKE or any subsequent Unit 3 Owner.
- (c) Access to Secondary Loading Area. To Couture and any subsequent Unit 1 Owner and each of their Invitees, an irrevocable, perpetual and non-exclusive easement (i) to use Secondary Loading Area shown on the Level 1 Floor Plan of the Designation of Areas and (ii) to, on, across, over and/or through any part of the Transit Area necessary to access and use the Secondary Loading Area. Any easement to access and use the Transit Lane pursuant to this Section 14.7(c) shall not unreasonably impede the Transit Lane or negatively impact the use of Unit 3 for the Streetcar or Milwaukee County's transit operations and shall be subject to any reasonable rules created by Hub MKE or any subsequent Unit 3 Owner.
- (d) Access to Transit Area. To Couture and any subsequent Unit 1 Owner and each of their Invitees, an irrevocable, perpetual and non-exclusive easement to, on, across, over and/or through the Transit Area to access any portion of the Condominium subject to any reasonable rules created by Hub MKE or any subsequent Unit 3 Owner.
- (e) Connection to U-2 Parking Garage. To Couture and any subsequent Unit 1 Owner and each of their respective Designees, an irrevocable, perpetual and exclusive easement to connect the U-1 Greenspace and Retail Connection to the U-2 Parking Garage at Level 3 as provided in the Plat and/or the RCA Drawings. The easement rights granted in this Section 14.7(e) shall include, but not be limited to, the right for the easement holders, at such easement holder's sole cost and expense, to place, construct, connect, improve, reconstruct, maintain, alter, repair and/or replace the connection of the U-1 Greenspace and Retail Connection to the U-2 Parking Garage. Such expenses may be shared with Couture Parking and any subsequent Unit 2

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Owner. Couture and any subsequent Unit 1 Owner and their respective Designees shall also have an irrevocable, perpetual, non-exclusive easement to, on, across, over and/or through Unit 2 and Unit 3 to perform any of the activities described in this Section 14.7(e), subject to any reasonable rules created by Couture Parking and any subsequent Unit 2 Owner (as to Unit 2) and Hub MKE or any subsequent Unit 3 Owner (as to Unit 3). In addition, Couture and any subsequent Unit 1 Owner and their respective Invitees shall have an irrevocable, perpetual, non-exclusive easement for ingress and egress to and from the U-2 Parking Garage and the U-1 Greenspace and Retail Connection, subject to any reasonable rules created by Couture Parking or any subsequent Unit 2 Owner.

(f) Connection and Access to U-1 Bridge. To Couture and any subsequent Unit 1 Owner and each of their respective Designees, an irrevocable, perpetual and exclusive easement to connect the U-1 Bridge to the U-2 Parking Garage at Level 2 as provided in the Plat and/or the RCA Drawings. The easement granted in this Section 14.7(e) is exclusive in that the easement holders shall have the only access and use of the area where the U-1 Bridge connects with the U-2 Parking Garage. The easement rights granted in this Section 14.7(e) shall include, but not be limited to, the right for the easement holders, at such easement holder's sole cost and expense, to place, construct, connect, improve, reconstruct, maintain, alter, repair and/or replace any connection between the U-1 Bridge and U-2 Parking Garage. Such expenses may be shared with Couture Parking and any subsequent Unit 2 Owner. Couture and any subsequent Unit 1 Owner and their respective Designees shall also have an irrevocable, perpetual, non-exclusive easement to, on, across, over and/or through Unit 2 and Unit 3 to perform any of the activities described in this Section 14.7(f), subject to any reasonable rules created by Couture Parking and any subsequent Unit 2 Owner (as to Unit 2) and Hub MKE or any subsequent Unit 3 Owner (as to Unit 3). In addition, Couture and any subsequent Unit 1 Owner and their respective Invitees shall have an irrevocable, perpetual and non-exclusive easement for ingress and egress to and from the U-2 Parking Garage and the U-1 Bridge, subject to any reasonable rules created by Couture Parking or any subsequent Unit 2 Owner.

(g) U-1 Bridge. To Couture and any subsequent Unit 1 Owner and each of their respective Designees, an irrevocable, perpetual and exclusive easement to, on, across, over and/or through any part of Unit 2 or Unit 3 to place, construct, improve, reconstruct, maintain, alter, repair, replace and/or relocate all or any part of the U-1 Bridge, subject to any reasonable rules created by Couture Parking and any subsequent Unit 2 Owner (as to Unit 2) and Hub MKE or any subsequent Unit 3 Owner (as to Unit 3).

(h) Slab of U-2 Parking Garage. To Couture and any subsequent Unit 1 Owner and each of their respective Designees, an irrevocable, perpetual and non-

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exclusive easement to, on, across, over and/or into the bottom of the concrete slab separating Unit 1 from Unit 2 in that portion of Unit 1 below Level 1 and under the U-2 Parking Garage to place, construct, improve, reconstruct, maintain, alter, repair, replace and/or relocate any lighting and/or any other facilities necessary to use the U-1 Ramp or U-1 Parking Deck for its intended purposes.

Stairwell of U-2 Parking Garage. To Couture and any subsequent Unit 1 Owner and each of their Invitees, an irrevocable, perpetual and non-exclusive easement to, on, across, over and/or through the stairwell on the northwest corner of the U-2 Parking Garage to access the U-1 Parking Deck. To Couture and any subsequent Unit 1 Owner and each of their Designees an irrevocable, perpetual and non-exclusive easement to, on, across, over and/or through the stairwell on the northwest corner of the U-2 Parking Garage to construct, improve, reconstruct, maintain, alter, repair, replace and/or relocate any improvements to the U-1 Parking Deck and/or otherwise necessary to use the U-1 Parking Deck for its intended purposes, including but not limited to any door restricting access to the U-1 Parking Deck.

- (j) U-1 LCEs. To Couture and any subsequent Unit 1 Owner and each of their respective Designees, an irrevocable, perpetual and non-exclusive easement to, on, in across, over and/or through those portions of Unit 2 and Unit 3 necessary to place, construct, improve, reconstruct, maintain, alter, repair, replace and/or relocate any or all of the U-1 LCEs.
- (k) Mechanical-Utility and IT Rooms. To the extent necessary, Couture and any subsequent Unit 1 Owner and each of their respective Designees, an irrevocable, perpetual, non-exclusive easement to, on, in, across, over and/or through the Mechanical-Utility Room and IT Room (including the walls surrounding the Mechanical-Utility and IT Room) as identified on the B1 Floor Plan of the Plat to place, construct, improve, reconstruct, maintain, alter, repair, and/or replace any facilities and/or equipment serving Unit 1 identified in the RCA Drawings or otherwise necessary for the operation of Unit 1 for its intended purposes ("U-1 Mechanical/IT Equipment"). All U-1 Mechanical/IT Equipment placed in the Mechanical-Utility Room and IT Room must be consistent with the intended uses of such rooms. All U-1 Mechanical/IT Equipment shall be located in substantially the same areas designated for such facilities and equipment on the RCA Drawings (as amended). The exercise of the easement rights granted under this Section 14.7(k) shall not unreasonably interfere with Unit 2's use of the Mechanical-Utility Room and IT Room, and/or the use of Unit 2 for its intended purposes.
- (l) General. To Couture and any subsequent Unit 1 Owner and each of their respective Designees, an irrevocable, perpetual and nonexclusive easement to, on, in across, over and/or through Unit 2 and Unit 3 to place, construct,

improve, reconstruct, maintain, alter, repair, replace and/or relocate all or any Unit 1 improvements shown in the Plat and/or RCA Drawings.

14.8 **Easements for the Benefit of Unit 2.** To the extent applicable to their respective interests in the Condominium, Couture and Hub MKE hereby grant, convey, reserve, and/or confirm to Couture Parking and all subsequent Unit Owners of Unit 2 the following easements:

Areas for the U-2 Parking Garage Construction. To Couture Parking and any subsequent Unit 2 Owner and each of their respective Designees, an irrevocable, perpetual easement to, on, across, over and/or through those portions of Unit 1 and Unit 3 necessary to place, construct, attach, connect, improve, reconstruct, maintain, alter, repair and/or replace the U-2 Parking Garage as provided for in the Plat and/or the RCA Drawings. The easement granted under this Section 14.8(a) includes, but is not limited to, the right to have the U-2 Parking Garage over Unit 1. In those areas where the U-2 Parking Garage connects to Unit 1 or Unit 3, the easement granted to Unit 2 shall be exclusive. In those instances where Couture Parking and all subsequent Unit 2 Owners need access to Unit 1 and/or Unit 3 for purposes of the placement, construction, attachment, connection, improvement, reconstruction, maintenance, alteration, repair and/or replacement of the U-2 Parking Garage the easement granted under this Section 14.8(a) shall be non-exclusive and subject to any reasonable rules created by Couture and any subsequent Unit 1 Owner (as to Unit 1) and Hub MKE or any subsequent Unit 3 Owner (as to Unit 3).

(b) Reconstruction of Unit 2 with Respect to Unit 1. In the event of a casualty or loss to all or any portion of Unit 1 under Unit 2 where Unit 1 elects not to repair, replace or restore any such damage, Couture Parking and any subsequent Unit 2 Owner and each of their respective Designees, shall have an irrevocable, perpetual easement to, on, across, over and/or through any portions of Unit 1 below Unit 2 necessary to place, construct, attach, connect, improve, reconstruct, maintain, alter, repair and/or replace any part of the Parking Garage Structures (as defined in Section 16.1(qq)) and/or all piles, foundations, footings, structural foundation elements, sump pumps, drainage facilities, utility facilities and/or other Service Facilities necessary for the U-2 Parking Garage. All such improvements shall be located in substantially the same areas and be substantially the same improvements as shown for Unit 2 in the RCA Drawings. In those areas where Couture Parking and any subsequent Unit 2 Owner and each of their respective Designees constructs improvements, the easement granted to Unit 2 shall be exclusive. In those instances where Couture Parking and any subsequent Unit 2 Owner need access to Unit 1 for purposes of the placement, construction, attachment, connection, improvement, reconstruction, maintenance, alteration, repair and/or replacement of the U-2 Parking Garage the easement granted under this Section 14.8(b) shall be non-exclusive. By way of clarification, and not limitation, the grant of the

easement under this 14.8(b) shall have no effect on the rights or remedies of any Unit Owner with respect to the cost of such improvements or the proceeds of any available insurance.

- (c) Mechanical-Utility and IT Rooms. To the extent necessary, Couture Parking and any subsequent Unit 2 Owner and each of their respective Designees, shall have an irrevocable, perpetual, non-exclusive easement to, on, in, across, over and/or through the Mechanical-Utility Room and IT Room (including the walls surrounding the Mechanical-Utility and IT Room) as identified on the B1 Floor Plan of the Plat to place, construct, improve, reconstruct, maintain, alter, repair, and/or replace any facilities and/or equipment serving Unit 2 identified in the RCA Drawings or otherwise necessary for the operation of Unit 2 for its intended purposes (“U-2 Mechanical/IT Equipment”). All U-2 Mechanical/IT Equipment placed in the Mechanical-Utility Room and IT Room must be consistent with the intended uses of such rooms. Couture Parking and any subsequent Unit 2 Owner and each of their respective Designees shall also have an irrevocable, perpetual, non-exclusive easement to, on, in, across, over and/or through Unit 1 to place, construct, improve, reconstruct, maintain, alter, repair, and/or replace facilities and/or equipment shown on the RCA Drawings as the connection between Unit 2 and the U-2 Mechanical/IT Equipment (the “U-2 Connecting Equipment”). All U-2 Mechanical/IT Equipment and U-2 Connecting Equipment shall be located in substantially the same areas designated for such facilities and equipment on the RCA Drawings. The exercise of the easement rights granted under this Section 14.8(c) shall not unreasonably interfere with Unit 1’s use of the Mechanical-Utility Room and IT Room, and/or use of Unit 1 for its intended purposes.
- (d) Lighting under U-1 Bridge. To Couture Parking and any subsequent Unit 2 Owner and each of their respective Designees, an irrevocable, perpetual and exclusive easement to, on, in, across, over and/or into the bottom of the U-1 Bridge to place, construct, improve, reconstruct, maintain, alter, repair, replace and/or relocate any lighting on the U-1 Bridge provided for in the RCA Drawings. Couture Parking and any subsequent Unit 2 Owner and each of their respective Designees, shall also have an irrevocable, perpetual and non-exclusive easement to, on, in, across, over and/or through Unit 3 to perform the activities described in this Section 14.8(d).
- (e) Lighting under U-1 Greenspace and Retail Connection. To Couture Parking and any subsequent Unit 2 Owner and each of their respective Designees, an irrevocable, perpetual and exclusive easement to, on, across, over and/or through the bottom of the outer surface of the beams supporting the U-1 Greenspace and Retail Connection (whether finished or unfinished) in those areas where there is a beam and the lowest portion of the surface of the slab for the U-1 Greenspace and Retail Connection (whether finished or unfinished) in those areas without a beam, to place, construct, attach,

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connect, improve, reconstruct, maintain, alter, repair, replace and/or relocate any lighting on such areas as provided for in the RCA Drawings. Couture Parking and any subsequent Unit 2 Owner and each of their respective Designees, shall also have an irrevocable, perpetual and non-exclusive easement to, on, in, across, over and/or through Unit 3 to perform the activities described in this Section 14.8(e).

Connection to U-1 Greenspace and Retail Connection. To Couture Parking and any subsequent Unit 2 Owner and each of their respective Designees, an irrevocable, perpetual and exclusive easement to connect the U-2 Parking Garage to the U-1 Greenspace and Retail Connection at Level 3 as provided in the Plat and/or the RCA Drawings. The easement granted in this Section 14.8(f) is exclusive in that the easement holders shall have the only access and use of the areas of connection in Unit 1 as described herein. The easement rights granted in this Section 14.8(f) shall include, but not be limited to, the right for the easement holders, at such easement holder's sole cost and expense, to place, construct, connect, improve, reconstruct, maintain, alter, repair and/or replace the connection of the U-2 Parking Garage to the U-1 Greenspace and Retail Connection. Such expenses may be shared with Couture and any subsequent Unit 1 Owner. In addition, Couture Parking and all subsequent Unit 2 Owners and their respective Invitees shall have an irrevocable, perpetual and non-exclusive easement to access and use the U-1 Greenspace and Retail Connection from the U-2 Parking subject to any reasonable rules created by Couture or any subsequent Unit 1 Owner.

- (g) Connection to U-1 Bridge. To Couture Parking and any subsequent Unit 2 Owner and each of their respective Designees, an irrevocable, perpetual, exclusive easement to connect the U-2 Parking Garage to the U-1 Bridge at Level 2 as provided in the Plat and/or the RCA Drawings. The easement granted in this Section 14.8(g) is exclusive in that the easement holders shall have the only access and use of the areas of connection in Unit 1. The easement rights granted in this Section 14.8(g) shall include, but not be limited to, the right for the easement holders, at such easement holder's sole cost and expense, to place, construct, connect, improve, reconstruct, maintain, alter, repair and/or replace any connection between the U-2 Parking Garage and the U-1 Bridge. Such expenses may be shared with Couture and any subsequent Unit 1 Owner. Couture Parking and any subsequent Unit 2 Owner and their respective Designees shall also have an irrevocable, perpetual, non-exclusive easement to, on, across, over, and/or through Unit 1 and Unit 3 to perform any of the activities described in this Section 14.8(g), subject to any reasonable rules created by Couture and any subsequent Unit 1 Owner (as to Unit 1) and Hub MKE or any subsequent Unit 3 Owner (as to Unit 3). In addition, Couture Parking and any subsequent Unit 2 Owner and their respective Invitees shall have an irrevocable, perpetual and non-exclusive easement to access and use the U-

2 Parking Garage from the U-1 Bridge, subject to any reasonable rules created by Couture or any subsequent Unit 1 Owner.

- (h) General Access over U-1 Walkway and Concourse. To Couture Parking and any subsequent Unit 2 Owner and each of their Invitees, an irrevocable, perpetual and non-exclusive easement to, on, across, over and/or through the U-1 Walkway and Concourse to access all or any part of the Condominium. Any easement to access and use of the U-1 Walkway and Concourse pursuant to this Section 14.8(h) shall be subject to any reasonable rules created by Couture or any subsequent Unit 1 Owner.
- (i) Public Elevator Lobby. To Couture Parking and any subsequent Unit 2 Owner and each of their Invitees, an irrevocable, perpetual and non-exclusive easement over Unit 1 to use those areas identified in the RCA Drawings as Public Elevator Lobby [01-11], [02-01], [03-01], Restroom [01-22], and Elevator 5 to access the U-1 Retail Building, and the U-1 Greenspace and Retail Connection. Any easement to access and use the Public Elevator Lobby [01-11], [02-01], [03-01], Restroom [01-22], and Elevator 5 in this Section 14.8(m) shall be subject to any reasonable rules created by Couture or any subsequent Unit 1 Owner.
- (j) Access to Transit Area. To Couture Parking and any subsequent Unit 2 Owner and each of their Invitees, an irrevocable, perpetual and non-exclusive easement to, on, across, over and/or through the Transit Area to access all or any portion of the Condominium. Any easement to access and use of the Transit Lane pursuant to this Section 14.8(j) shall subject to any reasonable rules created by Hub MKE or any subsequent Unit 3 Owner. In general, access to the Transit Area shall not unreasonably impede transit service within the Transit Lane or pedestrian movement within the Transit Concourse.
- (k) Unit 2 LCEs. To Couture Parking and any subsequent Unit 2 Owner and each of their respective Designees, an irrevocable, perpetual and non-exclusive easement to, on, in across, over and/or through those portions of Unit 1 and Unit 3 necessary to place, construct, improve, reconstruct, maintain, alter, repair, replace and/or relocate any or all of the U-2 LCEs. In general, access to Unit 3 shall not unreasonably impede transit service within the Transit Lane or pedestrian movement within the Transit Concourse.
- (l) Transit Area Gates. To Couture Parking and any subsequent Unit 2 Owner and each of their respective Designees, an irrevocable, perpetual and non-exclusive easement to, on, in across, over and/or through those portions of Unit 1 and Unit 3 necessary to place, construct, improve, reconstruct, maintain, alter, repair and/or replace (at such easement holder's sole cost and expense) one or more Transit Area Gates; *provided, however,* that, for

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so long as the City of Milwaukee is the Unit 3 Owner and is operating the Streetcar within the Condominium, any all Transit Area Gates shall be subject to the prior approval of the City of Milwaukee, which approval shall not be unreasonably withheld.

(m) General. To Couture Parking and any subsequent Unit 2 Owner and each of their respective Designees, an irrevocable, perpetual and non-exclusive easement to, on, in across, over and/or through Unit 1 and/or Unit 3 to place, construct, improve, reconstruct, maintain, alter, repair, replace and/or relocate all or any Unit 2 improvements shown in the Plat and/or RCA Drawings.

14.9 Easements for the Benefit of Unit 3. To the extent applicable to their respective interests in the Condominium, Couture and Couture Parking hereby grant, convey, reserve, and/or confirm to Hub MKE and all subsequent Unit Owners of Unit 3 the following easements:

(a) Areas for the Transit Area Construction. To Hub MKE and any subsequent Unit 3 Owner and each of their respective Designees, an irrevocable, perpetual easement to, on, across, over and/or through those portions of Unit 1 and/or Unit 2 below Unit 3 necessary to place, construct, attach, connect, improve, reconstruct, maintain, alter, repair and/or replace any improvements in the Transit Area shown on the Plat and/or the RCA Drawings. The easement granted under this Section 14.9(a) includes, but is not limited to, the right to have the Transit Area over Unit 1 and/or Unit 2. In those areas where the Transit Area connects to Unit 1 and/or the U-2 Parking Garage, the easement granted to Unit 2 shall be exclusive. In those instances where Hub MKE and all subsequent Unit 3 Owners need access to Unit 1 and/or Unit 2 for purposes of the placement, construction, attachment, connection, improvement, reconstruction, maintenance, alteration, repair and/or replacement of the Transit Area, the easement granted under this Section 14.9(a) shall be non-exclusive and subject to any reasonable rules created by Couture and any subsequent Unit 1 Owner (as to Unit 1) and Couture Parking or any subsequent Unit 2 Owner (as to Unit 2).

(b) Reconstruction of Unit 3 with Respect to Unit 1. In the event of a casualty or loss to all or any portion of Unit 1 under Unit 3 where Unit 1 elects not to repair, replace or restore any such damage, Hub MKE and any subsequent Unit 3 Owner and each of their respective Designees, shall have an irrevocable, perpetual easement to, on, across, over and/or through any portions of Unit 1 below Unit 3 necessary to place, construct, attach, connect, improve, reconstruct, maintain, alter, repair and/or replace any improvements shown for the Transit Area on the Plat and/or RCA Drawings. All such improvements shall be located in substantially the same areas and be substantially the same improvements as shown for Unit 3 in the RCA Drawings. In those areas where Hub MKE and any subsequent

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Unit 3 Owner and each of their respective Designees constructs improvements, the easement granted to Unit 3 shall be exclusive. In those instances where Hub MKE and any subsequent Unit 3 Owner need access to Unit 1 for purposes of the placement, construction, attachment, connection, improvement, reconstruction, maintenance, alteration, repair and/or replacement of the Transit Area, the easement granted under this Section 14.9(b) shall be non-exclusive but subject to any reasonable rules created by Couture and any subsequent Unit 1 Owner. By way of clarification, and not limitation, the grant of the easement under this 14.9(b) shall have no effect on the rights or remedies of any Unit Owner with respect to the cost of such improvements or the proceeds of any available insurance.

(c) Reconstruction of Unit 3 with Respect to Unit 2. In the event of a casualty or loss to all or any portion of Unit 2 under Unit 3 where Unit 2 elects not to repair, replace or restore any such damage, Hub MKE and any subsequent Unit 3 Owner and each of their respective Designees, shall have an irrevocable, perpetual easement to, on, across, over and/or through any portions of Unit 2 below Unit 3 necessary to place, construct, attach, connect, improve, reconstruct, maintain, alter, repair and/or replace any improvements shown for the Transit Area on the Plat and/or RCA Drawings. All such improvements shall be located in substantially the same areas and be substantially the same improvements as shown for Unit 3 in the RCA Drawings. In those areas where Hub MKE and any subsequent Unit 3 Owner and each of their respective Designees constructs improvements, the easement granted to Unit 3 shall be exclusive. In those instances where Hub MKE and any subsequent Unit 3 Owner need access to Unit 2 for purposes of the placement, construction, attachment, connection, improvement, reconstruction, maintenance, alteration, repair and/or replacement of the Transit Area, the easement granted under this Section 14.9(c) shall be non-exclusive but subject to any reasonable rules created by Couture Parking and any subsequent Unit 2 Owner. By way of clarification, and not limitation, the grant of the easement under this 14.9(c) shall have no effect on the rights or remedies of any Unit Owner with respect to the cost of such improvements or the proceeds of any available insurance.

(d) General Access. To Hub MKE and any subsequent Unit 3 Owner and their respective Invitees, an irrevocable, perpetual, non-exclusive easement to, on, across, over and/or through the U-1 Walkway and Concourse, U-1 Bridge, and U-1 Greenspace and Retail Connection and U-2 Parking Garage to access and use all such areas for their intended purposes subject to any reasonable rules created by Couture, Couture Parking or any subsequent Unit 1 Owner or Couture Parking or any subsequent Unit 2 Owner.

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- (e) Public Elevator Lobby. To Hub MKE and any subsequent Unit 3 Owner and each of their Invitees, an irrevocable, perpetual and non-exclusive easement to use those areas identified in the RCA Drawings as Public Elevator Lobby [01-11], [02-01], [03-01], Restroom [01-22], and Elevator 5 to access the U-1 Retail Building and the U-1 Greenspace and Retail Connection. Any easement to access and use of the Public Elevator Lobby [01-11], [02-01], [03-01], Restroom [01-22], and Elevator 5 under this Section 14.9(c) shall be subject to any reasonable rules created by Couture or any subsequent Unit 1 Owner.
- (f) Unit 3 Inspection. To Hub MKE and any subsequent Unit 3 Owner and each of their respective Designees, an irrevocable, perpetual and non-exclusive easement to, on, in across, over and/or through those portions of Unit 1 and Unit 2 necessary to inspect any structural support for the Transit Lane.
- (g) General. To Hub MKE and any subsequent Unit 3 Owner and each of their respective Designees, an irrevocable, perpetual and non-exclusive easement to, on, in across, over and/or through Unit 1 and/or Unit 2 to place, construct, improve, reconstruct, maintain, alter, repair, replace and/or relocate all or any Unit 3 improvements shown in the Plat and/or RCA Drawings.

14.10 **General Access Easements**. Each of the Declarants hereby grants the following easements:

- (a) To each of the other Declarants and any subsequent Unit 1 Owner, Unit 2 Owner and Unit 3 Owner, and each of their respective Invitees, an irrevocable, perpetual, non-exclusive easement to, on, in across, over and/or through the Transit Area, the U-1 Walkway and Concourse, the U-1 Bridge, and the U-1 Greenspace and Retail Connection to access any portions of the Condominium, subject to any reasonable rules created by the owner of the burdened estate.
- (b) To Couture and any subsequent Unit 1 Owner and to Couture Parking and any subsequent Unit 2 Owner, and each of their respective Designees, an irrevocable, perpetual and non-exclusive easement to, on, in across, over and/or through those portions of Unit 1, Unit 2 and Unit 3 necessary to place, construct, improve, reconstruct, maintain, alter, repair, replace and/or relocate any or all of the U-1/U-2 LCEs subject to any reasonable rules created by the owner of the burdened estate.
- (c) To Couture and any subsequent Unit 1 Owner and to Couture Parking and any subsequent Unit 2 Owner, and each of their respective Designees, an irrevocable, perpetual and non-exclusive easement to, on, in across, over and/or through those portions of Unit 1, Unit 2 and Unit 3 necessary to

place, construct, improve, reconstruct, maintain, alter, repair, replace and/or relocate any or all of the U-1 LCEs, and/or U-2 LCEs described in the RCA Drawings, but subject to any reasonable rules created by the owner of the burdened estate.

- (d) To Hub MKE and any subsequent Unit 3 Owner, and each of their respective Designees, an irrevocable, perpetual and non-exclusive easement to, on, in across, over and/or through those portions of Unit 1 and Unit 2 necessary to place, construct, improve, reconstruct, maintain, alter, repair, replace and/or relocate any or all of the Transit Area Structures, subject to any reasonable rules created by the owner of the burdened estate.
- (e) To the extent necessary, to each of the other Declarants and any subsequent Unit 1 Owner, Unit 2 Owner and Unit 3 Owner an irrevocable, perpetual, non-exclusive easement connect to each other at Level 1.

14.11 **Covenants Running with the Land.** All easements and other rights granted under this Article XIV shall run with the Land and with each of the Units (and the Percentage Interests in the Common Elements allocated to such Units) and shall inure to the benefit of and be binding upon all of the Declarants, all Unit Owners and each of their respective successors in interest. The burdens, covenants and obligations in this Article XIV shall be binding upon each of the Unit Owners of each servient estate referenced in this Article XIV and their respective heirs, successors and assigns and all successors in interest to such servient estates. The easements granted under this Article XIV shall not terminate by merger of the interests by any future Unit Owner owning more than one Unit, but shall continue to benefit all future owners of any dominant estate and burden the future owners of any servient estate.

14.12 **General.** The Association or Declarants shall have the authority to execute and record all documents necessary to carry out the intent of this Article XIV. All easement rights granted in this Article XIV may be interrupted at any time and from time to time as necessary to place, construct, improve, reconstruct, maintain, alter, repair, replace and/or relocate all or any improvements in any of the servient estates. Whenever feasible, the rights to place, construct, connect, improve, reconstruct, maintain, alter, repair and/or replace any improvements or structures under Section 14.1, Section 14.2, Section 14.3, Section 14.6, Section 14.7, Section 14.8, Section 14.9 and Section 14.10 of this Declaration shall be exercised (i) upon reasonable advance notice to such other Unit Owners involved; (ii) at times reasonably convenient to such other Unit Owners involved and in a manner so as to not unreasonably interfere with the use of any Unit by such other Unit Owners involved; (iii) in conformance with all landlord-tenant laws (if applicable); and (iv) under any supervision the Board may deem appropriate. Notwithstanding anything in this Section 14.12, in the case of an emergency, the rights under Section 14.1, Section 14.2, Section 14.3, Section 14.7, Section 14.8, Section 14.9 and Section 14.10 may be exercised immediately and without notice and whether or not such Unit Owner is present at the time. Any Unit Owner exercising rights under this Article XIV shall immediately repair any damage caused by such exercise of rights and, if such Unit Owner fails to do so, the Association may repair such damage and impose an assessment for the cost thereof against such Unit Owner. Notwithstanding any other provision of the Condominium Documents, the easements granted to the Declarants and Unit

Owners under the foregoing Sections of this Article XIV may not be revoked or otherwise modified without the prior written consent of the Declarants and Unit Owners benefitted and burdened by such easements.

**ARTICLE XV**  
**Mortgages, HUD, Other Mortgagees**

15.1 **Mortgages.** No Unit Owner shall have the right or authority to place a Mortgage, encumbrance or other lien ("Mortgage") on any portion of the Condominium other than such Unit Owner's Unit and the Percentage Interest in the Common Elements appurtenant thereto. Except as otherwise provided herein, by the acceptance of a Mortgage and/or the assertion of any rights thereunder, the Person holding such Mortgage shall be deemed to have agreed that any instrument documenting such Mortgage, and the rights and obligations of the parties with respect thereto, is subject to the terms and conditions of the Condominium Act and this Declaration. In connection therewith and except as otherwise provided in the Condominium Documents, each instrument documenting such Mortgage shall be deemed to provide that the lien holder thereof shall have no right to (a) participate in (i) the adjustment of losses with insurers; (ii) the determination of awards upon condemnation; or (iii) the decisions with respect to whether or how to repair in connection with casualty or condemnation or (b) receive or apply proceeds of insurance or condemnation, whether to the debt secured by such lien or otherwise, except to the extent, if any, of either a distribution of such proceeds to Unit Owners pursuant to Sections 703.18 or 703.19 of the Condominium Act or a distribution in excess of the proceeds required to repair or restore the Unit encumbered by such Mortgage. Nothing contained in this Section 15.1 or elsewhere in this Declaration or the other Condominium Documents shall give any Unit Owner or other Person priority over the rights of such lien-holder with respect to such distributions.

15.2 **Registration of Lien Holders.** All Unit Owners shall notify the Secretary (as defined in Section 16.1(bbb)) of the name and address of the proposed holder of a Mortgage and the priority of such Mortgage. A Unit Owner's failure to provide such information shall not affect the validity, enforceability or priority of any such Mortgage. The Secretary shall maintain a register of all Persons holding a Mortgage. HUD shall be included on the Association's register for such time as it is the holder or insurer of any Mortgage on a Unit in the Condominium.

15.3 **HUD Mortgage Notices.**

(a) **Requested Information.** For such time as HUD holds or insures any Mortgage on any portion of Unit 1, the Unit Owner of those portions of Unit 1 subject to such Mortgage (and HUD or the Mortgagee of such HUD-insured Mortgage) shall be entitled, upon written request to the Board, to receive copies of the following: (i) any notice of any assessment or other charges levied by the Association against any part of Unit 1 subject to such HUD-held or HUD-insured Mortgage that is more than sixty (60) days past due; (ii) any notice of any default by any Unit Owner of any portion of Unit 1 subject to such HUD-held or HUD-insured Mortgage in the performance of any non-monetary obligations under this Declaration or other Condominium Documents which is not cured within thirty (30) days of notice thereof; (iii) any budgets, notice of assessments, or other notices or statements relating to any portion of Unit 1 subject to such HUD-held or HUD-

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insured Mortgage that were provided by the Board to the Unit Owner of such portion; and (iv) copies of any financial statements for the Association involving any portion of Unit 1 subject to the HUD-held or HUD-insured Mortgage and provided by the Board to the Unit Owner of such portion of Unit 1; and (iv) copies of notices of all future meetings of the Unit Owners.

(b) Notices. For such time as HUD holds or insures any Mortgage on any portion of Unit 1, the Board shall provide the Unit 1 Owner (and, upon written request, HUD or the Mortgagee of such HUD-insured Mortgage) with the following notices: (i) notice of any damage to any portion of Unit 1 subject to a HUD-held or HUD-insured Mortgage in excess of \$10,000 and/or to the U-1 LCEs or U-1/U-2 LCEs relating to such portion in excess of \$50,000; (ii) notice of any pending or threatened eminent domain or other condemnation proceedings of all or any portion of Unit 1 or U-1 LCEs or U-1/U-2 LCEs subject to a HUD-held or HUD-insured Mortgage of which the Association is aware; (iii) notice that any payment of an insurance premium due from the Association under the Condominium Documents is more than ten (10) days late and notice of any lapse, cancellation or material modification (exclusive of renewals and changes in insurance carriers in the ordinary course) of any insurance policy or fidelity bond maintained by the Association within sixty (60) days prior to any such lapse, cancellation or material modification; (iv) notice of any decision by the Board to terminate any management agent of the Condominium; (v) notice of any proposed action which would require the consent of any Mortgagees of any portion of Unit 1 subject to a HUD-held or HUD-insured Mortgage pursuant to the Condominium Act or the Condominium Documents; and (vi) notice of any judgment rendered against the Association. Unless otherwise stated, each such notice shall be in writing and shall be provided within a reasonable time after the occurrence of the event giving rise to such notice.

(c) Compliance and Rights. Failure to comply with the notice requirements of Section 15.3(b) of this Declaration shall in no way invalidate or otherwise affect any action of the Association or the Board. HUD or the Mortgagee of any HUD-insured Mortgage encumbering any portion of Unit 1 shall have the right to cure any default identified under any notice provided under Section 15.3(a)(i) and (ii) of this Declaration and be present at any meetings described in Section 15.3(a)(iv). For such time as HUD holds or insures any Mortgage on any portion of Unit 1, HUD or the Mortgagee of any HUD-insured Mortgage encumbering Unit 1 shall have the right to examine and audit, at their sole expense, any of the books and records of the Association pertaining to any portion of Unit 1 subject to the HUD held or insured Mortgage at any reasonable time and upon reasonable notice.

15.4 HUD Inspections. FOR SUCH TIME AS HUD HOLDS OR INSURES ANY MORTGAGE ON ANY PORTION OF UNIT 1, THE ASSOCIATION SHALL (A) KEEP AND MAINTAIN COMPLETE AND ACCURATE BOOKS OF ACCOUNT AND RECORDS (INCLUDING COPIES OF SUPPORTING BILLS AND INVOICES) ADEQUATE TO REFLECT CORRECTLY THE OPERATION OF SUCH PORTION OF UNIT 1 AND COPIES OF ALL WRITTEN CONTRACTS, LEASES AND OTHER INSTRUMENTS WHICH AFFECT SUCH PORTION OF UNIT 1 AND (B) ALLOW FOR THE INSPECTION OF SAME AT ANY REASONABLE TIME BY HUD OR ITS AUTHORIZED AGENTS.

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15.5 **HUD Approvals.** NOTWITHSTANDING ANY OTHER PROVISION OF THIS DECLARATION, DURING SUCH TIME AS HUD IS THE HOLDER OR INSURER OF A MORTGAGE ON ANY PORTION OF UNIT 1: (A) NO PROVISION OF THIS DECLARATION WILL HAVE FORCE OR EFFECT WHICH REQUIRES AN ACTION TO BE TAKEN WHICH IS CONTRARY TO THE HUD LOAN DOCUMENTS (AS DEFINED BELOW), NOR WHICH PROVIDES A REMEDY FOR FAILURE TO TAKE SUCH ACTION; (B) NO PROVISION OF THIS DECLARATION WILL HAVE FORCE OR EFFECT WHICH PROHIBITS AN ACTION TO BE TAKEN WHICH IS REQUIRED BY THE HUD LOAN DOCUMENTS, NOR WHICH PROVIDES A REMEDY FOR TAKING SUCH AN ACTION; (C) NO SPECIAL ASSESSMENT SHALL BE LEVIED AGAINST SUCH PORTION OF UNIT 1 WITHOUT THE PRIOR WRITTEN APPROVAL OF HUD OR THE MORTGAGEE OF THE HUD-INSURED MORTGAGE, NOR SHALL ANY LIEN TO ENFORCE SUCH SPECIAL ASSESSMENT AGAINST SUCH UNIT BE VALID OR ENFORCEABLE AGAINST SUCH PORTION OF UNIT 1 WITHOUT THE PRIOR WRITTEN APPROVAL OF HUD OR THE MORTGAGEE OF THE HUD-INSURED MORTGAGE; AND (D) NO AMENDMENT OF ANY PROVISION OF THIS DECLARATION (INCLUDING ANY AMENDMENT MADE PURSUANT TO THE PROVISIONS OF SECTION 16.3 OF THIS DECLARATION) OR THE OTHER CONDOMINIUM DOCUMENTS RELATING TO SUCH PORTION OF UNIT 1 SHALL HAVE ANY FORCE OR EFFECT WITHOUT THE PRIOR WRITTEN APPROVAL OF HUD OR THE MORTGAGEE OF THE HUD-INSURED MORTGAGE. FOR PURPOSES OF THE FOREGOING PROVISION, THE TERM "HUD LOAN DOCUMENTS" SHALL MEAN AND REFER TO ANY AND ALL DOCUMENTS EVIDENCING, SECURING OR OTHERWISE EXECUTED IN FAVOR OF HUD IN CONJUNCTION WITH A HUD-HELD OR HUD-INSURED MORTGAGE, INCLUDING THE HUD MORTGAGE, AND THE HUD REGULATORY AGREEMENT FOR MULTIFAMILY HOUSING PROJECTS.

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15.6 **Insurance Related to HUD Loan.** NOTWITHSTANDING ANY OTHER PROVISION OF THE CONDOMINIUM DOCUMENTS REGARDING INSURANCE, FOR SO LONG AS HUD IS EITHER A HOLDER OR INSURER OF A MORTGAGE ON ANY PORTION OF UNIT 1, THE ASSOCIATION SHALL PROCURE AND MAINTAIN INSURANCE POLICIES PROVIDING COVERAGE FOR LOSSES BY FIRE AND SUCH OTHER HAZARDS ON SUCH PORTION OF UNIT 1 AS HUD AND/OR THE MORTGAGEE OF SUCH HUD-INSURED MORTGAGE MAY, FROM TIME TO TIME, REQUIRE (COLLECTIVELY, THE "HUD-REQUIRED POLICIES"). IN SUCH EVENT, THE PREMIUMS FOR THE HUD-REQUIRED POLICIES SHALL BE A COMMON EXPENSE. THE ASSOCIATION SHALL, STARTING ON THE FIRST DAY OF THE MONTH AFTER THE DATE OF ANY HUD-INSURED MORTGAGE, AND CONTINUING ON THE FIRST DAY OF EACH CONSECUTIVE MONTH THEREAFTER UNTIL HUD NO LONGER HOLDS OR INSURES SUCH MORTGAGE, PAY TO THE MORTGAGEE OF THE HUD-INSURED MORTGAGE (OR SUCH OTHER PERSON AS HUD OR SUCH MORTGAGEE SHALL DIRECT) AN AMOUNT SUFFICIENT TO ACCUMULATE IN THE HANDS OF SUCH MORTGAGEE (OR ITS DESIGNEE) THE TOTAL PREMIUMS DUE ON ALL OF THE HUD-REQUIRED POLICIES AT LEAST ONE MONTH BEFORE SUCH PREMIUMS AND CHARGES ARE DUE. THE MORTGAGEE OF THE HUD-INSURED MORTGAGE (OR ITS

DESIGNEE) SHALL HOLD SUCH FUNDS IN TRUST TO BE USED SOLELY FOR THE TIMELY PAYMENT OF THE PREMIUMS DUE ON THE HUD-REQUIRED POLICIES.

UPON WRITTEN REQUEST, DUPLICATE ORIGINALS OF ALL HUD-REQUIRED POLICIES AND OF ALL RENEWALS THEREOF SHALL BE DELIVERED BY THE BOARD TO HUD AND ANY MORTGAGEE OF A UNIT WITH A HUD-INSURED MORTGAGE. ALL INSURANCE COMPANIES PROVIDING THE HUD-REQUIRED POLICIES SHALL BE SUBJECT TO THE APPROVAL OF HUD OR THE MORTGAGEE OF THE HUD-INSURED MORTGAGE.

ALL HUD-REQUIRED POLICIES SHALL BE ENDORSED WITH STANDARD MORTGAGEE CLAUSES PROVIDING THAT LOSSES SHALL BE INITIALLY PAYABLE TO THE MORTGAGEE OF THE HUD-INSURED MORTGAGE. THESE POLICIES SHALL PROVIDE THAT THEY MAY NOT BE CANCELED, NON-RENEWED OR SUBSTANTIALLY MODIFIED, BY THE INSURER FOR ANY REASON OTHER THAN NON-PAYMENT WITHOUT AT LEAST THIRTY (30) DAYS' PRIOR WRITTEN NOTICE TO ANY MORTGAGEE OF A UNIT WITH A HUD-INSURED MORTGAGE (FOR SUCH TIME AS HUD IS THE HOLDER OR INSURER OF SUCH MORTGAGE). ALL PROCEEDS GENERATED FROM SUCH POLICIES SHALL BE HELD BY THE MORTGAGEE OF THE HUD-INSURED MORTGAGE IN TRUST UNTIL SUCH TIME AS THERE IS A DETERMINATION WHETHER TO REBUILD AND REPAIR THE DAMAGE UNDER THE BYLAWS (IN WHICH CASE, THE INSURANCE PROCEEDS SHALL BE USED FOR THAT PURPOSE), OR TO PARTITION THE CONDOMINIUM (IN WHICH CASE, THE INSURANCE PROCEEDS SHALL BE DISTRIBUTED PURSUANT TO SECTION 703.18(2)(B) OF THE WISCONSIN STATUTES).

15.7 **Application and Effect.** The provisions of this Article XV shall supersede any inconsistent provision herein or in the other Condominium Documents. No amendment to this Declaration shall affect the rights of a Mortgagee of a Unit whose interest was recorded prior to the recordation of any such amendment unless such Mortgagee consents in writing to such amendment. NOTWITHSTANDING ANY OTHER PROVISION OF THE CONDOMINIUM DOCUMENTS, FOR SUCH TIME AS HUD EITHER OWNS OR INSURES A MORTGAGE AGAINST UNIT 1, THE FOREGOING PROVISIONS OF THIS ARTICLE XV RELATING TO HUD OR THE MORTGAGEE OF A HUD-INSURED MORTGAGE, SHALL NOT BE REVOKED OR OTHERWISE MODIFIED WITHOUT THE PRIOR WRITTEN CONSENT OF HUD AND THE MORTGAGEE OF THE HUD-INSURED MORTGAGE.

## ARTICLE XVI

### Miscellaneous Provisions

16.1 **Definitions.** Except as otherwise provided in other Sections of this Declaration, the following terms, when used in this Declaration, shall have the meanings specified for such terms below, and derivatives thereof shall be interpreted accordingly:

- (a) "AAA"— as defined in Section 16.6 of this Declaration.

- LICENSED TO PROPERTY INSIGHT, DIVISION OF E.C. PURCHASE.COM/NC FOR SINGLE USE, REUSE, OR FOR RESALE IN BULK FORM.
- (b) “Affiliates”— of a Person means (i) any individual or entity controlling, controlled by, or under common control with such Person; (ii) any direct or indirect shareholder, member, partner or other owner of such Person; and (iii) any director, manager, member, officer, employee or other official of such Person.
  - (c) “Application” — as defined in Section 13.5 of this Declaration.
  - (d) “Articles” — shall mean the Articles of Organization for the Association.
  - (e) “Assessment Interests” — as defined in the Preamble to this Declaration.
  - (f) “Association” — as defined in the Preamble to this Declaration.
  - (g) “Board” — as defined in the Preamble to this Declaration.
  - (h) “Buildings” — as defined in the Recitals to this Declaration.
  - (i) “Bylaws”— as defined in the Preamble to this Declaration.
  - (j) “Commercial Purposes”— shall mean any retail, leisure, office and/or healthcare use (including, but not limited to, any hotel, resort, retailer, medical office, medical practice, grocery, and/or restaurant use) and/or any use allowed under any zoning applicable to the Unit (or any portion thereof) at issue, including but not limited to the DPD.
  - (k) “Common Elements” — shall mean the Limited Common Elements and General Common Elements as defined and described in the Recitals to this Declaration and Article III.
  - (l) “Common Expenses” — as defined in Section 7.1(a) of this Declaration.
  - (m) “Condominium” — as defined in the Recitals to this Declaration.
  - (n) “Condominium Act”— as defined in the Recitals to this Declaration.
  - (o) “Condominium Documents”— as defined in the Preamble to this Declaration.
  - (p) “Couture” — as defined in the Recitals to this Declaration.
  - (q) “Couture Parking” — as defined in the Recitals of this Declaration.
  - (r) “Declarants”— as defined in the Recitals to this Declaration, including successors as such, whether pursuant to Section 703.09(4) of the Condominium Act or otherwise.

LICENSED TO PROPERTY INSIGHT, A DIVISION OF EC PROCHAMING.COM, S.C. AND NOT FOR MULTIPLE REUSE, OR FOR RESALE IN BUSINESS FOR

- (s) “Declaration” —as defined in the Recitals to this Declaration of Condominium.
- (t) “Designation of Areas”— as defined in the Preamble to this Declaration. The Designation of Areas is only meant to identify those areas of the Condominium defined in Article 2 of this Declaration.
- (u) “Designees”— shall mean employees, agents, representatives, contractors, vendors, service providers and/or materials suppliers.
- (v) “DPD” — as defined in the Preamble to this Declaration.
- (w) “Floor Plans”— as defined in the Preamble to this Declaration.
- (x) “Future Tower” — as defined in the Preamble to this Declaration.
- (y) “Future Tower Construction Conditions” —as defined in Section 5.3(f) of this Declaration.
- (z) “General Common Elements” — as defined in Section 3.2 of this Declaration.
- (aa) “Generator Area” — as defined in Section 3.3(c)3. of this Declaration.
- (bb) “Governmental Regulations”— shall mean any and all laws, rules, regulations, ordinances, orders, decrees or other requirements issued or promulgated by any government, agency, instrumentality, entity, court or other authority having jurisdiction in connection therewith.
- (cc) “HNTB Drawings” — shall mean the March 14, 2018, IFC Plans, Project WI-03-0095-01, designed by HNTB Corporation, as may be further amended or revised.
- (dd) “HUD”— shall mean the United States Department of Housing and Urban Development.
- (ee) “HUD Loan Documents” — as defined in Section 15.5 of this Declaration.
- (ff) “HUD-Required Policies” — as defined in Section 15.6 of this Declaration
- (gg) “Invitees”— shall mean any Person (other than a Unit Owner) lawfully present on or seeking lawful access to any portion of the Condominium. “Invitees” shall be construed as broadly as possible and shall include, but not be limited to:

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1. all tenants, licensees or occupants of, or any businesses operating on, any portion of any Unit (collectively, the “Occupants”);
2. all family members, guests, employees, customers (whether actual or prospective), owners, agents, representatives, contractors, vendors, service providers and/or materials suppliers of (a) any Unit Owner and/or any portion of any Unit (b) any of the Occupants, and/or (c) relating to any portion of any Unit; and
3. any private, municipal and/or governmental service providers, including but not limited to, providers of postal, delivery, emergency, medical, police, fire, water, electric, communication, garbage collection, recycling, and/or utility services.

If any Unit Owner is a trust, “Invitees” shall include (in addition to the other Persons and entities identified in this Section 16.1(x)) all trustees and beneficiaries of such trust, and all of the Persons enumerated in this Section 16.1(x) of such trustee or beneficiary. If any Unit Owner is an entity, “Invitees” shall include (in addition to the other Persons identified in this Section 16.1(x)) all members, managers, directors, officers, shareholders, stockholders, affiliates and/or partners of such entity, and any of the other persons or entities enumerated in this Section 16.1(w) of such persons or entities. For clarity, “Invitees” and “Occupants” do not include any Unit Owner.

- (hh) “Joint Columns” —as defined in Section 3.3(c)1. of this Declaration.
- (ii) “Land”— as defined in the Recitals to this Declaration.
- (jj) “Level”— is used in connection with a specific designation on the Plat (i.e., “Level 2”, “Level 4”, etc.) shall mean those levels of the Condominium as shown on the Plat.
- (kk) “Limited Common Elements” — as defined in Section 3.3 hereof.
- (ll) “LLC Act”— as defined in the Preamble to this Declaration.
- (mm) “No Build Area” — as defined in Section 12.3 of this Declaration.
- (nn) “Master Association”— shall mean a profit or nonprofit corporation or unincorporated association which exercises the powers under Section 703.15(3) of the Condominium Act on behalf of one or more condominiums or for the benefit of the unit owners of one or more condominiums.

LICENSED TO PROPERTY INSIGHT, DIVISION OF ARCHIVING.COM, INC. AND NOT FOR SUBLICENSE, RE-CENSE, OR FOR REUSE IN BULK FORM.

- (oo) "Mortgage" or "Mortgage on a Unit"— shall mean a recorded mortgage or land contract vendor interest encumbering such Unit, or as otherwise defined in Section 15.1 of this Declaration.
- (pp) "Mortgagee" or "Mortgagee of a Unit"— shall mean a holder of a Mortgage on such Unit.
- (qq) "Parking Garage Structures"— shall mean the U-2 Parking Garage and any and all facilities or improvements necessary for the operation of the U-2 Parking Garage including, but not limited to, any piles, foundations, footings, structural foundation elements, sump pumps, drainage facilities, utility facilities and/or other Service Facilities serving Unit 2 for the U-2 Parking Garage.
- (rr) "Pedestrian Bridge" or "Pedestrian Bridges" — as defined in Section 5.2(a) of this Declaration.
- (ss) "Percentage Interests"— as defined in the Preamble to this Declaration.
- (tt) "Pedestrian Walkway" or "Pedestrian Walkways" — as defined in Section 5.2(b) of this Declaration.
- (uu) "Person"— shall mean any natural person or entity, whether or not a party to any of the Condominium Documents.
- (vv) "Plat"— as defined in the Preamble to this Declaration.
- (ww) "President"— shall mean the President (from time to time) of the Association.
- (xx) "RCA Drawings" — as defined in the Preamble to this Declaration.
- (yy) "Hub MKE" — as defined in the Recitals to this Declaration.
- (zz) "RT Lane" — as defined in Section 2.1(c)1.ii of this Declaration.
- (aaa) "Rules & Regulations"— as defined in the Preamble to this Declaration.
- (bbb) "Secondary Loading Dock" – as defined in Section 2.1(c)1.iii of this Declaration.
- (ccc) "Secretary"— shall mean the Secretary (from time to time) of the Association.

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- (ddd) "Security Command Center" — shall mean any area specifically designated within the Condominium as the central area for security systems servicing Unit 1 and Unit 2.
- (eee) "Service Facilities"— shall mean any or all utility, electrical, mechanical, plumbing, and fire protection systems, connections, facilities and equipment located within and/or otherwise servicing the Condominium, as well as all other connections, systems, facilities and equipment located within and/or otherwise servicing the Condominium. Service Facilities shall include, but not be limited to, any or all heating, ventilation, air conditioning and exhaust fans, pipes, ducts, vents, flues, plenums, chases, soffits, chimneys and other connections, systems, facilities and equipment related thereto; all electrical, telephone, television, computer, communications, security, security lighting, life safety, fire protection, fire alarm and other utility cables, wires, lines, conduits, hoses, panels, junction boxes, fixtures, receptacles, panel boards and other connections, systems, facilities and equipment related thereto; and all gas, water, sanitary sewer and storm water mains, laterals, pipes, pumps, drains, valves, conduits, hoses and other connections, systems, facilities and equipment related thereto.
- (fff) "Streetcar" — as defined in Section 2.1(c) of this Declaration.
- (ggg) "Streetcar Amenities" — as defined in Section 2.1(c)1.i of this Declaration.
- (hhh) "Streetcar Lane" — as defined in Section 2.1(c)1.i of this Declaration.
- (iii) "Streetcar Loading Platform" — as defined in Section 2.1(c)1.i of this Declaration.
- (jjj) "Streetcar Facilities" — as defined in Section 2.1(c)1.i of this Declaration.
- (kkk) "Sub-Association" — as defined in Section 10.1 of this Declaration.
- (lll) "Sub-Bylaws" — as defined in Section 10.1 of this Declaration.
- (mmm) "Sub-Common Elements" as defined in Section 10.1 of this Declaration.
- (nnn) "Sub-Condominium" — as defined in Section 10.1 of this Declaration.
- (ooo) "Sub-Condominium Documents" — as defined in Section 10.1 of this Declaration.
- (ppp) "Sub-Plat" — as defined in Section 10.1 of this Declaration.
- (qqq) "Sub-Unit or "Sub-Units" — as defined in Section 10.1 of this Declaration.

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(rrr) "Survey"— as defined in the Preamble to this Declaration.

(sss) "Temporary Construction Conditions" — as defined in Section 13.1 of this Declaration.

(ttt) "Transit Area" — as defined in Section 2.1(c)3. of this Declaration.

(uuu) "Transit Concourse" — as defined in Section 2.1(c)2. of this Declaration.

(vvv) "Transit Lane" — as defined in Section 2.1(c)1. of this Declaration.

(www) "Transit Area Gates" — shall mean any gates, bollards or other mechanisms designed to control access to and from all or any portion of the Transit Area, including (without limitation) the improvements identified as Transit Area Gate on the L1 Floor Plan of the Designation of Areas.

(xxx) "Transit Area Structures"— shall mean any and all facilities or improvements necessary for the support of the Transit Area as identified in the RCA Drawings.

(yyy) "U-1 Amenity Deck" — as defined in Section 2.1(a)5. of this Declaration.

(zzz) "U-1 Bridge" — as defined in Section 2.1(a)7. of this Declaration.

(aaa) "U-1 Foundation" — as defined in Section 2.1(a)1. of this Declaration.

(bbb) "U-1 Greenspace and Retail Connection"— as defined in Section 2.1(a)8. of this Declaration.

(ccc) "U-1 LCEs" — as defined in Section 3.3(a) of this Declaration.

(ddd) "U-1 Mechanical/IT Equipment" — as defined in Section 14.7(k) of this Declaration.

(eee) "U-1 Parking Deck" — as defined in Section 2.1(a)2. of this Declaration.

(fff) "U-1 Pedestrian Bridge Structures" — as defined in Section 2.1(a)2(a) of this Declaration.

(ggg) "U-1 Ramp" — as defined in Section 14.7(a) of this Declaration.

(hhh) "U-1 Retail Building" — as defined in Section 2.1(a)4. of this Declaration.

(iii) "U-1 Tower" — as defined in Section 2.1(a)3. of this Declaration.

- LICENSED TO PROPERTY INSIGHT, DIVISION EC RECRUITING.COM, INC. AM NOT UR SUPPLEMENTAL TO THE USE OF THE SOFTWARE IN BUYER.
- (jjjj) “U-1 Walkway and Concourse” — as defined in Section 2.1(a)6. of this Declaration.
  - (kkkk) “U-2 Connecting Equipment” — as defined in Section 14.8(c) of this Declaration.
  - (llll) “U-2 Foundation” — as defined in Section 2.1(b)1. of this Declaration.
  - (mmmm) “U-2 LCEs” — as defined in Section 3.3(b) of this Declaration.
  - (nnnn) “U-2 Mechanical/IT Equipment” — as defined in Section 14.8(c) of this Declaration.
  - (oooo) “U-2 Parking Garage” — as defined in Section 2.1(a)3. of this Declaration.
  - (pppp) “U-2 Pedestrian Walkway Structures” — as defined in Section 5.2(b) of this Declaration.
  - (qqqq) “U-2 Utility Area” — as defined in Section 2.1(b)2. of this Declaration.
  - (rrrr) “U-1/U-2 LCEs” — as defined in Section 3.3(c) of this Declaration.
  - (ssss) “Unit Schedule” — as defined in the Preamble to this Declaration.
  - (tttt) “Unit” or “Units” — as defined in the Recitals to this Declaration.
  - (uuuu) “Unit Owner” — as defined in the Recitals to this Declaration and shall include any Person holding an equitable ownership interest as a land contract vendee in a Unit. Each Declarant and each Person subsequently holding legal title or an equitable ownership interest in a Unit shall cease to be a “Unit Owner” as to any Unit in which they hold legal title or an equitable interest upon such Person’s transfer of his, her or its interest in such Unit.
  - (vvvv) “Unit 1 Owner” — shall mean all Unit Owners of Unit 1. For clarity, Couture and each Person subsequently holding legal title or an equitable ownership interest in Unit 1 shall cease to be a “Unit 1 Owner” upon Couture’s or such Person’s transfer of his, her or its interest in Unit 1.
  - (wwww) “Unit 2 Owner” — shall mean all Unit Owners of Unit 2. For clarity, Couture Parking and each Person subsequently holding legal title or an equitable ownership interest in Unit 2 shall cease to be a “Unit 2 Owner” upon Couture Parking’s or such Person’s transfer of his, her or its interest in Unit 2.

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(xxxx) "Unit 3 Owner"— shall mean all Unit Owners of Unit 3. For clarity, Hub MKE and each Person subsequently holding legal title or an equitable ownership interest in Unit 3 shall cease to be a "Unit 3 Owner" upon Hub MKE's or such Person's transfer of his, her or its interest in Unit 3.

(yyyy) "Unit Service Facilities" — as defined in Section 2.3(c) of this Declaration.

(zzzz) "Votes"— as defined in the Preamble to this Declaration.

(aaaaa) "Wisconsin Statutes"— shall mean the statutes of the state of Wisconsin.

16.2 **Interpretation.** In interpreting this Declaration, the following rules shall be applied:

(a) **Conflict.** Unless otherwise expressly provided in this Declaration, the provisions of Section 703.30(4) shall control any conflicts that may exist between any of the documents associated with the Condominium.

(b) **Headings.** The headings of this Declaration are intended for convenience only and shall not affect meaning or interpretation hereof.

(c) **Number, Gender.** Whenever the context so permits, (a) the singular shall include the plural and the plural shall include the singular; and (b) any gender shall include all genders.

(d) **References.** References to any statute, document, exhibit or other authority or to provisions therein shall be deemed (i) to refer to such authority or provision as in effect on the date hereof, and as renumbered or otherwise amended hereafter to the extent that incorporation of such amendment(s) is consistent with the purposes of this Declaration and (ii) to incorporate herein and make a part hereof by such reference such authority and all authorities promulgated thereunder or otherwise related thereto to the extent appropriate to accomplish the purpose of such reference.

(e) **Non-exhaustive.** The word "including" shall mean "including, without limitation."

16.3 **Amendments.**

(a) In addition to the provisions of Article XIII and other provisions hereof, and except to the extent provided in Section 15.5(d) or otherwise restricted herein, this Declaration may also be amended with the consent of Unit Owners entitled to vote at least two-thirds (2/3) of the aggregate number of Votes as provided in Sections 703.09 and/or 703.093 of the Condominium Act.

(b) FOR SO LONG AS THE CITY OF MILWAUKEE IS THE UNIT 3 OWNER, WITHOUT THE PRIOR WRITTEN APPROVAL OF THE CITY OF MILWAUKEE,

THIS DECLARATION MAY NOT BE AMENDED TO (I) ALTER THE SIZE, LOCATION AND/OR CONFIGURATION OF THE TRANSIT LANE OR STREETCAR LOADING PLATFORM OR (II) INCREASE THE CITY OF MILWAUKEE'S MAINTENANCE, REPAIR AND/OR RESTORATION OBLIGATIONS WITHIN UNIT 3 OR ANY OTHER UNIT IN THE CONDOMINIUM FROM THE OBLIGATIONS SET FORTH IN THIS DECLARATION OR (III) MODIFY THE CITY OF MILWAUKEE'S MONETARY OBLIGATIONS SET FORTH IN THIS DECLARATION. FOR SO LONG AS THE CITY OF MILWAUKEE IS THE UNIT 3 OWNER, THE PROVISIONS OF THIS SECTION 16.3(b) SHALL NOT BE AMENDED WITHOUT THE PRIOR WRITTEN APPROVAL OF THE CITY OF MILWAUKEE.

16.4 **Enforcement.** In addition to the other remedies available to the Association, the Association shall have the right to collect from any Unit Owner who is in violation beyond any applicable cure period provided in the Condominium Documents, a fine for each day such violation continues in such amount as may be set forth in the Bylaws or the Rules and Regulations from time to time.

16.5 **Injunctive Relief.** Each of the Unit Owners acknowledges that the nonmonetary provisions of this Declaration and the other Condominium Documents are reasonable and necessary to protect the legitimate interests of Declarants and the Association, and that breach of any such provisions by such Unit Owner would cause irreparable harm to the other Declarants, the other Unit Owners and/or the Association, which injury could not be fully measured or compensated by money damages and for which there would be no other adequate remedy at law. Accordingly, such Unit Owner hereby agrees that, in the event of any such breach, the other Declarants, Unit Owners and/or the Association shall be entitled to obtain, in addition to such other legal and/or equitable relief as may be appropriate, temporary restraining orders and temporary and permanent injunctions preventing further such breaches and hereby waives, to the fullest extent permitted by law, any bond in connection with such orders and injunctions.

16.6 **Arbitration.** Except with respect to matters described in the foregoing Section 16.5 and the enforcement of payment of unpaid assessments, all disputes between or among Unit Owners, Declarants and/or the Association arising out of or relating in any way to the Condominium or the Condominium Documents shall be settled by arbitration conducted in Milwaukee, Wisconsin and otherwise in accordance with whatever procedures are mutually agreed upon by the parties thereto or, if they fail to so agree, in accordance with the Commercial Arbitration Rules of the American Arbitration Association (the "AAA"). The arbitrator shall be such person(s) as are mutually agreed upon by the parties thereto or, if they fail to so agree, arbitrator(s) selected in accordance with the AAA procedure for that purpose. If the parties fail to agree on the arbitrator(s) for any dispute subject to this Section, either party may commence the AAA procedure for doing so upon ten (10) days' notice thereof to the other party. There shall be only one (1) arbitrator, except that, in disputes involving more than two hundred fifty thousand dollars (\$250,000.00), a party may elect to have three (3) arbitrators upon notice thereof to the other party(ies) thereto at any time prior to the designation of arbitrator(s) under the foregoing provisions of this Section (or, if earlier, the commencement of the AAA process for doing so). In such event, the decision of a majority of such arbitrators shall be controlling. The arbitrator(s) shall award all or any portion of the attorneys' fees, arbitration costs and/or other expenses to a prevailing party in such proceedings if the arbitrator(s) determine that an opposing party was not

acting in good faith and/or was acting without substantial justification with respect to the arbitration and/or the dispute to which such fees, costs and expenses relate. Otherwise, the costs of the arbitrator(s) shall be borne equally by all parties, and each party shall pay its own legal and other fees and expenses in connection with such arbitration. The award rendered by the arbitrator(s) shall be final and binding on all parties and may be entered and enforced by any court of competent jurisdiction. The arbitrator(s) shall have no authority to award punitive damages. In the event that any party to a dispute fails to cooperate with arbitration proceedings instituted pursuant to this Section, any other party to such dispute shall be entitled to recover reasonable attorneys' fees and expenses in connection with enforcing such party's rights under this Section, in addition to such other legal and/or equitable relief as may be appropriate. Notwithstanding any provisions in the Condominium Documents, the provisions of this Section 16.6 shall not apply to HUD or any Mortgagee of a Mortgage of a Unit insured by HUD or to Unit 3 Owner if and during any such time that Unit 3 is owned by the City of Milwaukee.

16.7 **Jurisdiction.** This Declaration shall be governed by, and construed and enforced in accordance with, the internal laws of the state of Wisconsin. Each Unit Owner, Declarants, the Association and any other Person asserting rights appurtenant to the Condominium hereby stipulates and agrees that, subject to Section 16.6 of this Declaration, any action or other legal proceeding arising under or in connection with the Condominium or the Condominium Documents shall be commenced and tried in its entirety in either the United States District Court for the Eastern District of Wisconsin (if such court has proper subject-matter jurisdiction) or the Wisconsin Circuit Court for Milwaukee County, Wisconsin, and each such person hereby agrees not to assert in any such action or proceeding that either of such courts lacks personal jurisdiction or is not a convenient forum and hereby waives, to the fullest extent permitted by law, any other right to contest the jurisdiction and/or venue thereof.

16.8 **Notices.** Any notice or other communication required or allowed by this Declaration or any of the other Condominium Documents to be given to a Unit Owner of a Unit shall be sufficiently given if delivered to any Unit Owner of such Unit, regardless of the number of Unit Owner(s) having an interest therein. Each Unit Owner shall provide the Secretary with an address for the mailing of any such notices or other communications. Any such notices and other communications shall be deemed sufficiently delivered if in writing and personally delivered to any such Unit Owner or mailed to any such Unit Owner at the address so provided, or if no address was so provided, to the address of such Unit. Notices and other communications hereunder to the Association shall be in writing and personally delivered to the agent then designated pursuant to Section 1.3 hereof or mailed to such agent at the address then designated pursuant thereto. Notices delivered in person as provided above shall be effective immediately; notices mailed as provided above shall be effective three (3) days after the deposit, with postage prepaid, in the United States Mail.

16.9 **No Waiver.** The failure of the Association to insist, in any one or more instances, upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration, or to exercise any right or option set forth in this Declaration, or to serve any notice or institute any action to assert or otherwise enforce any such term, covenant, condition, restriction, right or option, shall not be construed as a waiver or other relinquishment of such term, covenant, condition, restriction, right or option, and such term, covenant, condition, restriction, right or

option shall remain in full force and effect. The receipt, deposit and/or collection by the Association of payment of any assessment by a Unit Owner, whether or not with knowledge of the breach of any covenant hereof, shall not be deemed as a waiver of any such breach. No waiver by the Association of rights in any one or more instances under any provision hereof shall be effective unless in writing and signed thereby, and no such waiver shall affect their rights under any other provision or with respect to any other instances. A suit to recover a money judgment for unpaid assessments shall be maintainable in any court identified in Section 16.7, without foreclosing or waiving any lien securing same.

16.10 **Further Assurance.** Each Unit Owner shall execute and deliver such documents (including powers of attorney or other documents relating to amendments of this Declaration pursuant to its terms), and take such other actions at any time and from time to time hereafter as may be reasonably requested by the Board to carry out the provisions or purposes of this Declaration or the other Condominium Documents.

16.11 **Severability.** In the event that any provision of this Declaration is ever finally determined to be wholly or partially illegal, invalid or unenforceable, either in all jurisdictions and circumstances or in particular jurisdictions and circumstances, such provision shall be deemed severed herefrom in those jurisdictions and circumstances as to which it is so determined to be wholly illegal, invalid or unenforceable and shall be deemed limited to the extent required in those jurisdictions and circumstances as to which it is so determined to be partially illegal, invalid or unenforceable, and such severance or limitation shall not affect the legality, validity or enforceability of any other provisions hereof or of such provision to the extent not so severed or limited.

16.12 **Run with Land.** This Declaration shall run with the Land and with each of the Units and shall inure to the benefit of and be binding upon Declarants and all subsequent Unit Owners, and all other successors in interest in the Condominium.

## **ARTICLE XVII** **Association Disclaimers**

17.1 **Liability.** Notwithstanding anything contained herein or in the other Condominium Documents, the Association and Declarants shall not be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Unit Owner or any other Person present in any portion of the Condominium.

17.2 **Personal Property.** Each Unit Owner or other Person with personal property located in, on or about the Condominium shall be responsible for such personal property. Notwithstanding anything contained herein or in the other Condominium Documents, neither the Board, the Association, any Unit Owner nor Declarants shall be: (a) considered a bailee of any personal property stored within the Common Elements (including property located in vehicles parked in, on or about the Condominium) or (b) responsible for the security of such personal property or for any loss or damage thereto.

17.3 **Waiver.** Each Person present, or having personal property present, in, on or about the Condominium shall be bound by the provisions of this Article XVII and shall be deemed, by such presence, to have automatically waived any and all rights, claims, demands and causes of action against the Association arising from or connected with any matter for which the liability of the Association has been disclaimed herein.

**ARTICLE XVIII**  
**Declarants' Disclaimers**

18.1 **Construction Issues.** NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY, ARE MADE BY DECLARANTS TO THE ASSOCIATION, ANY UNIT OWNER OR ANY OTHER PERSON REGARDING THE PAST OR FUTURE PERFORMANCE OR QUALITY OF ANY PORTION OF THE CONDOMINIUM. ANY IMPLIED WARRANTY BY DECLARANTS OF SATISFACTORY PERFORMANCE OR THAT THE BUILDING, OR ANY UNITS, COMMON ELEMENTS, LIMITED COMMON ELEMENTS AND/OR SERVICE FACILITIES ASSOCIATED THEREWITH, ARE OR WILL BE REASONABLY ADEQUATE FOR USE AND OCCUPANCY PURSUANT TO SECTION 706.10(7) OF THE WISCONSIN STATUTES OR OTHERWISE IS HEREBY EXPRESSLY DISCLAIMED AND EXCLUDED. ANY OTHER EXPRESS OR IMPLIED WARRANTIES OF DECLARANTS UNDER COMMON LAW, INCLUDING ANY DUTY TO PERFORM WORK IN GOOD, WORKMANLIKE AND SATISFACTORY MANNER, ARE HEREBY ALSO EXPRESSLY DISCLAIMED AND EXCLUDED.

18.2 **Noise and Views.** FURTHER, DECLARANTS MAKE NO REPRESENTATION OR WARRANTY THAT THE VIEW FROM ANY UNIT WILL NOT BE OBSTRUCTED OR OTHERWISE CHANGED IN WHOLE OR IN PART AT ANY TIME IN THE FUTURE. THE UNIT OWNERS ACKNOWLEDGE THAT THEY ARE PURCHASING UNIT(S) IN AN AREA THAT MAY EXPERIENCE CONSIDERABLE AND RAPID DEVELOPMENT, THAT SUCH DEVELOPMENT COULD AFFECT VIEWS AND THAT DECLARANTS HAVE NO OBLIGATION TO INVESTIGATE OR DISCLOSE ANY SUCH DEVELOPMENT IN THE AREA THAT ARE POSSIBLE, PLANNED, PERMITTED OR UNDER CONSTRUCTION, NOR DO DECLARANTS UNDERTAKE ANY DUTY TO PROTECT VIEWS. ANY UNIT OWNER DESIRING TO INVESTIGATE POTENTIAL FUTURE DEVELOPMENT IN THE AREA IS HEREBY REFERRED TO INFORMATION AVAILABLE FROM THE MUNICIPAL AUTHORITIES AND OTHER SOURCES.

18.3 **Non-Amendment.** Notwithstanding any other provision of the Condominium Documents, the limitations on liability contained in the foregoing Sections of this Article XVIII may not be revoked or otherwise modified without the prior written consent of all Unit Owners whose rights or obligation would be affected by such amendment.

[SIGNATURE PAGE FOLLOWS]



**EXHIBIT A  
LEGAL DESCRIPTION**

**PARCEL A:**

Lot 1 of Certified Survey Map No. 8914, recorded on May 12, 2017 as Document No. 10673467, being part of Lots 7 through 12 in Diederich's Subdivision; Part of Lot 1 in Block 98, and part of vacated East Wisconsin Avenue adjacent in Plat of Milwaukee; Lot 1 and part of Lots 2, 3, 4 and 9 in Block 99, Lots 1, 2, 3 and 4 in Block 109 and part of vacated North Marshall Street in the Division of 13.30 Acres; part of Government Lot 2 and lands, all in the Southwest 1/4 of the fractional Northeast 1/4, the Northwest 1/4 of fractional Southeast 1/4, the Northeast 1/4 of the Southwest 1/4 and the Southeast 1/4 of the Northwest 1/4 of Section 28, Township 7 North, Range 22 East, in the City of Milwaukee, County of Milwaukee, State of Wisconsin.

Tax Key No. 3960511000

Address: 909 E. Michigan Street, Milwaukee, WI

**PARCEL B:**

A non-exclusive easement for vehicular and pedestrian ingress and egress set forth on Easement Agreement recorded on August 30, 2016 as Document No. 10597895.

**EXHIBIT B  
UNIT SCHEDULE**

<b>Unit</b>	<b>Percentage Interests</b>	<b>Assessment Interests</b>	<b>Number of Votes</b>
1	87.18%	87.18%	87.18%
2	11.84%	11.84%	11.84%
3	0.98%	0.98%	0.98%
<b>Total</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>

LICENSED TO PROPERTY INSIGHTS, A DIVISION OF EC PURCHASING.COM INC. AND NOT FOR SUBLICENSE, RELICENSE, OR FOR RESALE IN BULK FORM.

**EXHIBIT C  
PLAT**

SEE THE ATTACHED PLAT

Please note that the attached copy of the Condominium Plat is not the official Plat, and may not be suitably legible due to its reduced size. Please consult the Plat on file with the Register of Deeds.

LICENSED TO PROPERTY RIGHT, A DIVISION OF EC PURCHASING.COM INC. AND NOT FOR SUBLICENSE, RELICENSE, OR FOR RESALE IN BULK FORM.

LICENSED TO PROPERTY INSIGHT, A DIVISION OF

**The Couture Lakefront, A Condominium**  
**City of Milwaukee, Milwaukee County, Wisconsin**  
**Condominium Plat**

- Table of Contents - Sheet 1**
- Survey of Property - Sheet 2**
- Plans - Sheets 3 - 19**
- Elevation Views Sheets 20 & 21**
- Designation of Areas Defined in Declaration - Sheets 22 through 28**

The Floor Plans shown on all sheets of this Plat are only approximations of the dimensions, square footage and layout of the Units, General Common Elements and Limited Common Elements. The Declarants reserve the right to modify the layout, location, dimensions and construction details of the Units, Common Elements and Limited Common Elements shown on the Floor Plans. Any such modification occurring after the sale of the Unit by a third party shall not substantially alter the nature, value or quality of the Units, Common Elements or Limited Common Elements as these factors relate to the Unit sold.

CC PURCHASING.COM INC. ANS

**UNIT AREA TABLE FOR LEVELS**

LEVEL	UNIT 1	UNIT 2	UNIT 3
B2	72,050 SF	20,427 SF	
R1	72,050 SF	20,427 SF	
L1	32,932 SF	42,321 SF	17,224 SF
L2	33,704 SF	58,773 SF	
L3	50,157 SF	42,320 SF	
L4	32,931 SF	59,546 SF	
<b>TOTAL</b>	<b>293,824 SF</b>	<b>243,814 SF</b>	<b>17,224 SF</b>

**roSmith**  
 1025 W. Wisconsin Ave.  
 Milwaukee, WI 53228-0000  
 (414) 778-1000  
 customerservice@rosmith.com

RELICENSE, OR FOR RESALE IN BULK FORM.



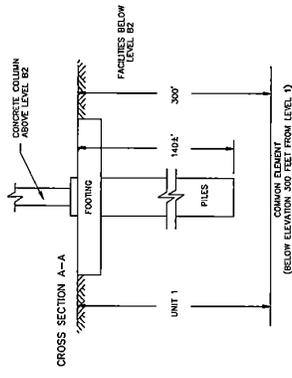
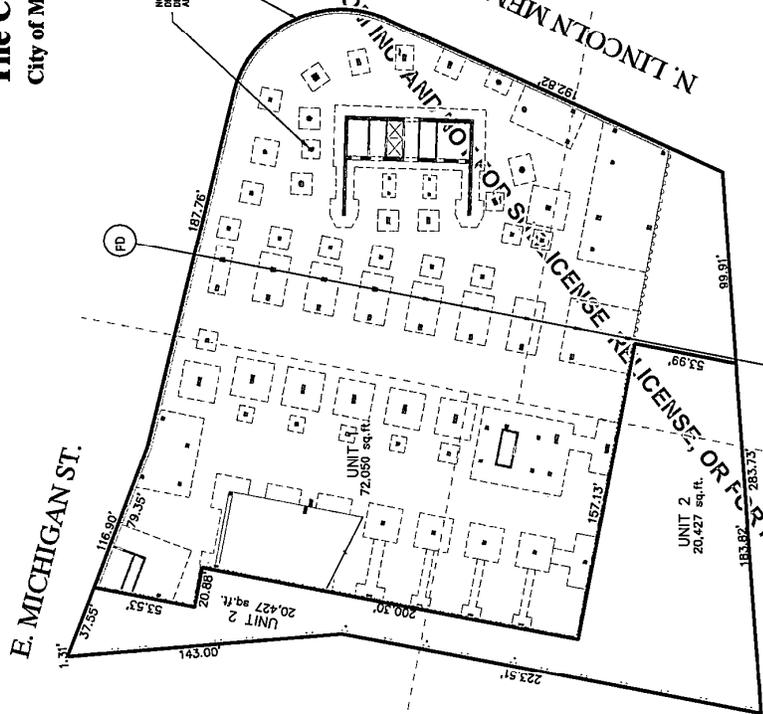
**The Couture Lakefront, A Condominium**  
 City of Milwaukee, Milwaukee County, Wisconsin

FLOOR PLANS PREPARED BY  
 RINKAJHUNG ARCHITECTURE, INC.  
 AND DEPICTS DESIGN INFORMATION.  
 LCE = LIMITED COMMON ELEMENT

SCALE: 1" = 40'-0"  
 GRAPHIC SCALE

NOTE:  
 DETAIL OF FLOOR PLAN  
 ABOVE LEVEL B2  
 DETAIL OF UNIT 1 IN AREAS WITH PILES  
 ABOVE LEVEL B2

CB=527.3256'E  
 CH=89.14'  
 R=58.00'  
 L=101.88'



**BELOW B2**

**raSmith**  
 1024 W. Howard Road  
 Brookfield, WI 53005-9733  
 (262) 781-1000  
 ra@raSmith.com

S:\166202\Draw\CP10\G40 - Master 1.dwg 1/BELOW B2.03

SHEET 3 OF 28 SHEETS

THE LOWER BOUNDARY OF UNITS 1 AND 2 SHALL  
 BE 300 FEET BELOW THE ELEVATION OF LEVEL 1.

NOT TO BE USED IN BULK FORM.

LICENSED TO PROPERTY

# The Couture Lakefront, A Condominium

City of Milwaukee, Milwaukee County, Wisconsin



FLOOR PLANS PREPARED BY  
FRANKKAI CHUNG ARCHITECTURE, INC.  
AND DEPICTS DESIGN INFORMATION.  
LCE = UNITED COMMON ELEMENT

THE FOLLOWING COLUMNS SHALL BE LIMITED COMMON ELEMENTS OF UNIT 1 AND UNIT 2: ALL OF THE COLUMNS LOCATED IN UNIT 1 TO THE WEST OF COLUMN LINE PD (BUT NOT INCLUDING COLUMN LINE PD).

E. MICHIGAN ST.

CB=527.32°56'E  
L=101.66'  
R=58.00'

N. LINCOLN MEMORIAL DR. AND N. WISCONSIN ST. FOR SUPPLIERS

MELICENS ST. UP FOR SALE IN BULK FORM.

## B2 FLOOR PLAN

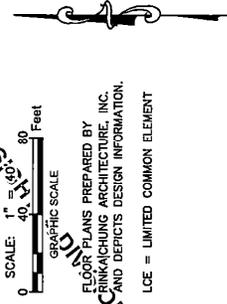
**raSmith**  
COMMERCIAL DESIGN  
10241 W. Emerald Road  
Milwaukee, WI 53205-9718  
(414) 791-1000  
www.ra-smith.com

S:\S16\2021\Draw\CP101640 - Master 1.dwg, 1/23/24

SHEET 4 OF 28 SHEETS

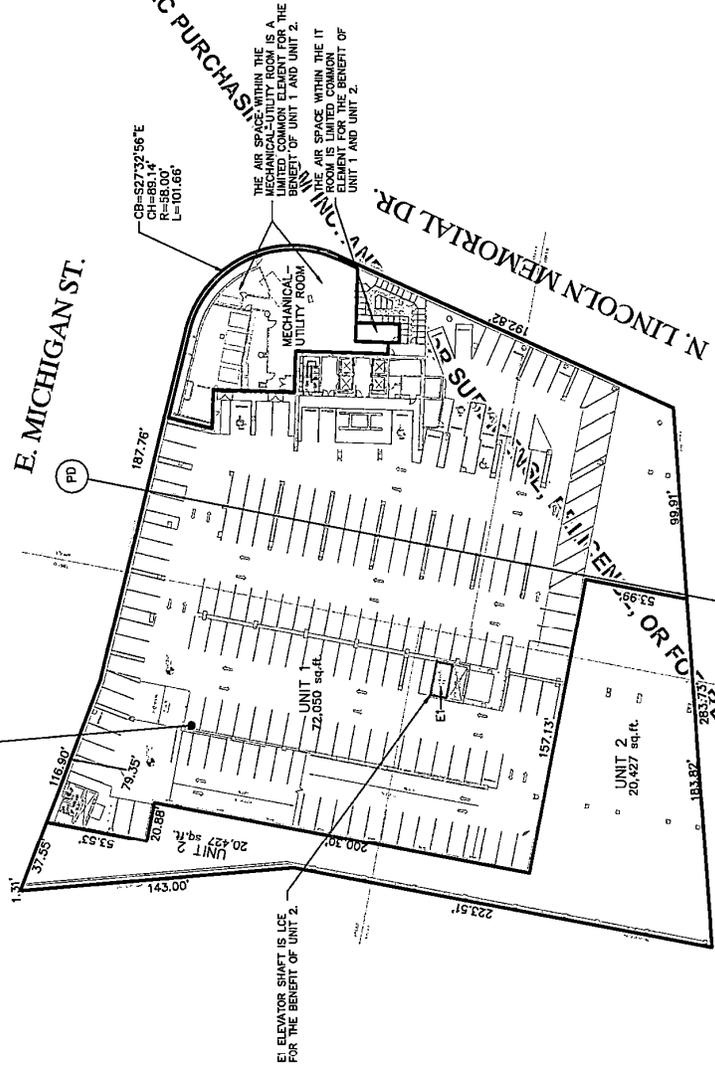
LICENSED TO PROPERTY

**The Couture Lakefront, A Condominium**  
 City of Milwaukee, Milwaukee County, Wisconsin.



FLOOR PLANS PREPARED BY  
 FRANKLIN ARCHITECTURE, INC.  
 AND DEPICTS DESIGN INFORMATION.  
 LCE = LIMITED COMMON ELEMENT

THE FOLLOWING COLUMNS SHALL BE LIMITED COMMON ELEMENTS OF UNIT 1 AND UNIT 2: ALL OF THE COLUMNS LOCATED IN UNIT 1 TO THE WEST OF COLUMN LINE PD (BUT NOT INCLUDING COLUMN LINE PD).



**B1 FLOOR PLAN**

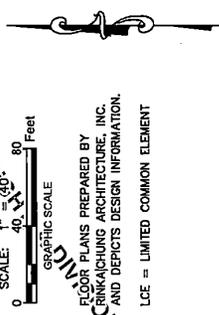
**roSmith**  
 10221 W. Howard Blvd  
 Brookfield, WI 53005-5619  
 (262) 781-1000  
 www.rosmith.com  
 S31162020Dwg/CP101640 - Master, 1.0g, 1.01.05

STREET 5 OF 28 SHEETS

OR FOR RESALE IN BULK FORM.

LICENSED TO PROPERTY

**The Couture Lakefront, A Condominium**  
 City of Milwaukee, Milwaukee County, Wisconsin



FLOOR PLANS PREPARED BY  
 RINKAICHUNG ARCHITECTURE, INC.  
 AND DEPICTS DESIGN INFORMATION.  
 LCE = LIMITED COMMON ELEMENT

**L1 FLOOR PLAN**

roSmith  
 10041 W. Milwaukee Road  
 Milwaukee, WI 53224-5839  
 (414) 731-1000  
 www.rosmith.com

S3116292Dwg.CP101G00 - Master, L1.dwg, 11.06

SHEET 6 OF 28 SHEETS

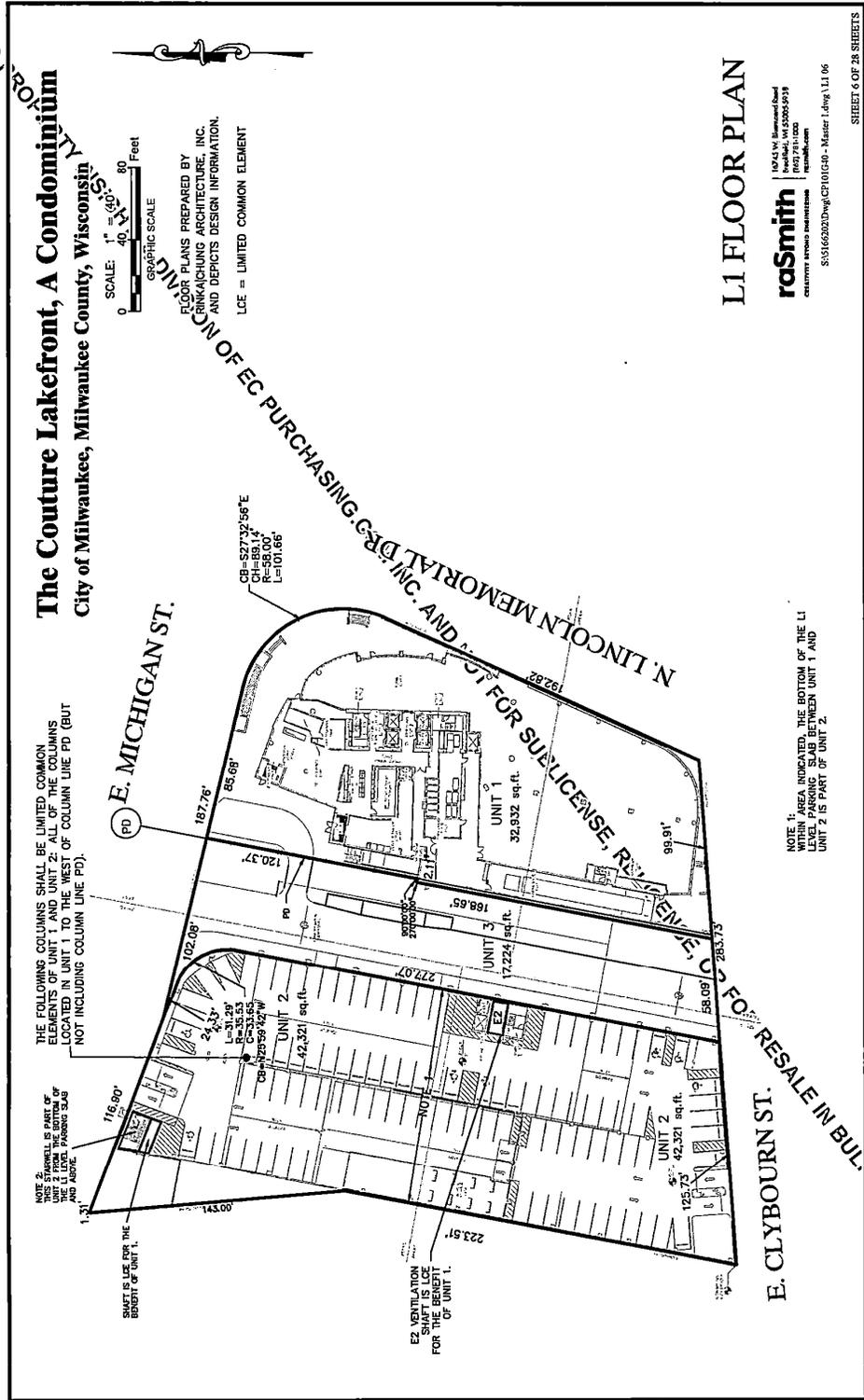
THE FOLLOWING COLUMNS SHALL BE LIMITED COMMON ELEMENTS OF UNIT 1 AND UNIT 2: ALL OF THE COLUMNS LOCATED IN UNIT 1 TO THE WEST OF COLUMN LINE PD (BUT NOT INCLUDING COLUMN LINE PD).

NOTE 2: SHALL BE PART OF UNIT 2 FROM THE BOTTOM OF LEVEL PARKING SLAB AND ABOVE.

SHAFT IS LCE FOR THE SUBSET OF UNIT 1.

E2 VENTILATION SHAFT IS LCE FOR THE BENEFIT OF UNIT 1.

NOTE 1: WITHIN AREA INDICATED, THE BOTTOM OF THE L1 LEVEL PARKING SLAB BETWEEN UNIT 1 AND UNIT 2 IS PART OF UNIT 2.



E. CLYBOURN ST.

RESALE IN BULK FORM.

LICENSED TO PROJECT

# The Couture Lakefront, A Condominium

City of Milwaukee, Milwaukee County, Wisconsin



SCALE: 1" = 40'-0" Feet  
GRAPHIC SCALE

FLOOR PLANS PREPARED BY  
GENKIRCHUNG ARCHITECTURE, INC.  
AND DEPICTS DESIGN INFORMATION.

LCE = LIMITED COMMON ELEMENT

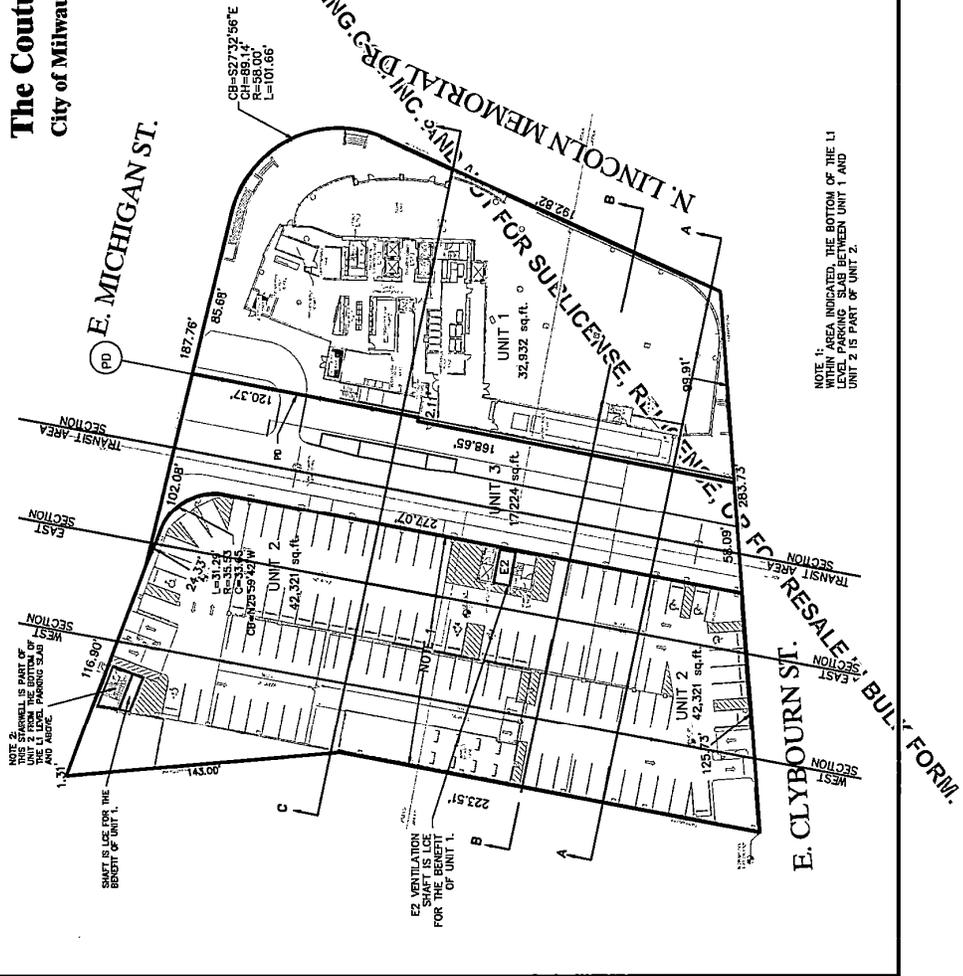
## KEY OF SECTIONS AND CROSS SECTIONS FOR SHEETS 8 - 16

## L1 FLOOR PLAN

**roSmith**  
CONSULTING ENGINEERS ARCHITECTS  
10241 W. Milwaukee Road  
Milwaukee, WI 53228-3919  
(414) 771-1000  
www.rosmith.com

S:\516302Dwg\CP101610 - Master.L1.dwg, L1.07 DETAILS

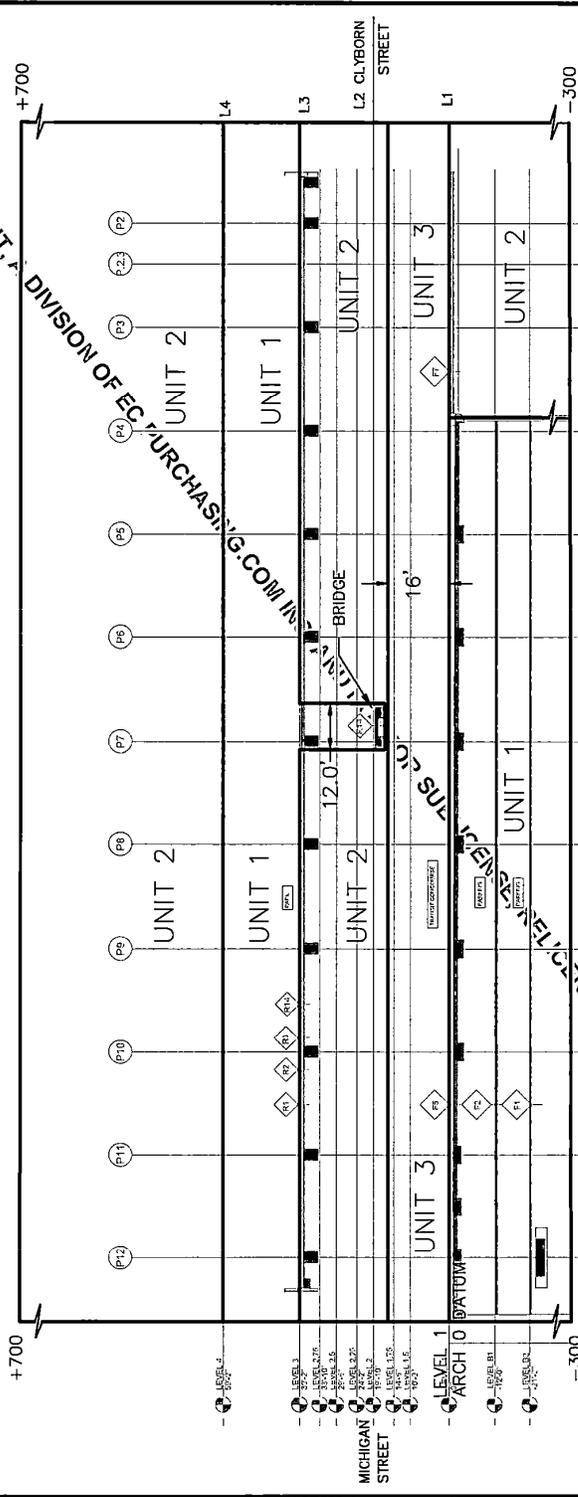
SHEET 7 OF 28 SHEETS



LICENSED TO PROPERTY SIGHT, A DIVISION OF EC PURCHASING.COM INC.

**The Couture Lakefront, A Condominium**  
 City of Milwaukee, Milwaukee County, Wisconsin

TRANSIT AREA SECTION



**SECTION VIEWS**  
 ALIGNED NORTH-SOUTH

NOTE: BOTTOM OF BRIDGE IS 16'10"  
 FROM LEVEL 1

FLOOR PLANS PREPARED BY  
 RINKAICHUNG ARCHITECTURE, INC.  
 AND DEPICTS DESIGN INFORMATION.  
 LCE = LIMITED COMMON ELEMENT

**raSmith**  
 CONSULTING ENGINEERS ARCHITECTS  
 18743 W. International Road  
 Brookfield, WI 53005-5939  
 (800) 721-1000  
 ra@ra-smith.com

S:\3162021Dwg\CP101G10 - Master - Layout 5 SECT 08

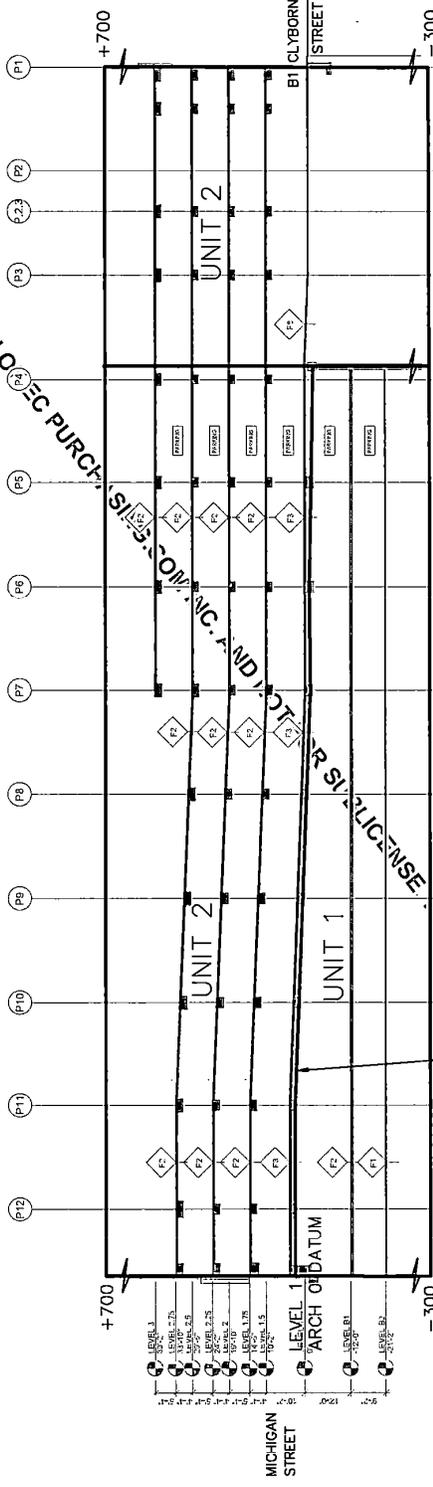
SHEET 8 OF 28 SHEETS

FOR RESALE IN BULKY FORM.

LICENSED TO PROPERTY SIGHT, A DIVISION OF EC PURCHASERS, INC. AND ILLINOIS REAL ESTATE BOARD

**The Couture Lakefront, A Condominium**  
 City of Milwaukee, Milwaukee County, Wisconsin

EAST SECTION



**SECTION VIEWS**  
 ALIGNED NORTH-SOUTH

raSmith  
 ARCHITECTURE  
 1000 N. Milwaukee Road  
 Milwaukee, WI 53202-5938  
 (414) 791-1000  
 www.ra-smith.com

S3116202Dwg/CF101G40 - Master: L.dwg, SECT 09

SHEET 9 OF 28 SHEETS

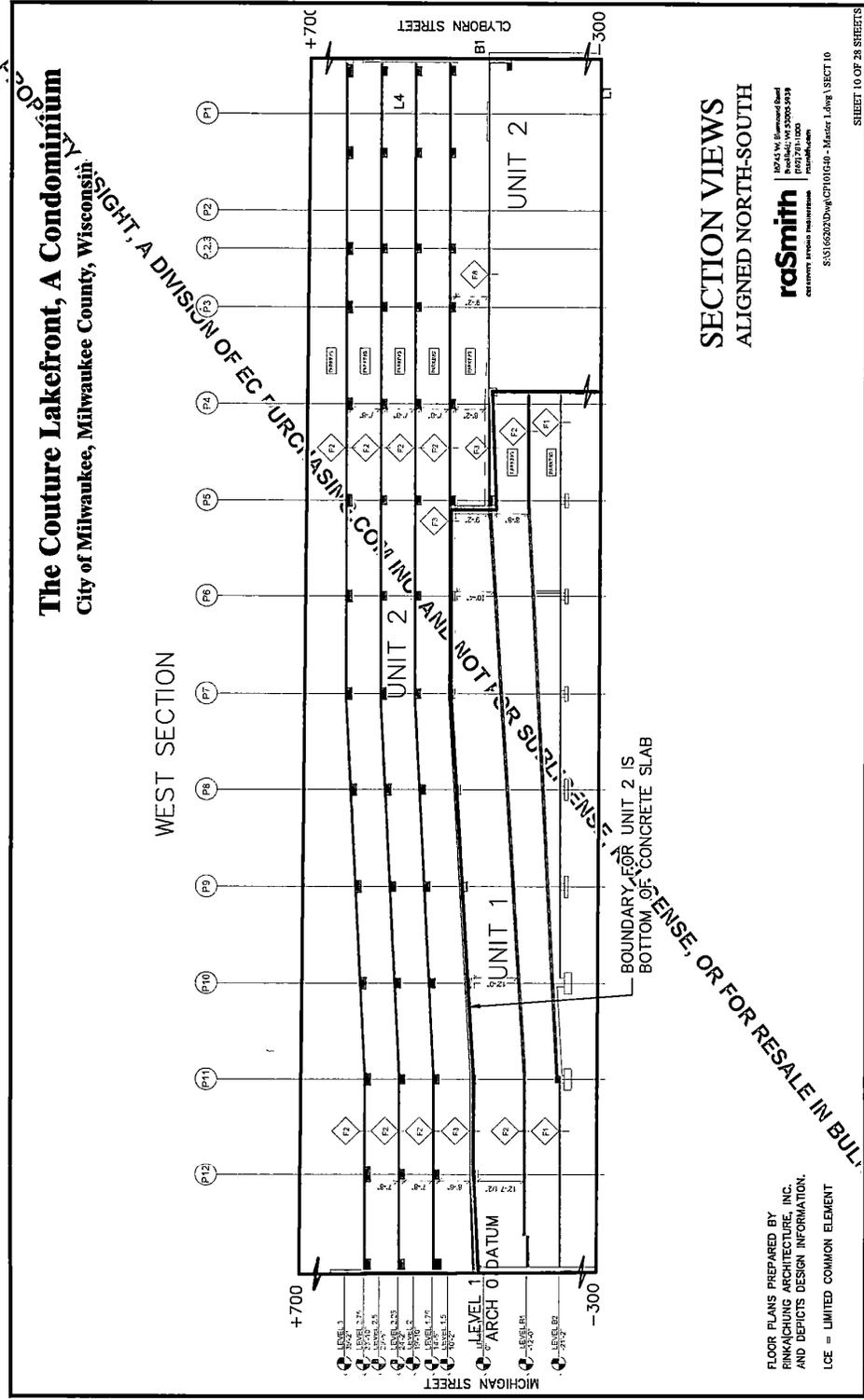
BOUNDARY FOR UNIT 2 IS  
 BOTTOM OF CONCRETE SLAB

FLOOR PLANS PREPARED BY  
 RINKACHUNG ARCHITECTURE, INC.  
 AND DEPICTS DESIGN INFORMATION.  
 LCE = LIMITED COMMON ELEMENT

OR FOR RESALE IN BULK FORM.

LICENSED TO PROPERTY SIGHT, A DIVISION OF EC FURCHGASNER.COM INC. AND NOT FOR SUPPLEMENTAL USE.

**The Couture Lakefront, A Condominium**  
 City of Milwaukee, Milwaukee County, Wisconsin

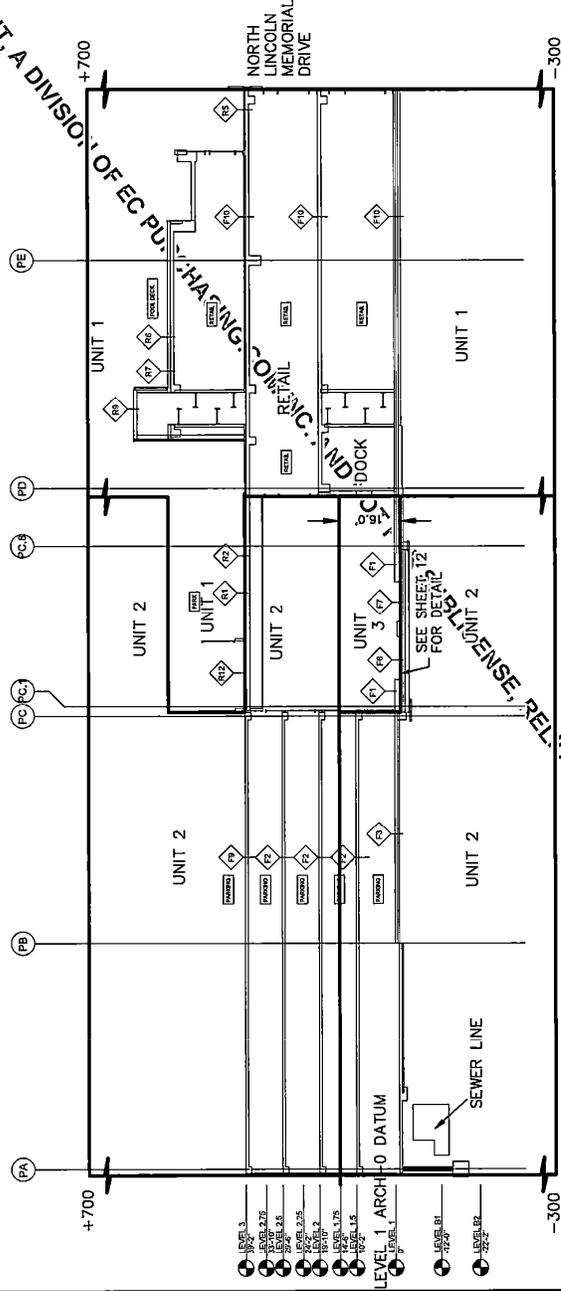


FLOOR PLANS PREPARED BY  
 PINKACHUNG ARCHITECTURE, INC.  
 AND DEPICTS DESIGN INFORMATION.  
 LCE = LIMITED COMMON ELEMENT

LICENSED TO PROPERTY

**The Couture Lakefront, A Condominium**  
 City of Milwaukee, Milwaukee County, Wisconsin

CROSS SECTION VIEW A-A



CROSS SECTION  
 VIEW A-A  
 ALIGNED WEST TO EAST

raSmith  
 COMMUNITY SERVICE ARCHITECTURE | PLANNING | DESIGN  
 1024 W. Wisconsin Road  
 Milwaukee, WI 53233-5718  
 (414) 771-1000  
 www.ra-smith.com

S:\3166202\Drawings\CH10\G10 - Master Layout\VIEW AA.11

SHEET 11 OF 28 SHEETS

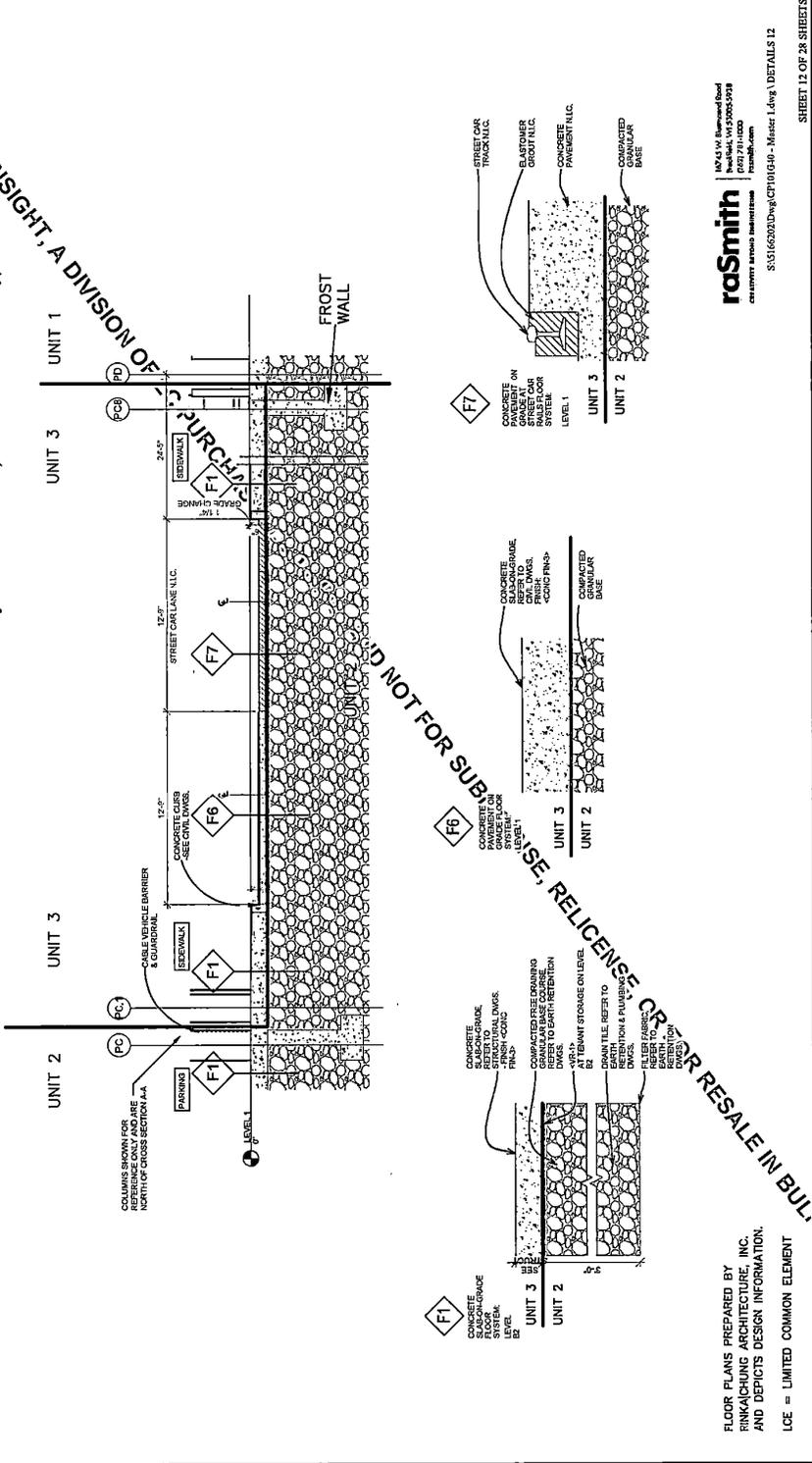
FLOOR PLANS PREPARED BY  
 RINKACHUNG ARCHITECTURE, INC.  
 AND DEPICT'S DESIGN INFORMATION.  
 LCE = LIMITED COMMON ELEMENT

OR FOR RESALE IN BULK FORM.

LICENSED TO PROJECT

**The Couture Lakefront, A Condominium**  
 City of Milwaukee, Milwaukee County, Wisconsin

**CROSS SECTION VIEW A-A DETAILS**



**roSmith**  
 CONSULTING ARCHITECTS  
 1024 N. Milwaukee Road  
 Milwaukee, WI 53202-5718  
 (414) 271-1000  
 rosmith.com

FLOOR PLANS PREPARED BY  
 RINKACHUNG ARCHITECTURE, INC.  
 AND DEPICTS DESIGN INFORMATION.  
 LCE = LIMITED COMMON ELEMENT

SHEET 12 OF 28 SHEETS

DO NOT FOR SUBMITTAL. USE, RELIANCE, OR RE-RESALE IN BULK FORM.

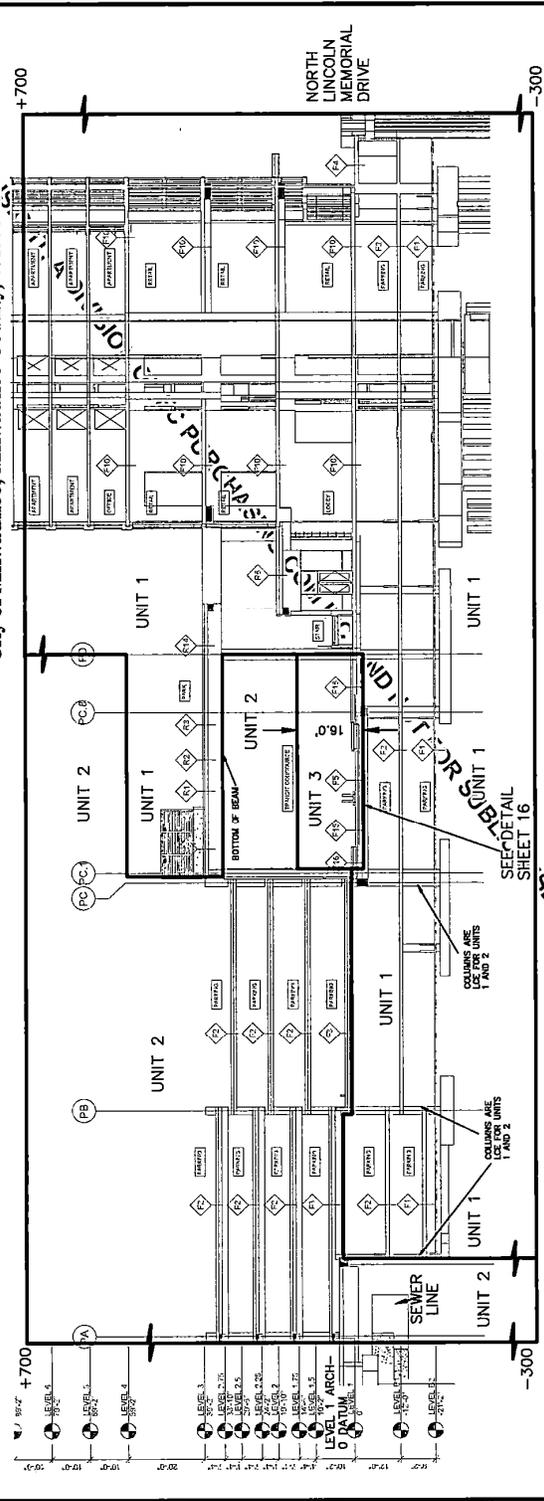




LICENSED TO PROPERTY

**The Couture Lakefront, A Condominium**  
 City of Milwaukee, Milwaukee County, Wisconsin.

CROSS SECTION VIEW C-C



**CROSS SECTION  
 VIEW C-C**  
 ALIGNED WEST TO EAST

**raSmith**  
 ARCHITECTURE  
 100 N. Milwaukee Street  
 Milwaukee, WI 53233  
 (414) 224-5939  
 (414) 224-5938  
 www.ra-smith.com

S:\166201\Drawings\CP101610 - Master Living View CC 15

SHEET 15 OF 28 SHEETS

RE, RELICENSE, OR FOR RESALE IN BULK FORM.

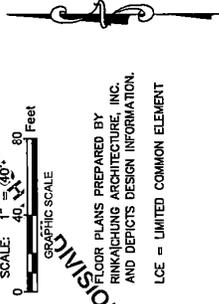
FLOOR PLANS PREPARED BY  
 RINKAICHUNG ARCHITECTURE, INC.  
 AND DEPICTS DESIGN INFORMATION.  
 LCE = LIMITED COMMON ELEMENT



LICENSED TO PROJECT DIVISION OF EC PURCHASING.COM INC. MILWAUKEE, WISCONSIN

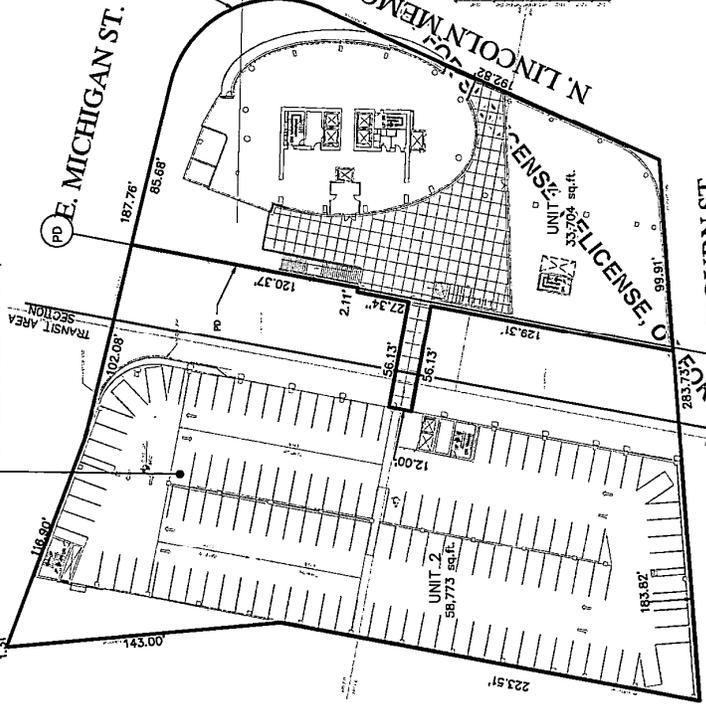
**The Couture Lakefront, A Condominium**  
 City of Milwaukee, Milwaukee County, Wisconsin

THE FOLLOWING COLUMNS SHALL BE LIMITED COMMON ELEMENTS OF UNIT 1 AND UNIT 2. ALL OF THE COLUMNS LOCATED IN UNIT 1 TO THE WEST OF COLUMN LINE PD (BUT NOT INCLUDING COLUMN LINE PD).

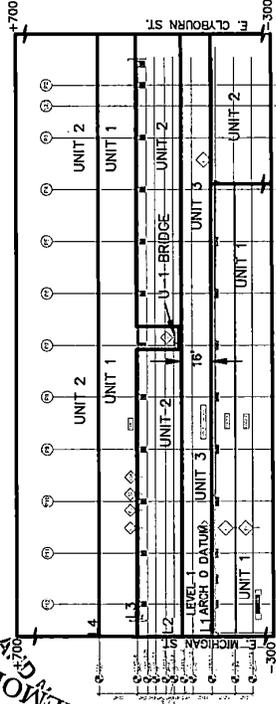


FLOOR PLANS PREPARED BY  
 RINKACHUNG ARCHITECTURE, INC.  
 AND DEPICTS DESIGN INFORMATION.  
 LCE = LIMITED COMMON ELEMENT

CB=527.3256'E  
 CH=89.14'  
 R=58.00'  
 L=101.86'



TRANSIT AREA SECTION



**L2 FLOOR PLAN**

**raSmith**  
 ARCHITECTS  
 105 E. WISCONSIN ST.  
 MILWAUKEE, WI 53202-5938  
 (414) 224-1000  
 www.ra-smith.com

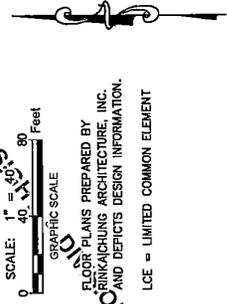
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SHEET 17 OF 28 SHEETS

SCALE IN BUILT FORM.

LICENSED TO: PROPERTY

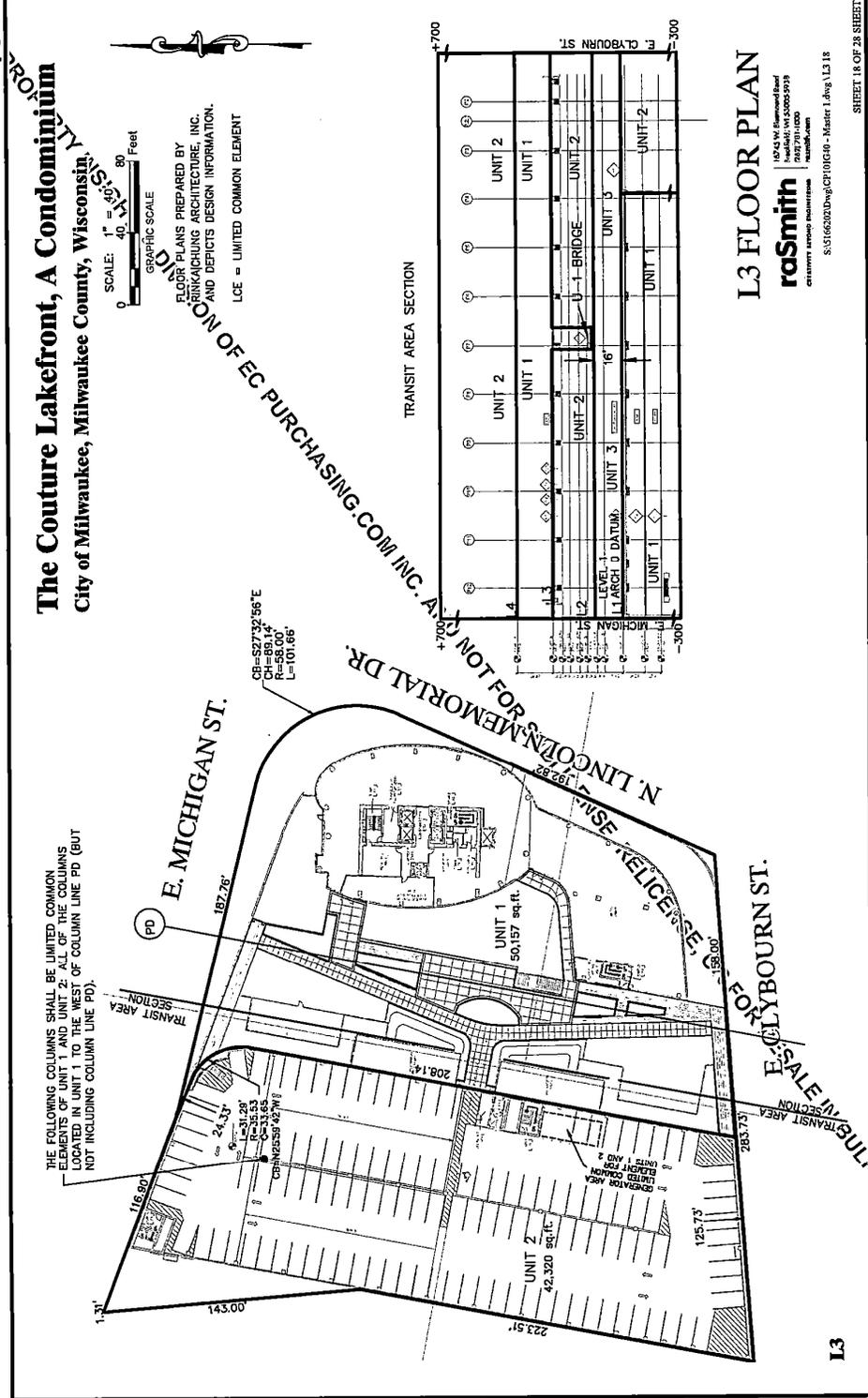
**The Couture Lakefront, A Condominium**  
 City of Milwaukee, Milwaukee County, Wisconsin.



FLOOR PLANS PREPARED BY  
 ARCHITECTURAL ARCHITECTURE, INC.  
 AND DEPICTS DESIGN INFORMATION.  
 LCE = UNITED COMMON ELEMENT

THE FOLLOWING COLUMNS SHALL BE UNITED COMMON ELEMENTS LOCATED IN UNIT 1 TO THE WEST OF COLUMN LINE PD (BUT NOT INCLUDING COLUMN LINE PD).

CP=527732.56'E  
 CH=86.14'  
 R=58.00'  
 L=101.66'



**L3 FLOOR PLAN**

**raSmith**  
 CREATIVE ARCHITECTURE  
 1043 W. Summer Road  
 Milwaukee, WI 53205-5939  
 414.224.1000  
 ra@ra-smith.com

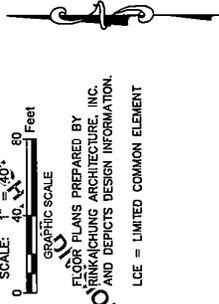
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SHEET 18 OF 28 SHEETS

13

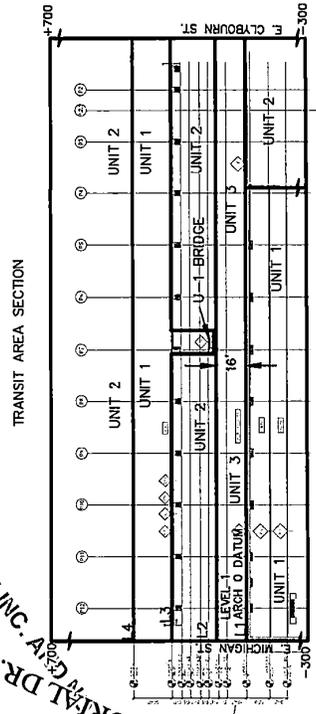
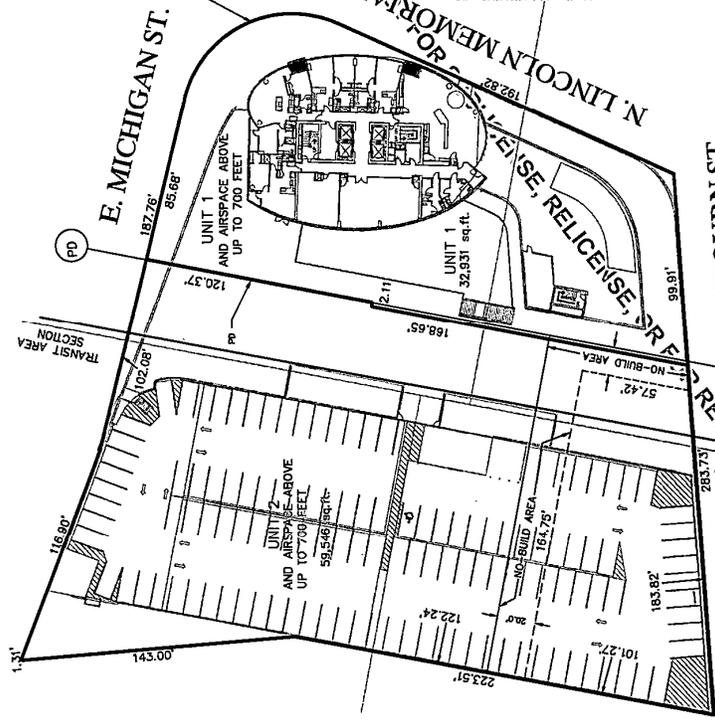
LICENSED TO PROJECT PROPERTY S.S.

**The Couture Lakefront, A Condominium**  
 City of Milwaukee, Milwaukee County, Wisconsin.



FLOOR PLANS PREPARED BY  
 FRANKAICHUNG ARCHITECTURE, INC.  
 AND DEPICTS DESIGN INFORMATION.  
 LCE = LIMITED COMMON ELEMENT

CB=527°32'56"E  
 CH=88.14'  
 R=59.00'  
 L=101.06'



**L4 FLOOR PLAN TO TOP OF UNIT LEVEL**

**raSmith**  
 CONSULTING ENGINEERS ARCHITECTS  
 10521 N. Milwaukee  
 Wauwatosa, WI 53095-5938  
 (414) 791-1000  
 www.raSmith.com

S3166202Dwg/CT10164 - Master Layer 1, L4 19

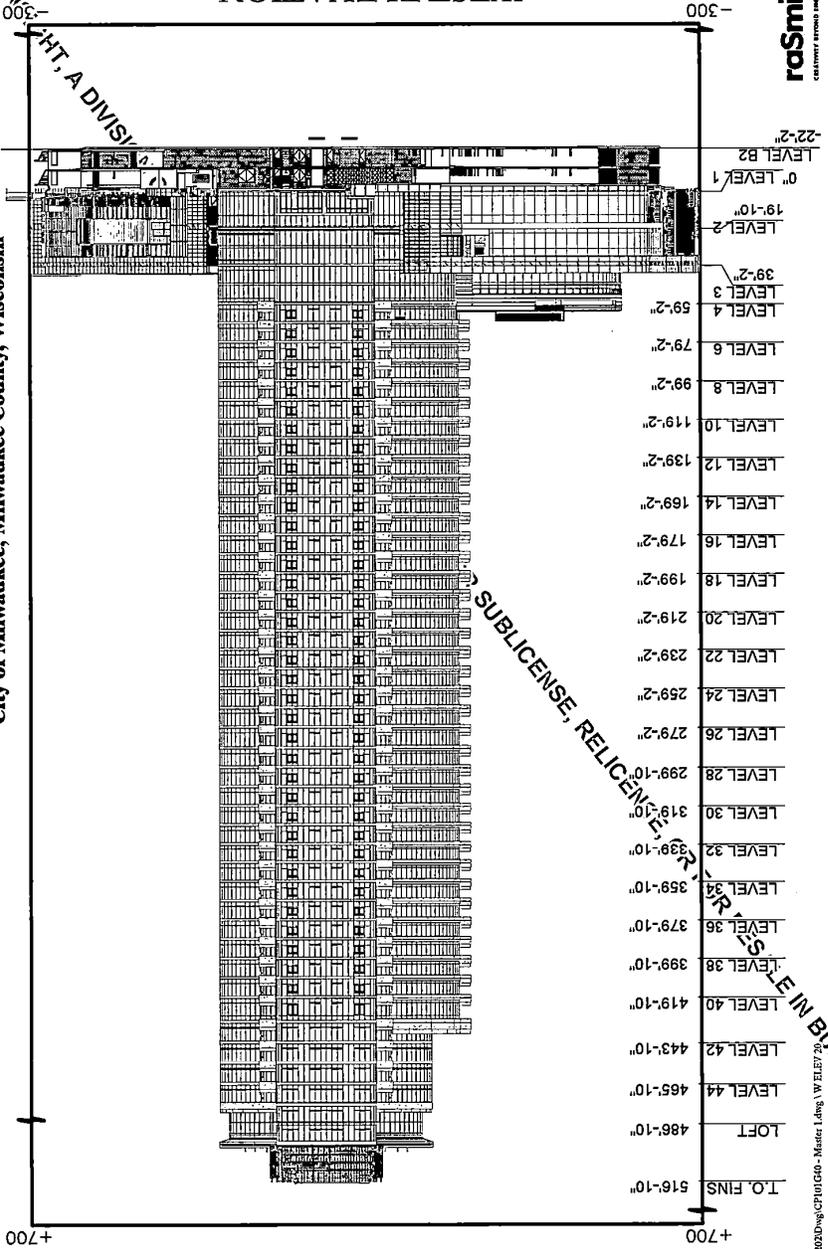
SHEET 19 OF 28 SHEETS

LICENSED TO PROPERTY INVESTMENT, A DIVISION OF

**The Couture Lakefront, A Condominium**  
City of Milwaukee, Milwaukee County, Wisconsin

NOTE: THIS ELEVATION IS ONLY SHOWN FOR PURPOSE OF DESCRIBING THE UPPER AND LOWER BOUNDARIES OF ALL UNITS.

**WEST ELEVATION**  
(LOOKING WEST FROM LAKE MICHIGAN)



**raSmith**  
ARCHITECTS  
1001 N. DEARBORN ROAD  
MILWAUKEE, WI 53001-5573  
(414) 771-1100  
raSmith.com

SHEET 20 OF 28 SHEETS

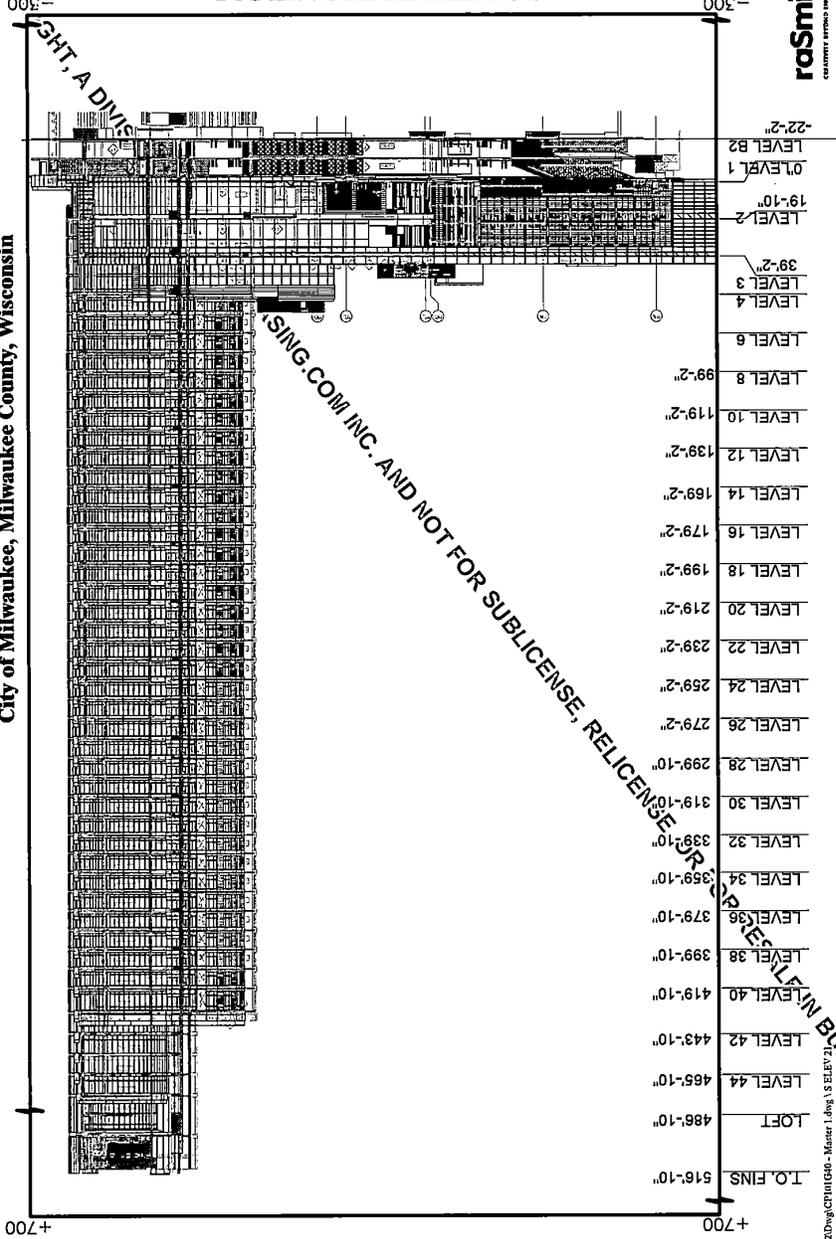
UNLAWFUL TO REPRODUCE, REPLICATE, OR TRANSMIT IN ANY FORM OR BY ANY MEANS, WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT.

LICENSED TO PROPERTY RIGHT, A DIVISION OF

**The Couture Lakefront, A Condominium**  
City of Milwaukee, Milwaukee County, Wisconsin

NOTE: THIS ELEVATION IS ONLY SHOWN FOR PURPOSE OF DESCRIBING THE UPPER AND LOWER BOUNDARIES OF ALL UNITS.  
(LOOKING NORTH FROM EAST CLYBOURN STREET)

**SOUTH ELEVATION**



raSmith  
CREATING BETTER BUILDINGS

SHEET 21 OF 28 SHEETS

SING.COM INC. AND NOT FOR SUBLICENSE, RELICENSE OR REUSE IN BULK FORM.

S:\162020\Drawings\CPM\G40 - Master L.dwg \3 ELEV V21

LICENSED TO PROPERTY DIVISION OF EC PURCHASING.COM

# The Couture Lakefront, A Condominium

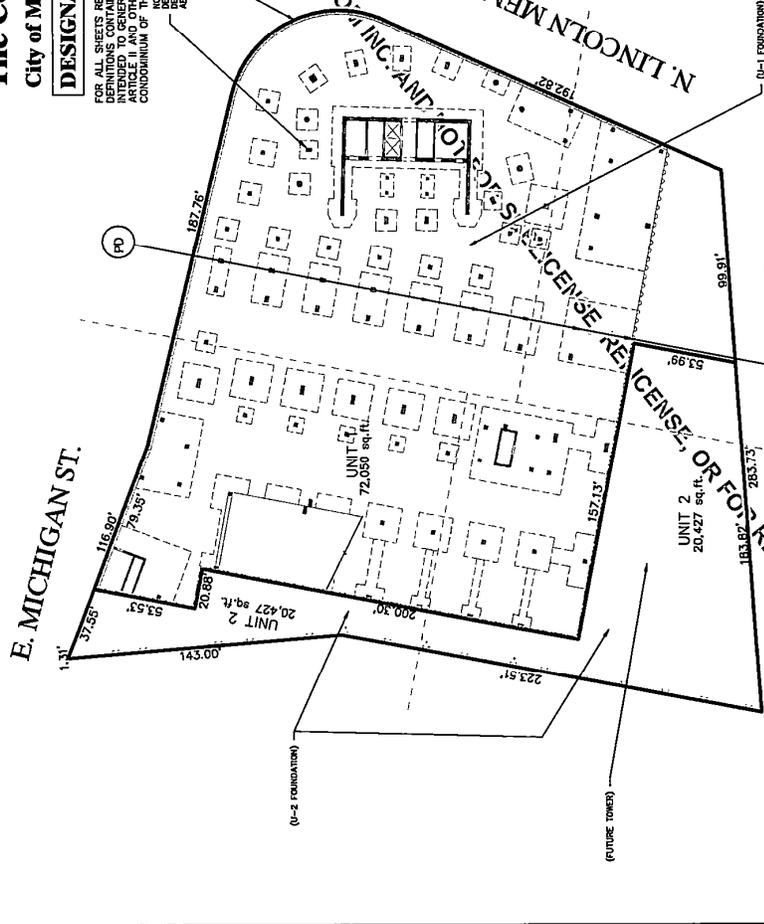
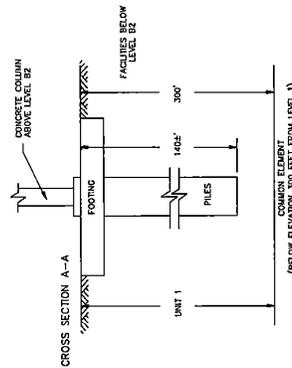
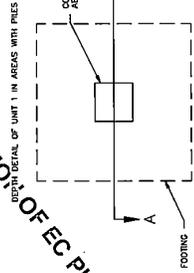
City of Milwaukee, Milwaukee County, Wisconsin.

## DESIGNATION OF AREAS

FOR ALL SHEETS REGARDING THE DESIGNATION OF AREAS, DEFINITIONS CONTAINED WITHIN THE PARENTSSES ARE APPLICABLE UNLESS OTHERWISE SPECIFIED IN THIS PLAN. THE DESIGNATION OF AREAS IS SUBJECT TO ARTICLE II AND OTHERWISE THROUGHOUT THE DECLARATION OF CONDOMINIUM OF THE COUTURE LAKEFRONT, A CONDOMINIUM.

NOTE: DETAILS OF FLOOR PLAN SHALL BE IDENTICAL TO THE DETAILS OF FLOOR PLAN ABOVE LEVEL B2.

CB=527.32°32'56"E  
 CH=381.14'  
 R=58.00'  
 L=101.86'



BELOW B2

raSmith  
 402 N. 1st Street  
 Milwaukee, WI 53204-5978  
 (414) 781-1000  
 www.ra-smith.com

S:\166202Dwg\CPI10\CC40 - Master 1.dwg, 1 B2 BELOW DESIGNATION 22

SHEET 22 OF 28 SHEETS

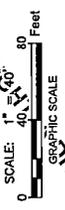
THE LOWER BOUNDARY OF UNITS 1 AND 2 SHALL BE 300 FEET BELOW THE ELEVATION OF LEVEL 1.

IN BULK FORM.

**The Couture Lakefront, A Condominium**  
 City of Milwaukee, Milwaukee County, Wisconsin

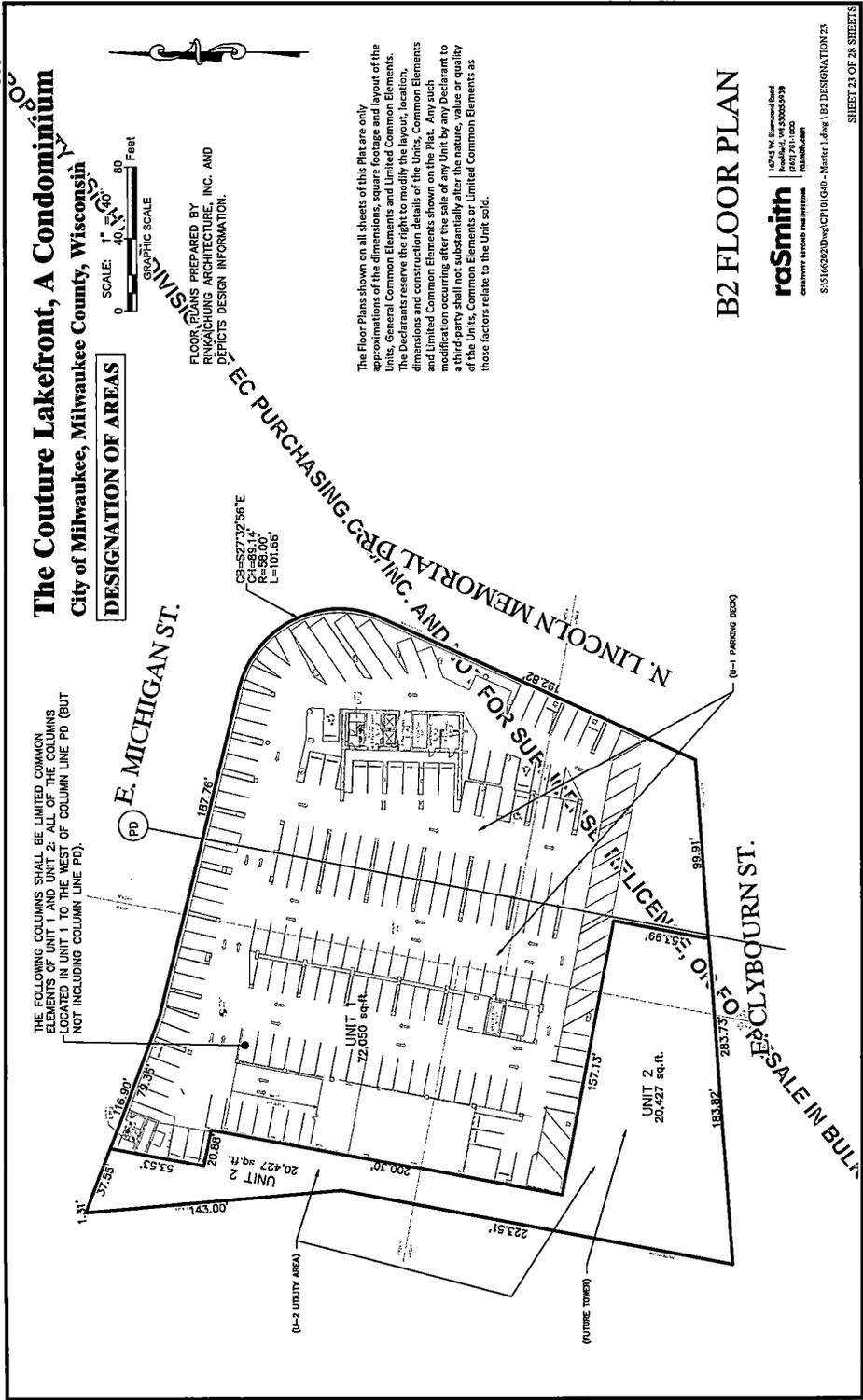
**DESIGNATION OF AREAS**

THE FOLLOWING COLUMNS SHALL BE LIMITED COMMON ELEMENTS OF UNIT 1 AND UNIT 2; ALL OF THE COLUMNS LOCATED IN UNIT 1 TO THE WEST OF COLUMN LINE PD (BUT NOT INCLUDING COLUMN LINE PD).



FLOOR PLANS PREPARED BY  
 RINKAICHUNG ARCHITECTURE, INC. AND  
 DEPICTS DESIGN INFORMATION.

The Floor Plans shown on all sheets of this Plat are only approximations of the dimensions, square footage and layout of the Units, General Common Elements and Limited Common Elements. The Declarants reserve the right to modify the layout, location, dimensions and construction details of the Units, Common Elements and Limited Common Elements shown on the Plat. Any such modification occurring after the sale of any Unit by any Declarant to a third-party shall not substantially alter the nature, value or quality of the Units, Common Elements or Limited Common Elements as those factors relate to the Unit sold.



**B2 FLOOR PLAN**

**raSmith**  
 10745 W. Elmwood Road  
 Milwaukee, WI 53227-3110  
 (414) 353-5959  
 www.raSmith.com

S:\3166202D\proj\CP101G40-Master 1.dwg 1/22 DESIGNATION 23  
 SHEET 21 OF 28 SHEETS

LICENSED TO PROPERTY

**The Couture Lakefront, A Condominium**  
 City of Milwaukee, Milwaukee County, Wisconsin

**DESIGNATION OF AREAS**

THE FOLLOWING COLUMNS SHALL BE LIMITED COMMON ELEMENTS OF UNIT 1 AND UNIT 2; ALL OF THE COLUMNS LOCATED IN UNIT 1 TO THE WEST OF COLUMN LINE PD (BUT NOT INCLUDING COLUMN LINE PD).



0 40 80 Feet  
 GRAPHIC SCALE

PROPERTY DIVISION OF EC PURCHASING

E. MICHIGAN ST.

N. LINCOLN MEMORIAL DR.

E. CLYBOURN ST.

RESALE IN BULK FORM.

CB=S27327.56°E  
 CH=89.14'  
 R=98.00'  
 L=101.86'

MECHANICAL-UTILITY ROOM.  
 THE AIR SPACE WITHIN THE IT ROOM IS LIMITED COMMON ELEMENT FOR THE BENEFIT OF UNIT 1 AND UNIT 2.

(0-2 UTILITY AREA)  
 E1 ELEVATOR SHAFT IS LCE FOR THE BENEFIT OF UNIT 2.

(0-2 UTILITY AREA)  
 (UTURE TOWER)

UNIT 1  
 72,050 sq.ft.

UNIT 2  
 20,427 sq.ft.

UNIT 2  
 20,427 sq.ft.

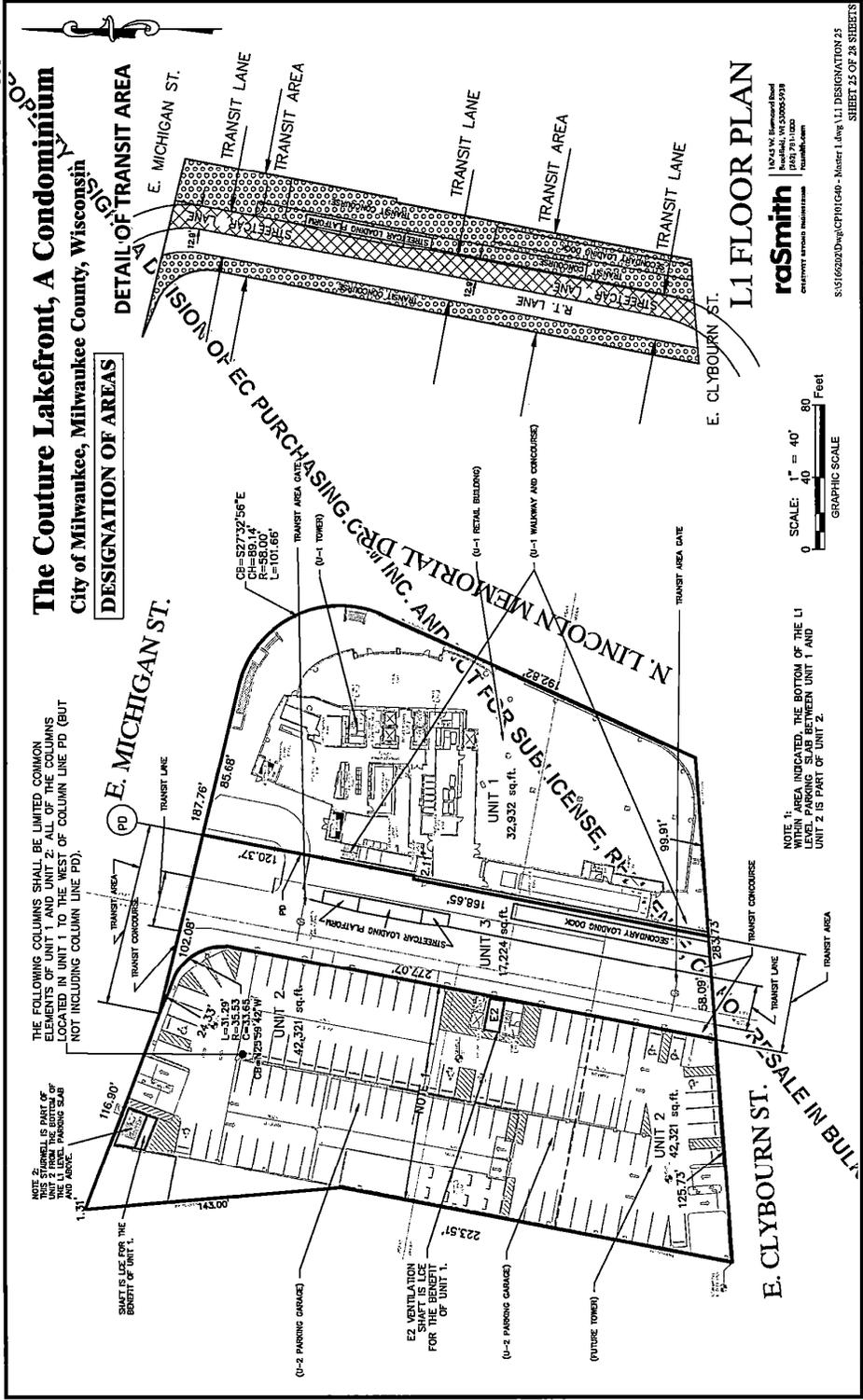
(0-1 PARKING SPACE)

**B1 FLOOR PLAN**

**raSmith**  
 CONSULTING ENGINEERS  
 1025 N. Milwaukee  
 Milwaukee, WI 53205-5938  
 414.271.1100  
 www.raSmith.com

S:\166202D\w\CP101\CB - Master 1.dwg, B1 DESIGNATION, 24  
 SHEET 24 OF 28 SHEETS

LICENSED TO P. POPP  
**The Couture Lakefront, A Condominium**  
 City of Milwaukee, Milwaukee County, Wisconsin



THE FOLLOWING COLUMNS SHALL BE LIMITED COMMON ELEMENTS OF UNIT 1 AND UNIT 2: ALL OF THE COLUMNS LOCATED IN UNIT 1 TO THE WEST OF COLUMN LINE PD (BUT NOT INCLUDING COLUMN LINE PD).

NOTE 2: THIS SHEET IS PART OF THE L1 FLOOR PLAN FOR THE L1 FLOOR PARKING GARAGE AND ABOVE.

SHAFT IS USE FOR THE BODIY OF UNIT 1.

EA VENTILATION SHAFT IS LOC FOR THE BENEFIT OF UNIT 1.

(U-2 PARKING GARAGE)

(U-2 PARKING GARAGE)

(FUTURE TOWER)

NOTE 1: AREA INDICATED THE BOTTOM OF THE L1 LEVEL PARKING GARAGE BETWEEN UNIT 1 AND UNIT 2 IS PART OF UNIT 2.

SCALE: 1" = 40'  
 0 40 80 Feet  
 GRAPHIC SCALE

**raSmith**  
 CONSULTING ARCHITECTS INC.

S:\16202Dmg\CPH01640 - Master 1.dwg, L1 DESIGNATION 23  
 SHEET 25 OF 28 SHEETS

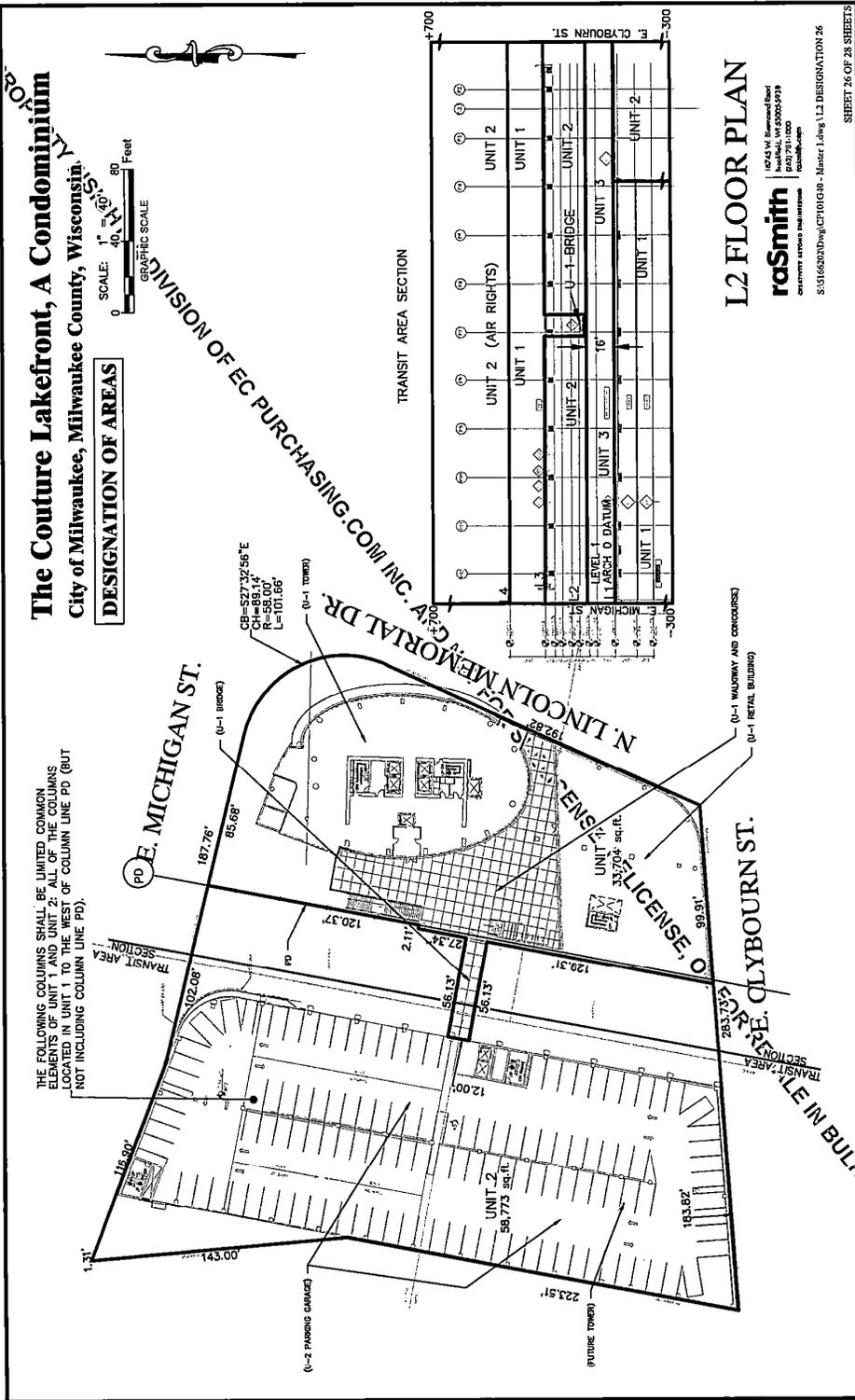
LICENSED TO PROPERTY

**The Couture Lakefront, A Condominium**  
 City of Milwaukee, Milwaukee County, Wisconsin.

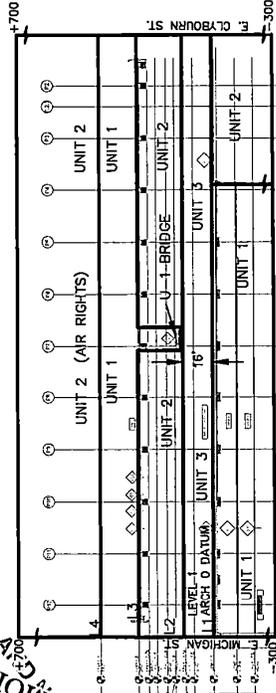
**DESIGNATION OF AREAS**



THE FOLLOWING COLUMNS SHALL BE LIMITED COMMON UNITS 2. ALL OF THE COLUMNS LOCATED IN UNIT 1 TO THE WEST OF COLUMN LINE PD (BUT NOT INCLUDING COLUMN LINE PD).



**TRANSIT AREA SECTION**



**L2 FLOOR PLAN**

**raSmith**  
 CONSULTING ENGINEERS  
 125 N. Milwaukee Street  
 Milwaukee, WI 53202-5978  
 (414) 731-1000  
 www.ra-smith.com

S:\3116202\DWG\CT101GH - Master L.dwg L1,2 DESIGNATION 26

SHEET 26 OF 28 SHEETS

SALE IN BULK FORM.

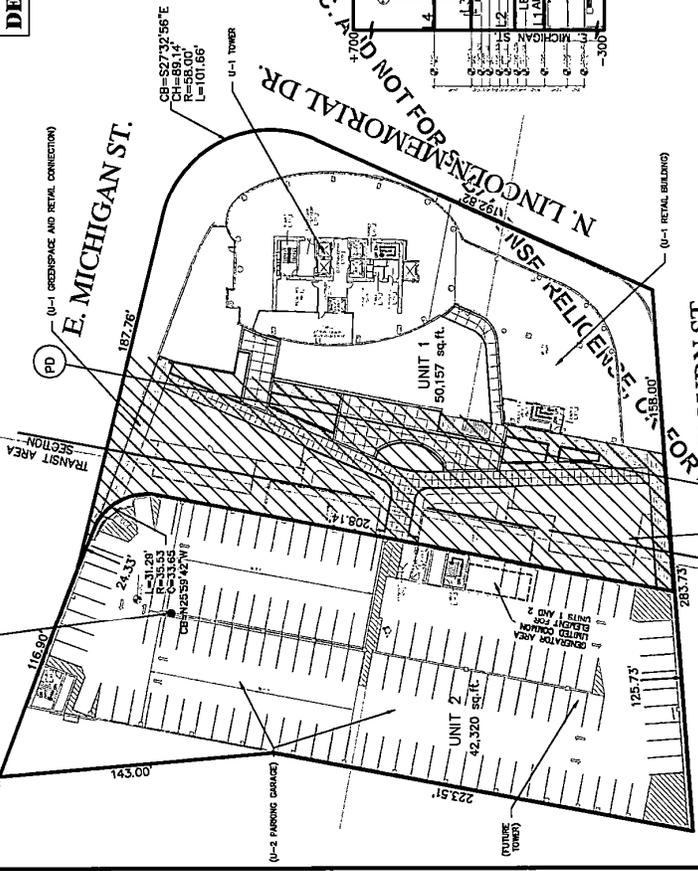
LICENSED TO PROPERTY

**The Couture Lakefront, A Condominium**  
 City of Milwaukee, Milwaukee County, Wisconsin

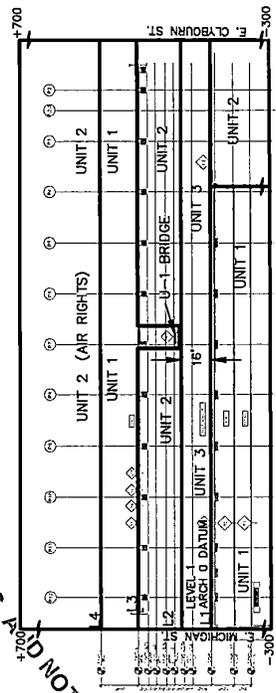
**DESIGNATION OF AREAS**



THE FOLLOWING COLUMNS SHALL BE LIMITED COMMON ELEMENTS OF UNIT 1 AND UNIT 2: ALL OF THE COLUMNS LOCATED IN UNIT 1 TO THE WEST OF COLUMN LINE PD (BUT NOT INCLUDING COLUMN LINE PD).



TRANSIT AREA SECTION



**L3 FLOOR PLAN**

**raSmith**  
 1845 W. Raymond Road  
 P.O. Box 1000  
 Milwaukee, WI 53211-1000  
 www.raSmith.com

S15166202Dwg/CP101G40 - Master L3 - L3 DESIGNATION 27

13

SHEET 27 OF 28 SHEETS





8 1 1 2 3 0 4 4  
Doc#40648503



Register of Deeds  
**Milwaukee County**  
Israel Ramón • Register of Deeds

DOC # 11099453  
RECORDED:  
04/06/2021 02:16 PM  
ISRAEL RAMON  
REGISTER OF DEEDS  
MILWAUKEE COUNTY, WI  
AMOUNT: 50.00

# PLAT

PLAT

NAME:

The Couture Lake front,

a Condominium

DOC#

11099453

DATE:

April 6, 2021

Number of Pages:

28

Courthouse, Room 103 • 901 N 9<sup>th</sup> Street • Milwaukee, WI 53233 • (414) 278-4021 • Fax (414) 223-1257

**The Couture Lakefront, A Condominium**  
**City of Milwaukee, Milwaukee County, Wisconsin**  
**Condominium Plat**

**Table of Contents - Sheet 1**

**Survey of Property - Sheet 2**

**Plans - Sheets 3 - 19**

**Elevation Views Sheets 20 & 21**

**Designation of Areas Defined in Declaration - Sheets 22 through 28**

The Floor Plans shown on all sheets of this Plat are only approximations of the dimensions, square footage and layout of the Units, General Common Elements and Limited Common Elements. The Declarants reserve the right to modify the layout, location, dimensions and construction details of the Units, Common Elements and Limited Common Elements shown on the Plat. Any such modification occurring after the sale of any Unit by any Declarant to a third-party shall not substantially alter the nature, value or quality of the Units, Common Elements or Limited Common Elements as those factors relate to the Unit sold.

**UNIT AREA TABLE**

LEVEL	UNIT 1	UNIT 2	UNIT 3
<b>B2</b>	<b>72,050 SF</b>	<b>20,427 SF</b>	
<b>B1</b>	<b>72,050 SF</b>	<b>20,427 SF</b>	
<b>L1</b>	<b>32,932 SF</b>	<b>42,321 SF</b>	<b>17,224 SF</b>
<b>L2</b>	<b>33,704 SF</b>	<b>58,773 SF</b>	
<b>L3</b>	<b>50,157 SF</b>	<b>42,320 SF</b>	
<b>L4</b>	<b>32,931 SF</b>	<b>59,546 SF</b>	
<b>TOTAL</b>	<b>293,824 SF</b>	<b>243,814 SF</b>	<b>17,224 SF</b>

**raSmith**  
CREATIVITY BEYOND IMAGINATION

18745 W. Bluemound Road  
 Milwaukee, WI 53205-5928  
 (262) 781-1000  
[www.rasmith.com](http://www.rasmith.com)

DOC # 11099453  
 RECORDED:  
 04/06/2021 02:16 PM  
 SERRILL RAYMOND  
 REGISTER OF DEEDS  
 MILWAUKEE COUNTY, WI  
 ARLBINT - 50.00

LICENSED TO PROPERTY INSURANCE PURCHASING.COM INC. AND NOT FOR SUBLICENSE, RELICENSE, OR FOR RESALE IN BULK FORM.

45000

# The Couture Lakefront, A Condominium

## City of Milwaukee, Milwaukee County, Wisconsin

### Legal Description

Lot 1 of Certified Survey Map No. 8914, recorded on May 12, 2017 as Document No. 10673467, being part of lots 7 through 12 in Diederich's Subdivision; Part of Lot 1 in Block 98, and part of vacated East Wisconsin Avenue adjacent in Plat of Milwaukee; Lot 1 and part of Lots 2, 3, 4 and 9 in Block 99, Lots 1, 2, 3 and 4 in Block 109 and part of vacated North Marshall Street in the Division of 13.30 Acres; part of Government Lot 2 and lands, all in the Southwest 1/4 of the fractional Northeast 1/4, the Northwest 1/4 of fractional Southeast 1/4, the Northeast 1/4 of the Southwest 1/4 and the Southeast 1/4 of the Northwest 1/4 of Section 28, Township 7 North, Range 22 East, in the City of Milwaukee, County of Milwaukee, State of Wisconsin.

### NOTES:

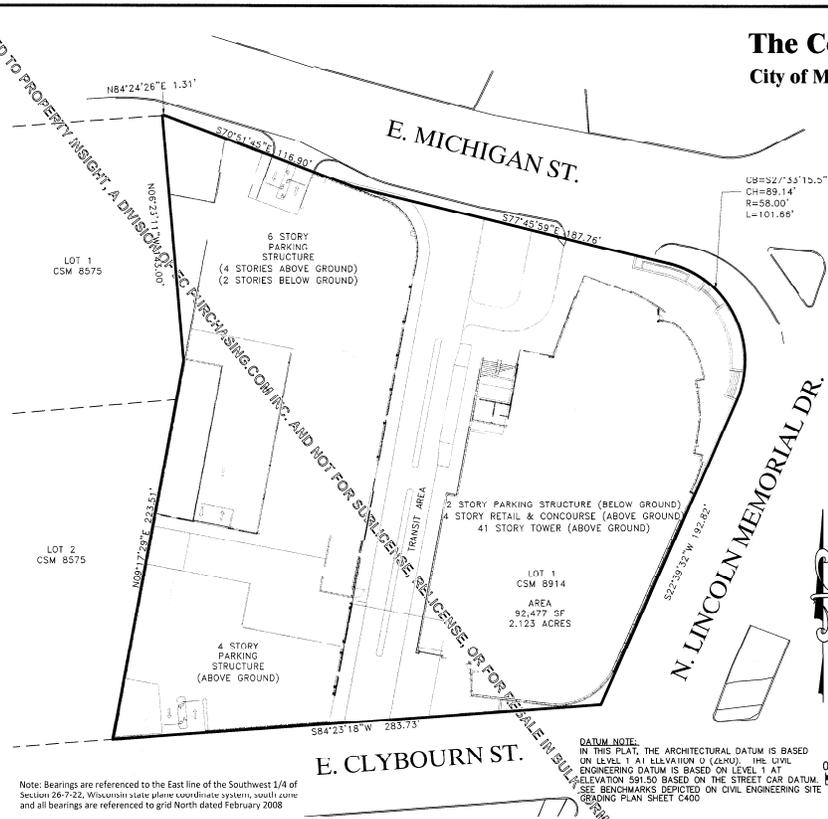
1. Common Elements are all areas within the Condominium and outside of the Units.
2. Refer to the Declaration of Condominium for descriptions of the General Common Elements and Limited Common Elements.
3. In accordance with Chapter A-E 7.01 (2) of the Wisconsin Administrative Code, R. A. Smith, Inc. has executed an agreement to waive the setting of monuments on the above described property. Signatures on file with Surveyor.

LCE = Limited Common Element - refer to the Declaration of Condominium for a complete list of the Limited Common Elements

I, John P. Casucci, do hereby certify that I have surveyed the above described property and that this survey is an accurate representation of the exterior boundary lines and the location of the buildings and improvements constructed or to be constructed upon the property.

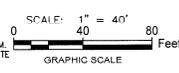
This Condominium plat is a correct representation of The Couture Lakefront, A Condominium as proposed at the date hereof, and the identification and proposed location of each unit and the Common Elements can be determined from the plat. The undersigned surveyor makes no certification as to the accuracy of the diagrammatic floor plans of the Condominium building(s) and units contained in the plat and the approximate dimensions and floor areas thereof.

*John P. Casucci*  
 John P. Casucci, PLS, S-2055  
 Date: April 19, 2017  
 Revised: 11/17/20  
 Revised: 03/26/21



Note: Bearings are referenced to the East line of the Southwest 1/4 of Section 28-7-22, Wisconsin state plane coordinate system, 1983 datum and all bearings are referenced to grid North dated February 2008

**DATUM NOTE:**  
 IN THIS PLAT, THE ARCHITECTURAL DATUM IS BASED ON LEV. 1 AT ELEVATION 0 (L&M). THE CIVIL ENGINEERING DATUM IS BASED ON LEVEL 1 AT ELEVATION 591.50 BASED ON THE STREET CAR DATUM. SEE BENCHMARKS DEPICTED ON CIVIL ENGINEERING SITE GRADING PLAN SHEET C400



**raSmith**  
 16745 W. Bluemound Road  
 Brookfield, WI 53005-9238  
 (262) 781-1600  
 RA@RA-SMITH.COM

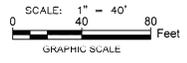
LICENSED TO PROPERTY INSIGHT, A DIVISION OF EP PURCHASING SOLUTIONS

AND NOT FOR SUBLICENSE, REUSE, OR FURTHER SALE OR FOR REUSE

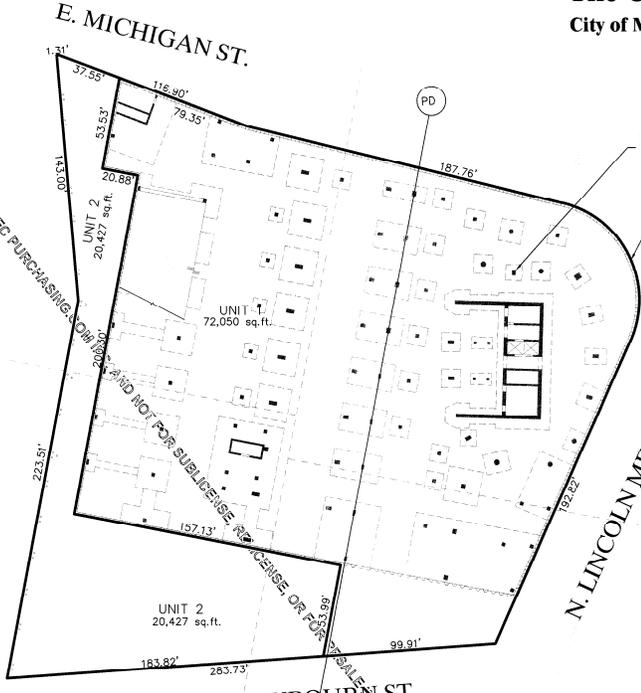
# The Couture Lakefront, A Condominium

## City of Milwaukee, Milwaukee County, Wisconsin

FLOOR PLANS PREPARED BY  
RINKACHUNG ARCHITECTURE, INC.  
AND DEPICTS DESIGN INFORMATION.

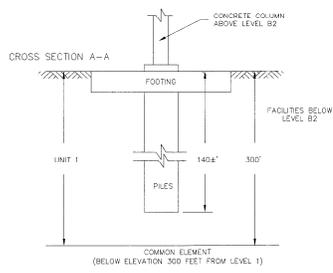
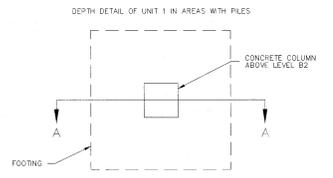


LCE = LIMITED COMMON ELEMENT



NOTE:  
DETAIL OF FLOOR PLAN  
DEPICTS ONLY COLUMNS  
ABOVE LEVEL B2

CB=S27°32'56"E  
CH=89.14'  
R=58.00'  
L=101.66'



THE LOWER BOUNDARY OF UNITS 1 AND 2 SHALL  
BE 300 FEET BELOW THE ELEVATION OF LEVEL 1.

### BELOW B2

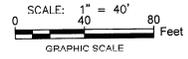
**raSmith**  
16745 W. Bluemound Road  
Milwaukee, WI 53224  
CREATIVITY BEYOND ENGINEERING  
raSmith.com

S:\5166202\Draw\CP101G40 - Master 1.dwg \BELOW B2.dwg

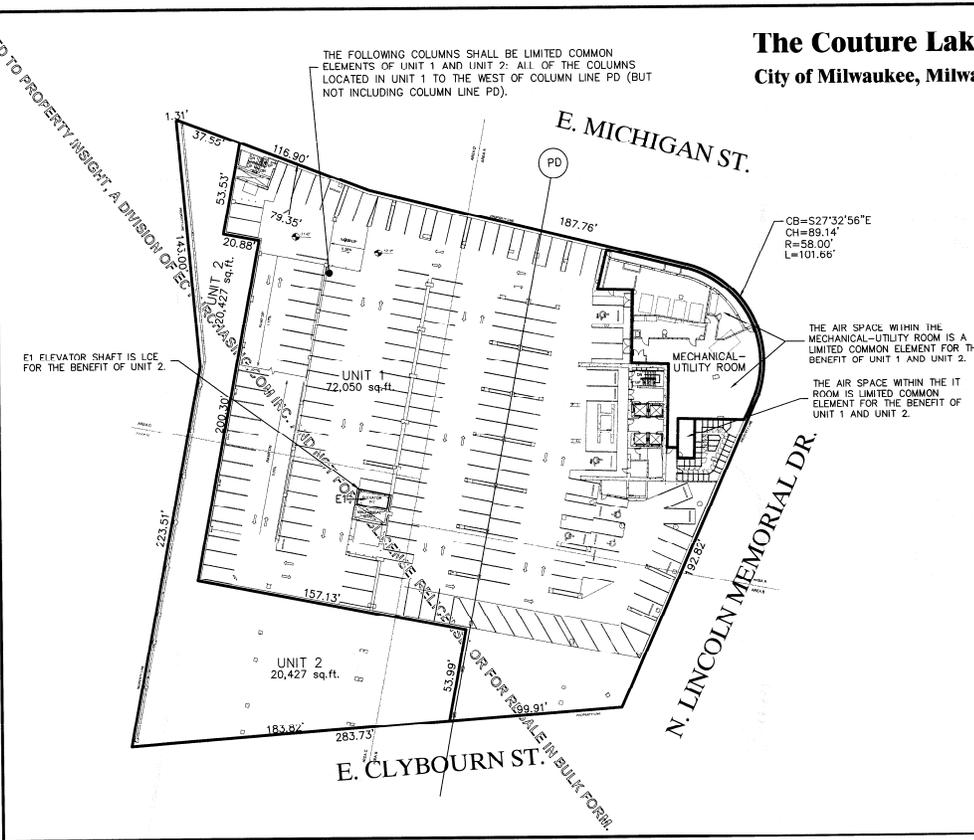


# The Couture Lakefront, A Condominium

City of Milwaukee, Milwaukee County, Wisconsin



FLOOR PLANS PREPARED BY  
RINKAJCHUNG ARCHITECTURE, INC.  
AND DEPICTS DESIGN INFORMATION.  
LCE = LIMITED COMMON ELEMENT



## B1 FLOOR PLAN

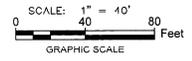
**raSmith** 16745 W. Bluemound Road  
Brookfield, WI 53005-5938  
CREATIVITY BEYOND ENGINEERING (908) 781-1000  
raSmith.com

S:\5166202\Draw\CP101G40 - Master 1.dwg | B1 05

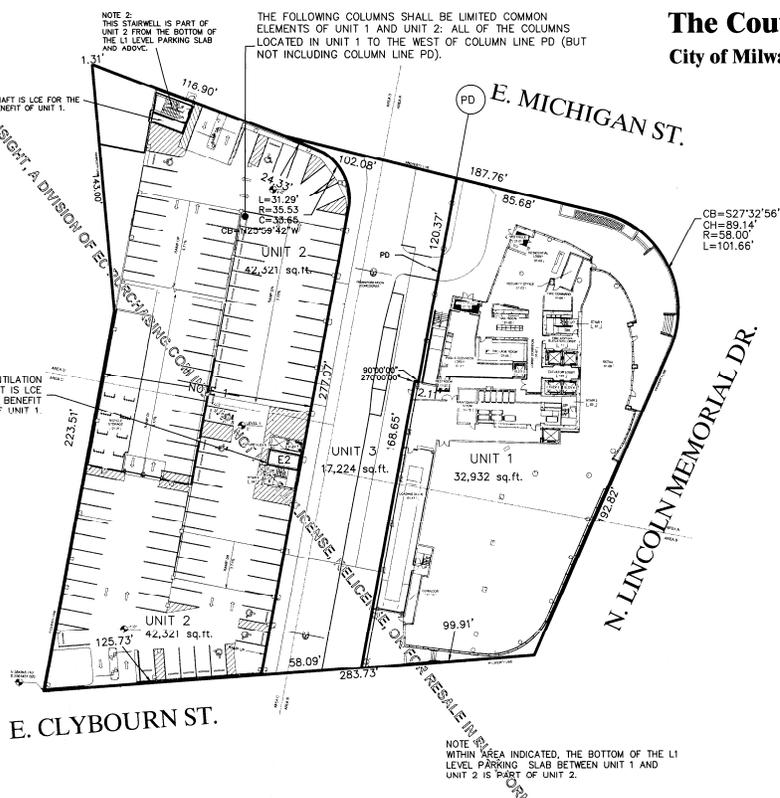
LICENSED TO PROPERTY INSIGHT, A DIVISION OF PEC

# The Couture Lakefront, A Condominium

City of Milwaukee, Milwaukee County, Wisconsin



FLOOR PLANS PREPARED BY  
RINKAICHUNG ARCHITECTURE, INC.  
AND DEPICTS DESIGN INFORMATION.  
LCE = LIMITED COMMON ELEMENT



NOTE 2:  
THIS STAIRWELL IS PART OF  
UNIT 2 FROM THE BOTTOM OF  
THE L1 LEVEL PARKING SLAB  
AND ABOVE.

THE FOLLOWING COLUMNS SHALL BE LIMITED COMMON  
ELEMENTS OF UNIT 1 AND UNIT 2. ALL OF THE COLUMNS  
LOCATED IN UNIT 1 TO THE WEST OF COLUMN LINE PD (BUT  
NOT INCLUDING COLUMN LINE PD).

SHAFT IS LCE FOR THE  
BENEFIT OF UNIT 1.

E2 VENTILATION  
SHAFT IS LCE  
FOR THE BENEFIT  
OF UNIT 1.

NOTE:  
WITHIN AREA INDICATED, THE BOTTOM OF THE L1  
LEVEL PARKING SLAB BETWEEN UNIT 1 AND  
UNIT 2 IS PART OF UNIT 2.

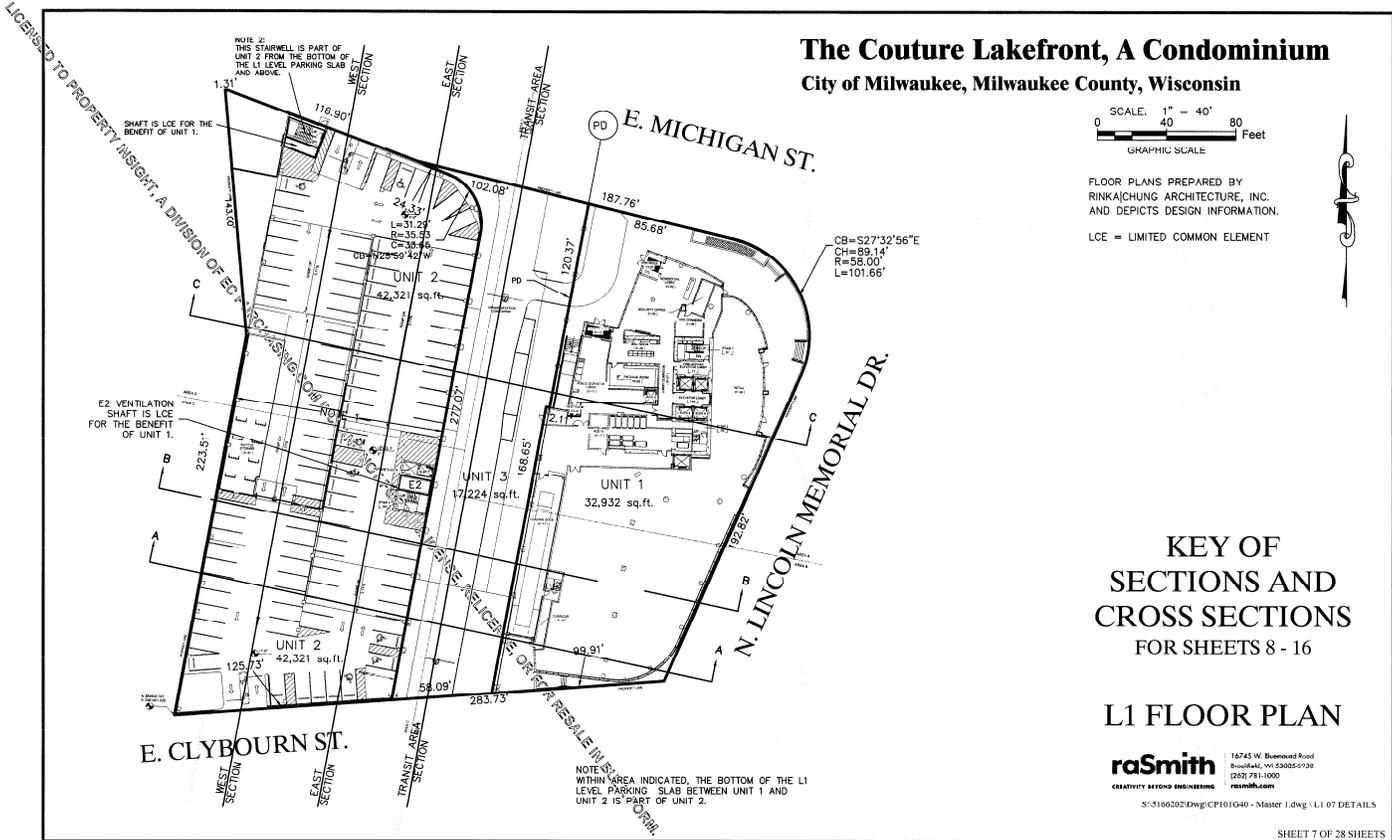
LICENSED TO PROPERTY INSIGHT, A DIVISION OF EQ-PRO CONSULTING CORP.

LICENSED AS A REBALE IN THE STATE OF WISCONSIN

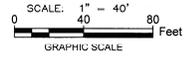
## L1 FLOOR PLAN

**raSmith** 16741 W. Bluemound Road  
Brookfield, WI 53005-5938  
(262) 781-1000  
raSmith.com

S:\5166202-Dwg\CPI01G40 - Master 1.dwg \L1 06



**The Couture Lakefront, A Condominium**  
 City of Milwaukee, Milwaukee County, Wisconsin



FLOOR PLANS PREPARED BY  
 RINKACHUNG ARCHITECTURE, INC.  
 AND DEPICTS DESIGN INFORMATION.  
 LCE = LIMITED COMMON ELEMENT

**KEY OF  
 SECTIONS AND  
 CROSS SECTIONS  
 FOR SHEETS 8 - 16**

**L1 FLOOR PLAN**

**raSmith**  
 CREATIVITY BEYOND IMAGINATION

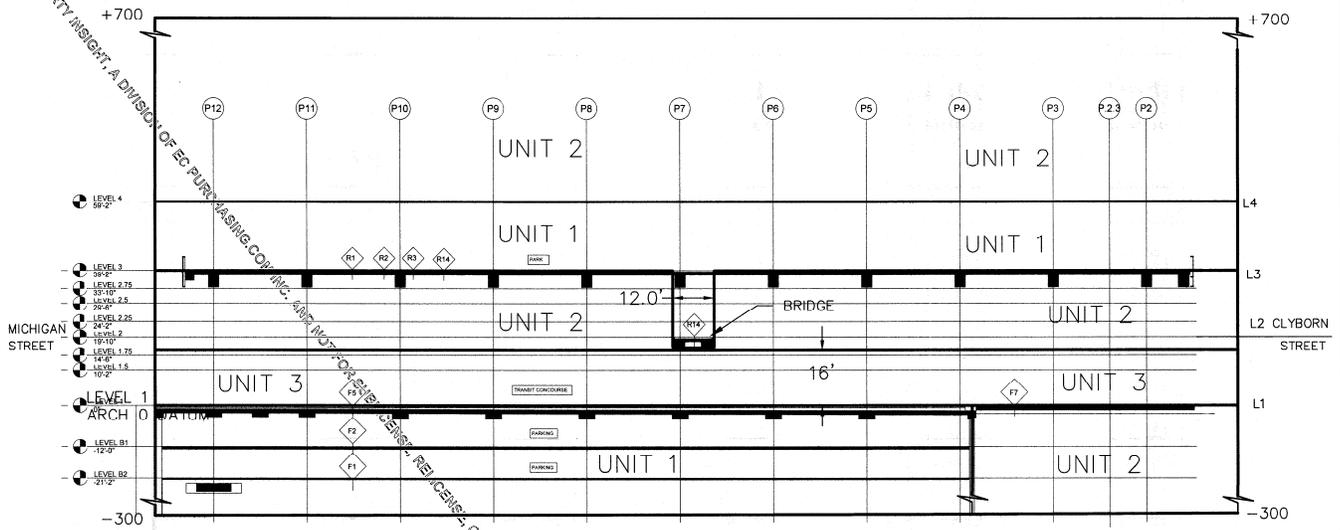
18743 W. Bluemond Road  
 Brookfield, WI 53005-0198  
 (262) 781-1000  
 rasmith.com

S:\3166202\Draw\CPI01G40 - Master 1.dwg \L1 07 DETAILS

# The Couture Lakefront, A Condominium

City of Milwaukee, Milwaukee County, Wisconsin

## TRANSIT AREA SECTION



## SECTION VIEWS ALIGNED NORTH-SOUTH

FLOOR PLANS PREPARED BY  
RINKAJCHUNG ARCHITECTURE, INC.  
AND DEPICTS DESIGN INFORMATION.  
LCE = LIMITED COMMON ELEMENT

NOTE: BOTTOM OF BRIDGE IS 16'10"  
FROM LEVEL 1

**raSmith**  
CREATIVITY BEYOND IMAGINATION

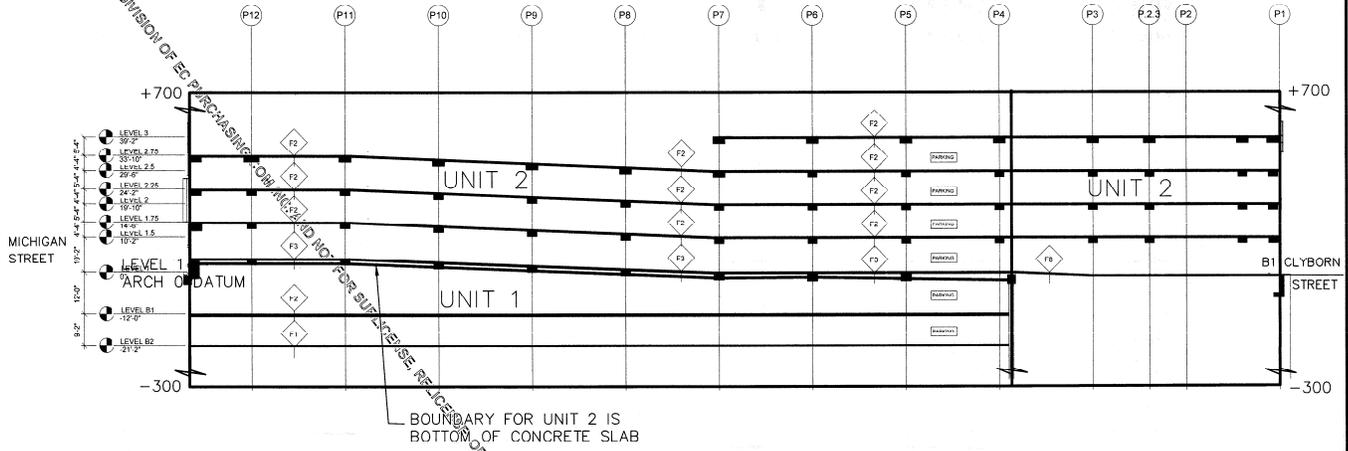
16745 W. Sheboygan Road  
Brookfield, WI 53005-5038  
(262) 781-1000  
raSmith.com

S:\5166202\Drawg\CP101G40 - Master 1.dwg \SECT 08

LICENSED TO PROPERTY INSIGHT, A DIVISION OF EP PURCHASING.COM/INC. - ALL RIGHTS RESERVED. REUSE, RE-IMAGE, OR FOR RESALE IN BULK FORBIDDEN.

**The Couture Lakefront, A Condominium**  
 City of Milwaukee, Milwaukee County, Wisconsin

EAST SECTION



SECTION VIEWS  
 ALIGNED NORTH-SOUTH

FLOOR PLANS PREPARED BY  
 RINKAJCHUNG ARCHITECTURE, INC.  
 AND DEPICTS DESIGN INFORMATION.  
 LCE = LIMITED COMMON ELEMENT

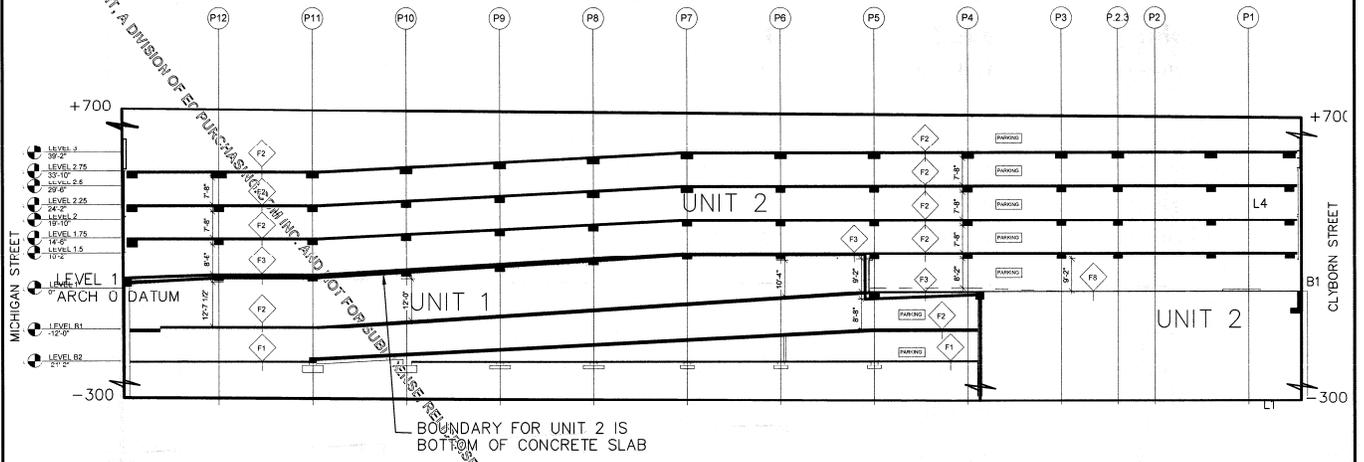
**raSmith** 16745 W. Bluemound Road  
 Brookfield, WI 53005-5938  
 (262) 781-1000  
 ra@ra-smith.com

S:\5166202\Drawg\CP101G40 - Master 1.dwg \SECT 09

LICENSED TO PROPERTY INSIGHT, A DIVISION OF EQ PURCHASING.COM. PROJECT NO. 2019-001. NOT FOR REUSE. REUSE FOR RESALE IN BULK FORM.

**The Couture Lakefront, A Condominium**  
 City of Milwaukee, Milwaukee County, Wisconsin

WEST SECTION



SECTION VIEWS  
 ALIGNED NORTH-SOUTH

FLOOR PLANS PREPARED BY  
 RINKA|CHUNG ARCHITECTURE, INC.  
 AND DEPICTS DESIGN INFORMATION.

LCE = LIMITED COMMON ELEMENT

**raSmith**  
 CREATIVITY BEYOND IMAGINATION

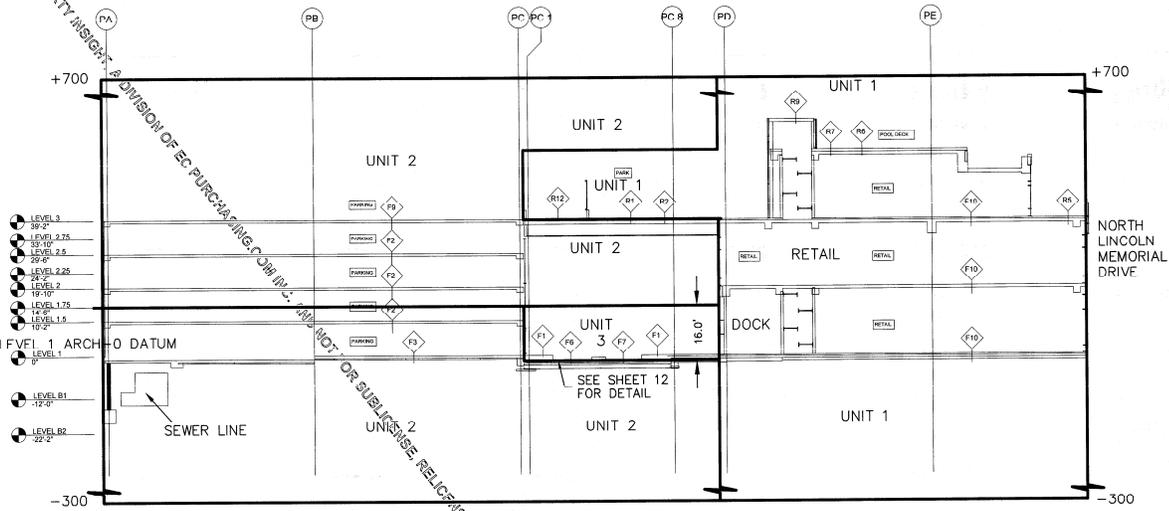
16745 W. Bluemound Road  
 Brookfield, WI 53005-0938  
 (262) 781-1000  
 ra@ra-smith.com

S:\S166202\Drawg\CP101G40 - Master 1.dwg \ SECT 10

LICENSED TO PROPERTY INSIGHT, A DIVISION OF EPICUREAS, INC. AND OF FOR SUBJ. USE OR FOR REBALE IN BULK FORM.

CROSS SECTION VIEW A-A

**The Couture Lakefront, A Condominium**  
 City of Milwaukee, Milwaukee County, Wisconsin



CROSS SECTION  
 VIEW A-A  
 ALIGNED WEST TO EAST

FLOOR PLANS PREPARED BY  
 RINKA/CHUNG ARCHITECTURE, INC.  
 AND DEPICTS DESIGN INFORMATION.  
 LCE = LIMITED COMMON ELEMENT

**raSmith**  
 CREATIVITY BEYOND ENGINEERING

12745 W. Bluemound Road  
 Brookfield, WI 53005-9938  
 (262) 781-1000  
 rasmith.com

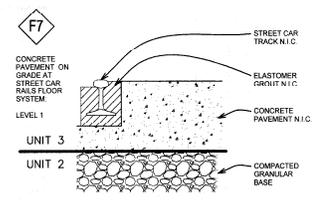
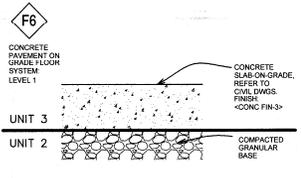
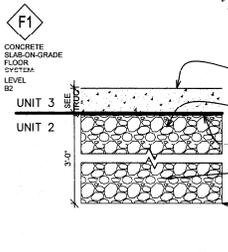
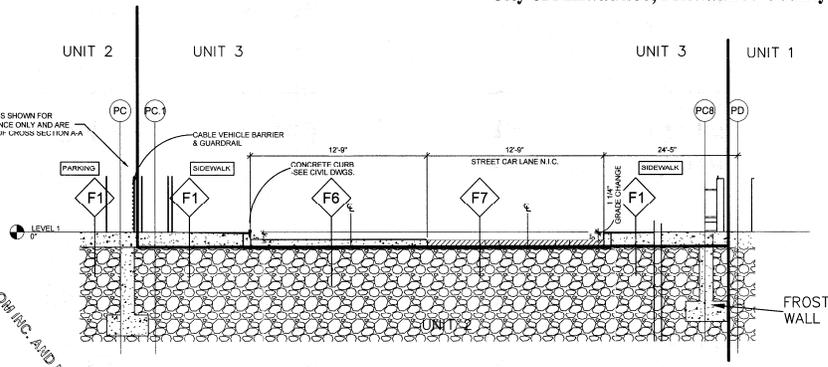
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NOT FOR PUBLICATION, REUSE, OR FOR RESALE IN BULK FORM.

# CROSS SECTION VIEW A-A DETAILS

## The Couture Lakefront, A Condominium City of Milwaukee, Milwaukee County, Wisconsin



FLOOR PLANS PREPARED BY  
RINKACHUNG ARCHITECTURE, INC.  
AND DEPICTS DESIGN INFORMATION.

LCE = LIMITED COMMON ELEMENT

**raSmith**  
CREATIVITY BEYOND DIMENSIONS

18745 W. Burnham Road  
Beverly Hills, WI 53005-5038  
(262) 781-1000  
rsmith.com

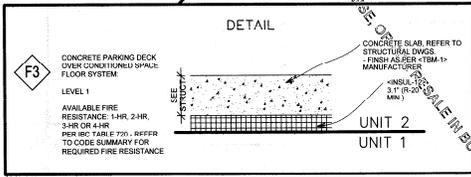
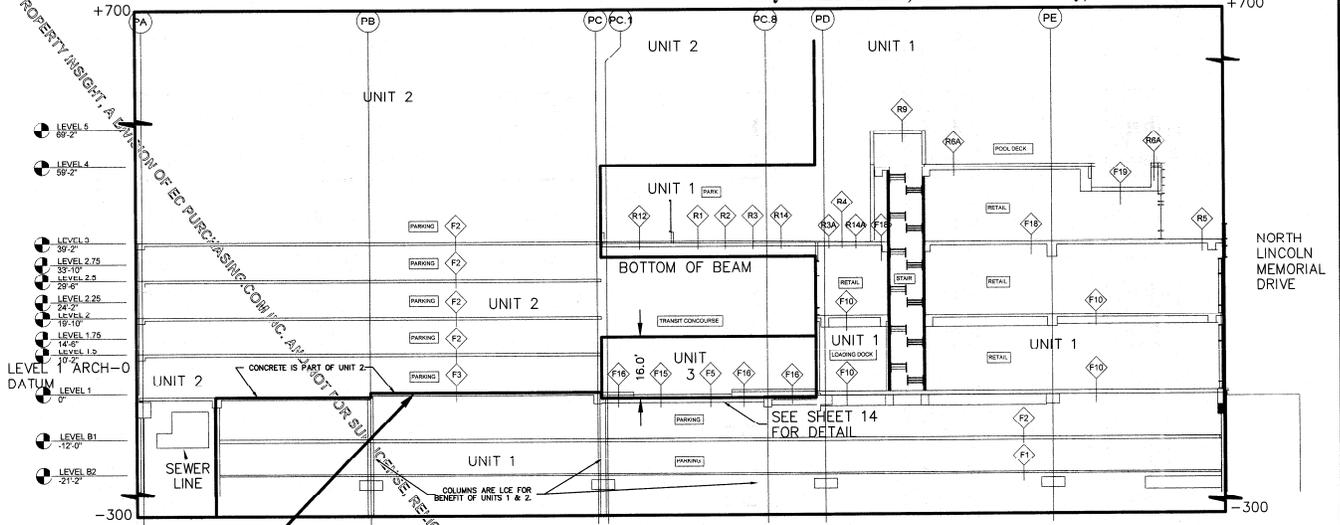
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LICENSED TO PROPERTY INSIGHT, A DIVISION OF EC PURCHASING.COM/LLC, INC. AND NOT FOR REUSE OR FOR RESALE IN BULK FORM.

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CROSS SECTION VIEW B-B

**The Couture Lakefront, A Condominium**  
 City of Milwaukee, Milwaukee County, Wisconsin



CROSS SECTION  
 VIEW B-B  
 ALIGNED WEST TO EAST

FLOOR PLANS PREPARED BY  
 RINKAJCHUNG ARCHITECTURE, INC.  
 AND DEPICTS DESIGN INFORMATION.  
 LCE = LIMITED COMMON ELEMENT

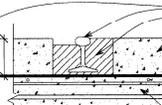
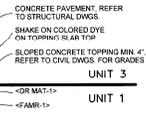
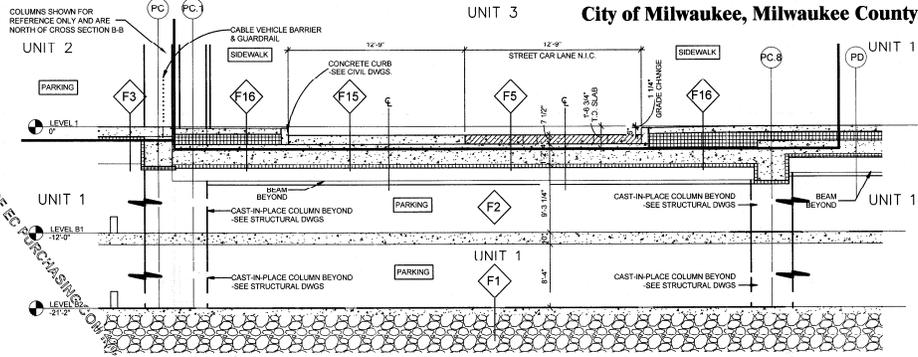
**raSmith** 16745 W. Bluemound Road  
 Brookfield, WI 53005-5938  
 (262) 781-1800  
 raSmith.com

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LICENSED TO PROPERTY INSIGHT, A DIVISION OF EC PARC-HASSELLTOWERS AND NOT PC

# CROSS SECTION VIEW B-B DETAILS

## The Couture Lakefront, A Condominium City of Milwaukee, Milwaukee County, Wisconsin



FLOOR PLANS PREPARED BY  
RINKAICHUNG ARCHITECTURE, INC.  
AND DEPICTS DESIGN INFORMATION.  
LCE = LIMITED COMMON ELEMENT

AVAILABLE FIRE  
RESISTANCE: 1-HR, 2-HR,  
3-HR OR 4-HR  
PER IBC TABLE 720 - REFER  
TO CODE SUMMARY FOR  
REQUIRED FIRE RESISTANCE

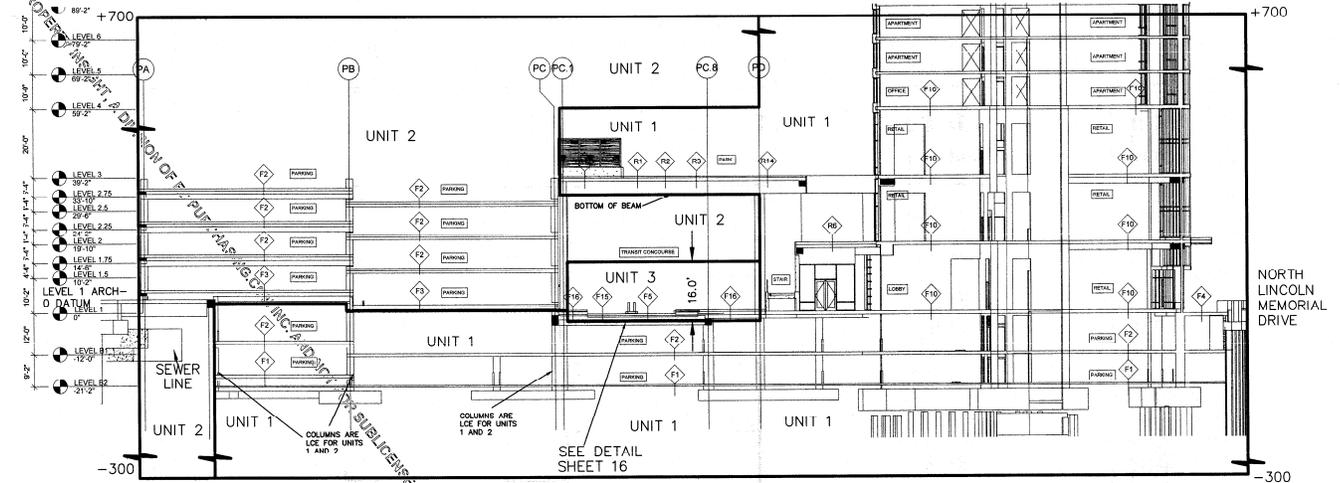
**raSmith**  
CREATIVITY BEYOND IMAGINATION

14745 W. Bluemound Road  
Brookfield, WI 53005-5938  
(262) 781-1000  
raSmith.com

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CROSS SECTION VIEW C-C

The Couture Lakefront, A Condominium  
City of Milwaukee, Milwaukee County, Wisconsin



CROSS SECTION  
VIEW C-C  
ALIGNED WEST TO EAST

FLOOR PLANS PREPARED BY  
RINKACHUNG ARCHITECTURE, INC.  
AND DEPICTS DESIGN INFORMATION.

LCE = LIMITED COMMON ELEMENT

**raSmith**  
CREATIVITY BEYOND ENGINEERING

14745 W. Bluemound Road  
Brookfield, WI 53005-5938  
(262) 781-1000  
ra@ra-smith.com

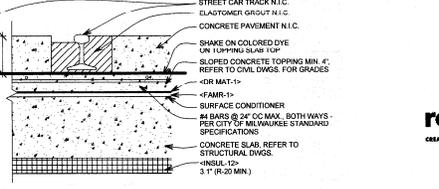
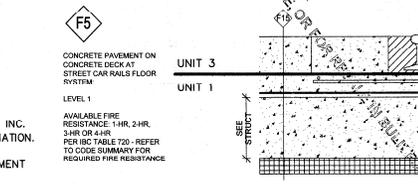
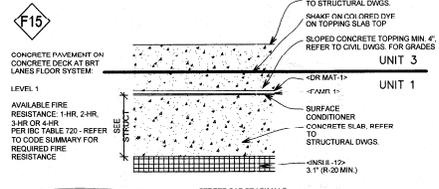
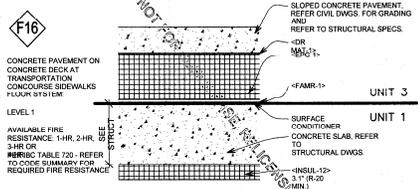
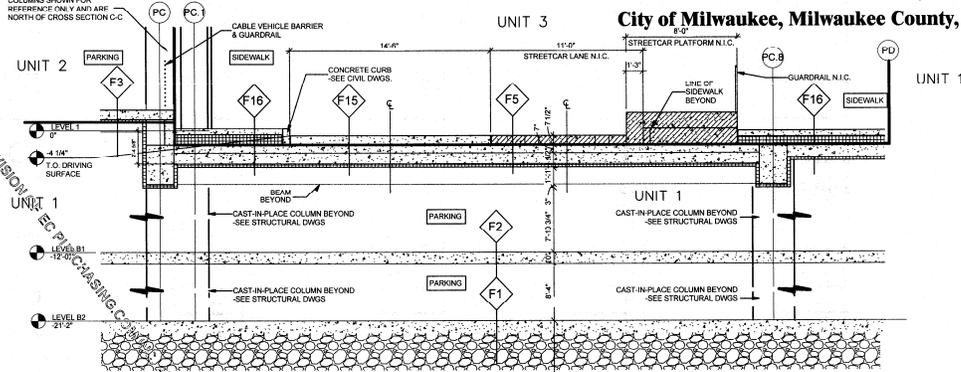
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SHEET 15 OF 28 SHEETS

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# CROSS SECTION VIEW C-C DETAILS

# The Couture Lakefront, A Condominium City of Milwaukee, Milwaukee County, Wisconsin



FLOOR PLANS PREPARED BY RINKAJCHUNG ARCHITECTURE, INC. AND DEPICTS DESIGN INFORMATION.  
LCE = LIMITED COMMON ELEMENT

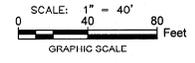
**raSmith** 16745 W. Bluemound Road  
Brookfield, WI 53005-5938  
608.781.1000  
raSmith.com  
S:\166202\Drawg\CP101G10 - Master 1.dwg \DETAILS CC 16  
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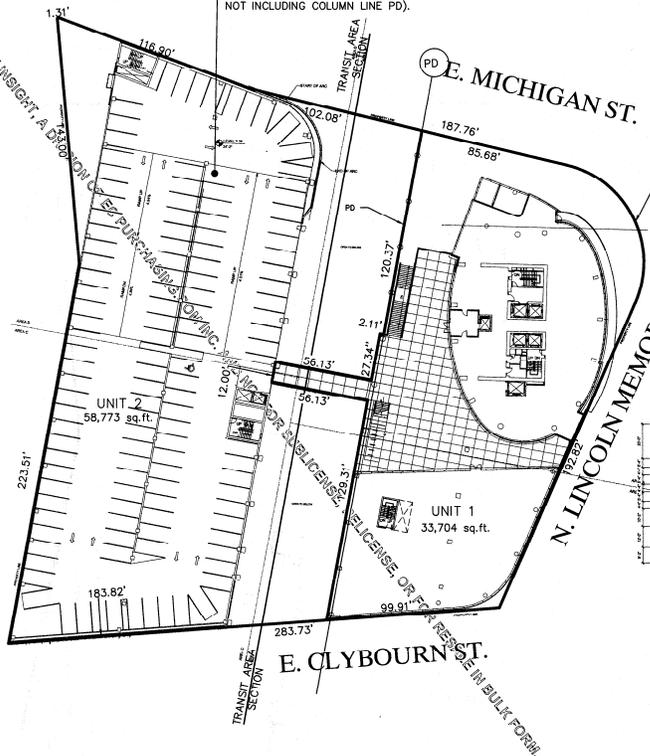
THE FOLLOWING COLUMNS SHALL BE LIMITED COMMON ELEMENTS OF UNIT 1 AND UNIT 2: ALL OF THE COLUMNS LOCATED IN UNIT 1 TO THE WEST OF COLUMN LINE PD (BUT NOT INCLUDING COLUMN LINE PD).

# The Couture Lakefront, A Condominium

City of Milwaukee, Milwaukee County, Wisconsin

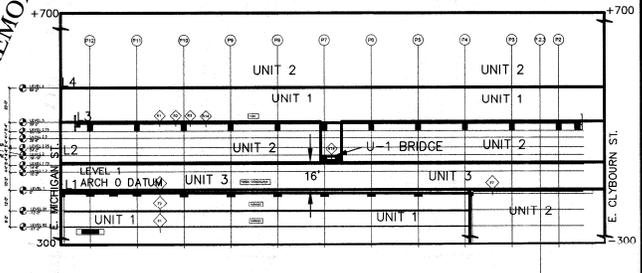


FLOOR PLANS PREPARED BY RINKA|CHUNG ARCHITECTURE, INC. AND DEPICTS DESIGN INFORMATION. LCE = LIMITED COMMON ELEMENT



CB=S27°32'56"E  
CH=89.14'  
R=58.00'  
L=101.66'

TRANSIT AREA SECTION



## L2 FLOOR PLAN

**raSmith** 16745 W. Bluemound Road  
Brookfield, WI 53005-5938  
CREATIVITY BEYOND ENGINEERING (262) 781-1000  
rsmith@ra.com

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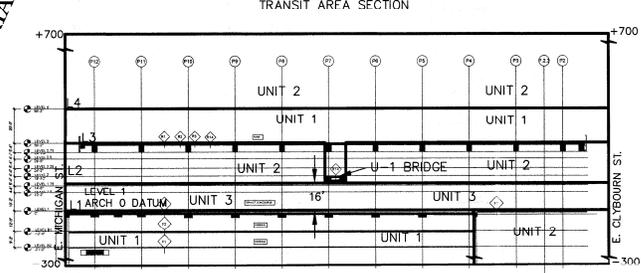
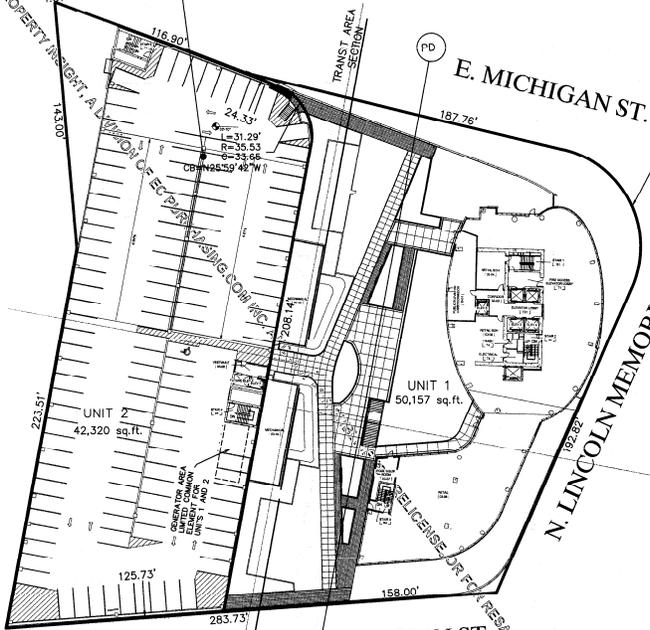
# The Couture Lakefront, A Condominium

City of Milwaukee, Milwaukee County, Wisconsin



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RINKAJCHUNG ARCHITECTURE, INC.  
AND DEPICTS DESIGN INFORMATION.  
LCE = LIMITED COMMON ELEMENT

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## L3 FLOOR PLAN

**raSmith**  
CREATIVITY BEYOND ENGINEERING

16745 W. Bluemound Road  
Bloomfield, WI 53005-5938  
(262) 781-1000  
raSmith.com

S:\166202\Drawg\CPI01G10 Master 1.dwg \ L3 18

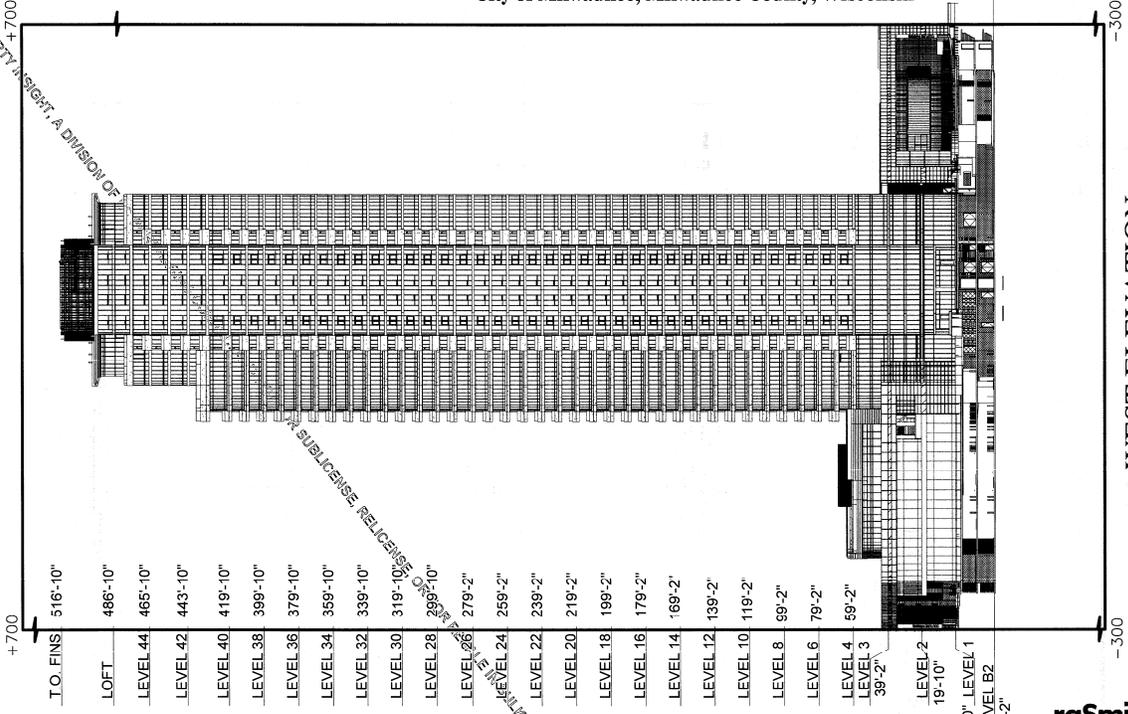
L3

SHEET 18 OF 28 SHEETS



# The Couture Lakefront, A Condominium

City of Milwaukee, Milwaukee County, Wisconsin



+700	T.O. FIN	516'-10"
	LOFT	486'-10"
	LEVEL 44	465'-10"
	LEVEL 42	443'-10"
	LEVEL 40	419'-10"
	LEVEL 38	399'-10"
	LEVEL 36	379'-10"
	LEVEL 34	359'-10"
	LEVEL 32	339'-10"
	LEVEL 30	319'-10"
	LEVEL 28	299'-10"
	LEVEL 26	279'-2"
	LEVEL 24	259'-2"
	LEVEL 22	239'-2"
	LEVEL 20	219'-2"
	LEVEL 18	199'-2"
	LEVEL 16	179'-2"
	LEVEL 14	169'-2"
	LEVEL 12	139'-2"
	LEVEL 10	119'-2"
	LEVEL 8	99'-2"
	LEVEL 6	79'-2"
	LEVEL 4	59'-2"
	LEVEL 3	39'-2"
	LEVEL 2	19'-10"
	0" LEVEL 1	-22'-2"
	LEVEL B2	
-300		

## WEST ELEVATION

(LOOKING WEST FROM LAKE MICHIGAN)  
 NOTE: THIS ELEVATION IS ONLY SHOWN FOR PURPOSE OF DESCRIBING THE UPPER AND LOWER BOUNDARIES OF ALL UNITS.

LICENSED TO PROPERTY INSIGHT, A DIVISION OF

FOR PUBLIC USE, RELEASE UNDER THE PUBLIC RECORDS ACT

S:\5166202\Draw\CP101G40 - Master L.dwg | W ELEV 20

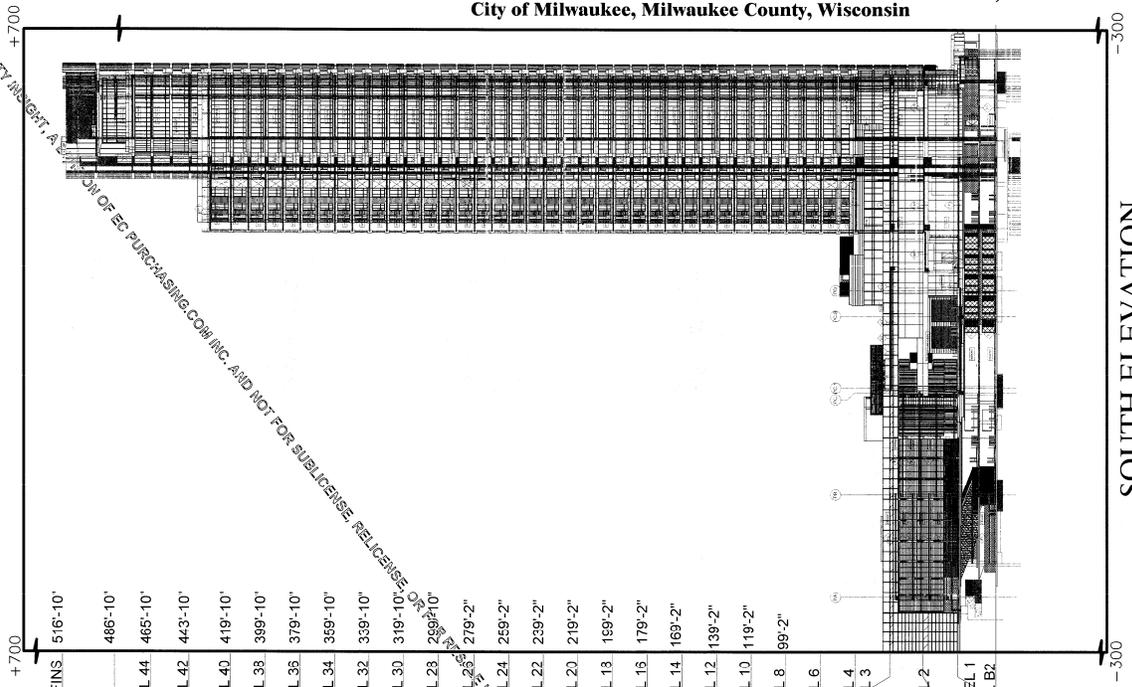
**raSmith**  
 CREATIVE & TECHNICAL ENGINEERING

15745 W. Bluemound Road  
 Brookfield, WI 53005-5938  
 (262) 781-1100  
[www.ra-smith.com](http://www.ra-smith.com)

SHEET 20 OF 28 SHEETS

# The Couture Lakefront, A Condominium

City of Milwaukee, Milwaukee County, Wisconsin



- J.C. FINS 516'-10"
- LOFT 486'-10"
- LEVEL 44 465'-10"
- LEVEL 42 443'-10"
- LEVEL 40 419'-10"
- LEVEL 38 399'-10"
- LEVEL 36 379'-10"
- LEVEL 34 359'-10"
- LEVEL 32 339'-10"
- LEVEL 30 319'-10"
- LEVEL 28 299'-10"
- LEVEL 26 279'-2"
- LEVEL 24 259'-2"
- LEVEL 22 239'-2"
- LEVEL 20 219'-2"
- LEVEL 18 199'-2"
- LEVEL 16 179'-2"
- LEVEL 14 169'-2"
- LEVEL 12 139'-2"
- LEVEL 10 119'-2"
- LEVEL 8 99'-2"
- LEVEL 6
- LEVEL 4
- LEVEL 3 39'-2"
- LEVEL 2 19'-10"
- 01 LEVEL 1
- LEVEL B2 -22'-2"

## SOUTH ELEVATION

(LOOKING NORTH FROM EAST CLYBOURN STREET)  
 NOTE: THIS ELEVATION IS ONLY SHOWN FOR PURPOSE OF DESCRIBING THE UPPER AND LOWER BOUNDARIES OF ALL UNITS.

**raSmith**  
 CREATIVE BEYOND ENGINEERING

16745 W. Bluemound Road  
 Brookfield, WI 53005-5938  
 (262) 781-1000  
[raSmith.com](http://raSmith.com)

SHEET 21 OF 28 SHEETS

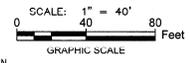
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LICENSED TO PROPERTY INSIGHT, A DIVISION OF EC PURCHASING, LLC BY THE STATE OF WISCONSIN

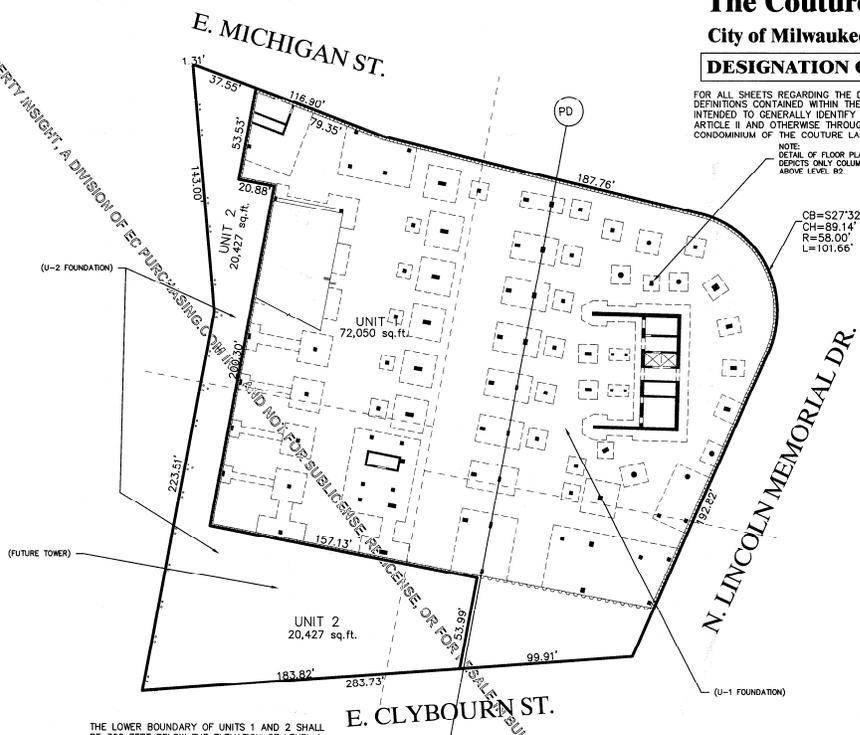
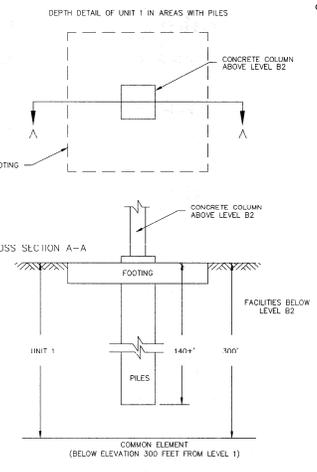
# The Couture Lakefront, A Condominium City of Milwaukee, Milwaukee County, Wisconsin

## DESIGNATION OF AREAS



FOR ALL SHEETS REGARDING THE DESIGNATION OF AREAS, DEFINITIONS CONTAINED WITHIN THE PARENTHESES ARE INTENDED TO GENERALLY IDENTIFY THOSE AREAS DESCRIBED IN ARTICLE II AND OTHERWISE THROUGHOUT THE DECLARATION OF CONDOMINIUM OF THE COUTURE LAKEFRONT, A CONDOMINIUM.

NOTE:  
DETAIL OF FLOOR PLAN  
DEPicts ONLY COLUMNS  
ABOVE LEVEL B2  
CB=527°32'56"E  
CH=89.14'  
R=58.00'  
L=101.66'



THE LOWER BOUNDARY OF UNITS 1 AND 2 SHALL BE 300 FEET BELOW THE ELEVATION OF LEVEL 1.

## BELOW B2

**raSmith**  
CREATIVITY BEYOND ENGINEERING

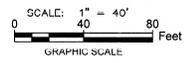
11745 W. Bluemound Road  
Brookfield, WI 53005-9939  
(262) 781-1000  
raSmith.com

S:\5166202\Draw\CP101040 - Master 1.dwg | B2 BELOW DESIGNATION 22

# The Couture Lakefront, A Condominium

## City of Milwaukee, Milwaukee County, Wisconsin

### DESIGNATION OF AREAS



FLOOR PLANS PREPARED BY  
RINKACHUNG ARCHITECTURE, INC. AND  
DEPICKS DESIGN INFORMATION.

The Floor Plans shown on all sheets of this Plat are only approximations of the dimensions, square footage and layout of the Units, General Common Elements and Limited Common Elements. The Declarants reserve the right to modify the layout, location, dimensions and construction details of the Units, Common Elements and Limited Common Elements shown on the Plat. Any such modification occurring after the sale of any Unit by any Declarant to a third-party shall not substantially alter the nature, value or quality of the Units, Common Elements or Limited Common Elements as those factors relate to the Unit sold.

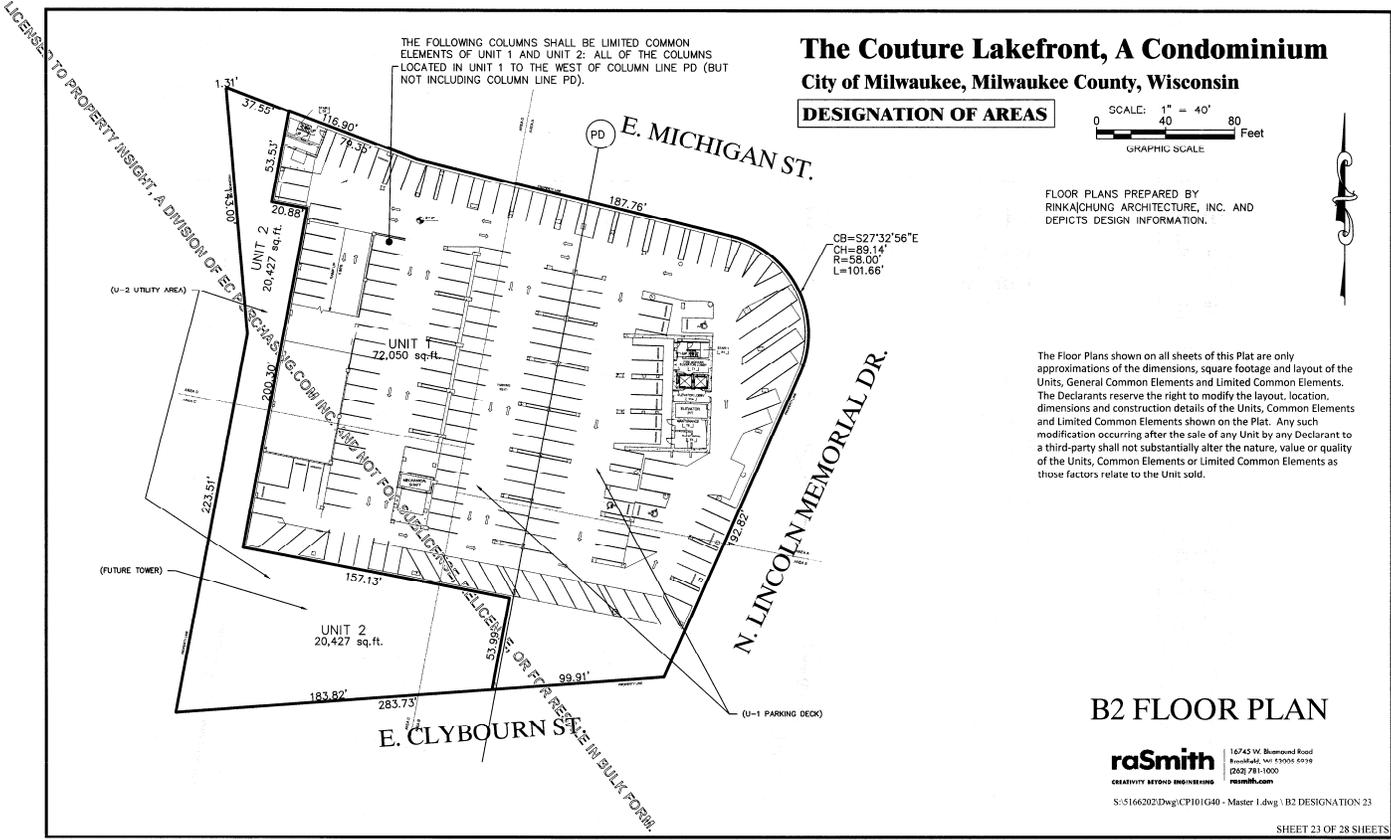
### B2 FLOOR PLAN

**raSmith** 16745 W. Bluemond Road  
Milwaukee, WI 53055 6939  
CREATIVITY BEYOND ENGINEERING (262) 281-1600  
rsmith.com

S:\166202\Draw\CP101\G40 - Master 1.dwg \ B2 DESIGNATION 23

SHEET 23 OF 28 SHEETS

THE FOLLOWING COLUMNS SHALL BE LIMITED COMMON ELEMENTS OF UNIT 1 AND UNIT 2: ALL OF THE COLUMNS LOCATED IN UNIT 1 TO THE WEST OF COLUMN LINE PD (BUT NOT INCLUDING COLUMN LINE PD).



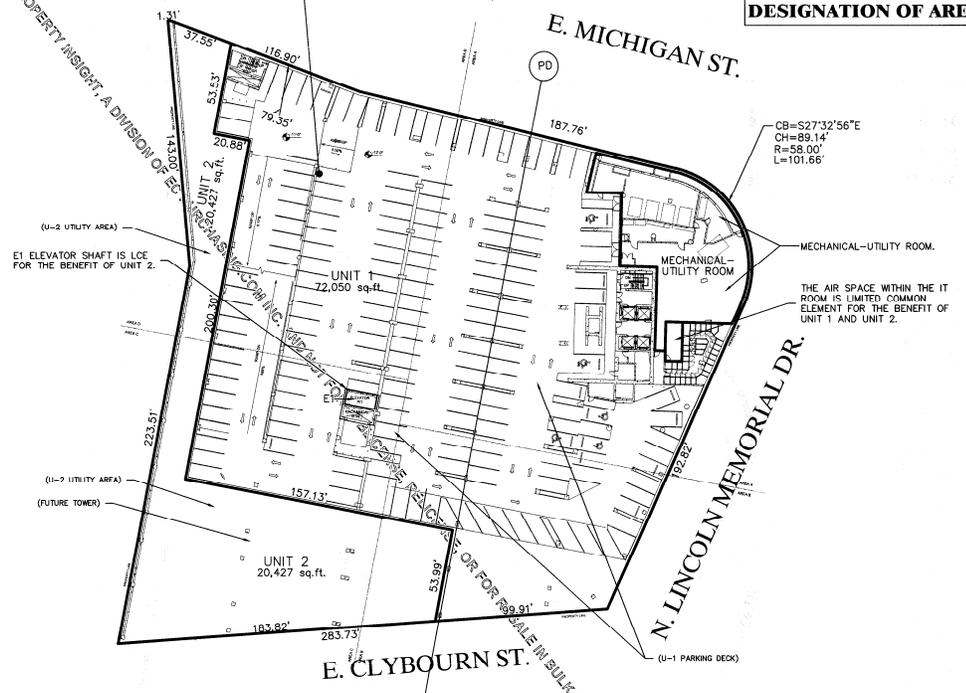
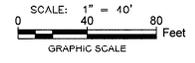
LICENSED TO PROPERTY INSIGHT, A DIVISION OF EC-INSIGHT, INC.

THE FOLLOWING COLUMNS SHALL BE LIMITED COMMON ELEMENTS OF UNIT 1 AND UNIT 2: ALL OF THE COLUMNS LOCATED IN UNIT 1 TO THE WEST OF COLUMN LINE PD (BUT NOT INCLUDING COLUMN LINE PD).

# The Couture Lakefront, A Condominium

City of Milwaukee, Milwaukee County, Wisconsin

## DESIGNATION OF AREAS



## B1 FLOOR PLAN

**raSmith**  
CREATIVITY BEYOND ENGINEERING

16745 W. Bluemound Road  
Brookfield, WI 53005-5938  
(262) 781-1600  
raSmith.com

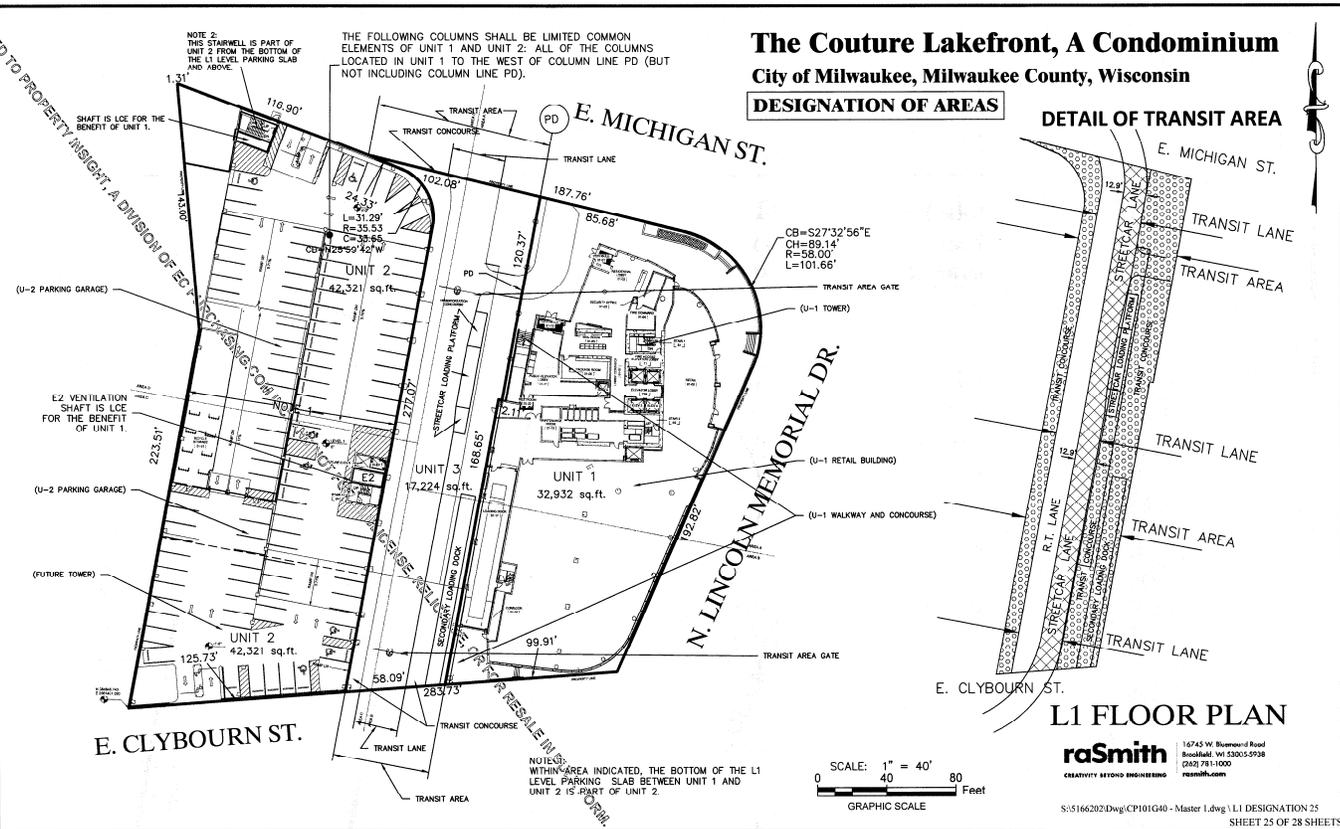
LICENSED TO PROPERTY INSIGHT, A DIVISION OF EFCO HOLDINGS COMPANY

# The Couture Lakefront, A Condominium

City of Milwaukee, Milwaukee County, Wisconsin

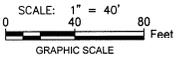
## DESIGNATION OF AREAS

### DETAIL OF TRANSIT AREA



E. CLYBOURN ST.

NOTE 3:  
WITHIN AREA INDICATED, THE BOTTOM OF THE L1  
LEVEL PARKING SLAB BETWEEN UNIT 1 AND  
UNIT 2 IS PART OF UNIT 2.



L1 FLOOR PLAN

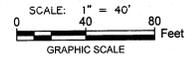
**raSmith**  
CREATIVITY BEYOND ENGINEERING  
16745 W. Bluemound Road  
Brookfield, WI 53005-5938  
(262) 781-1000  
raSmith.com

S:\5166202\Dwg\CPI01G40 - Master L.dwg \L1 DESIGNATION 25  
SHEET 25 OF 28 SHEETS

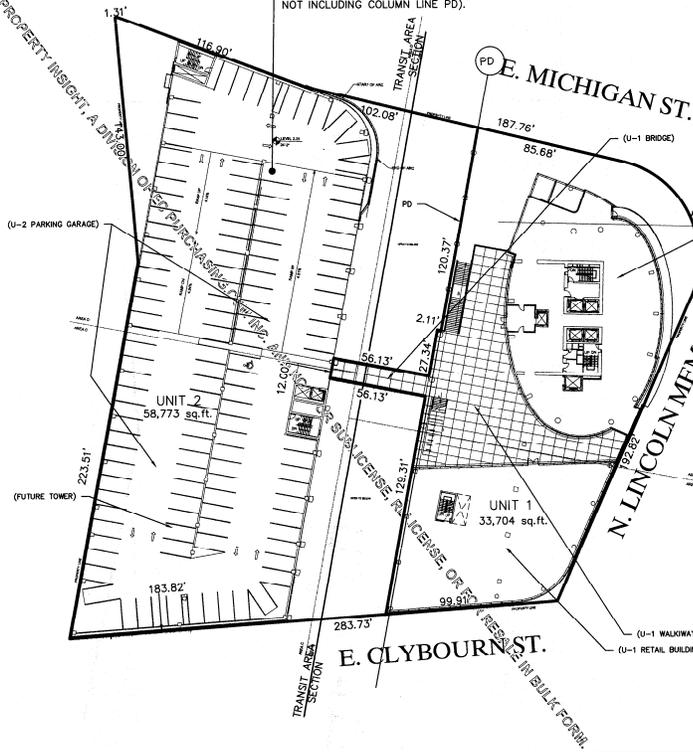
# The Couture Lakefront, A Condominium

City of Milwaukee, Milwaukee County, Wisconsin

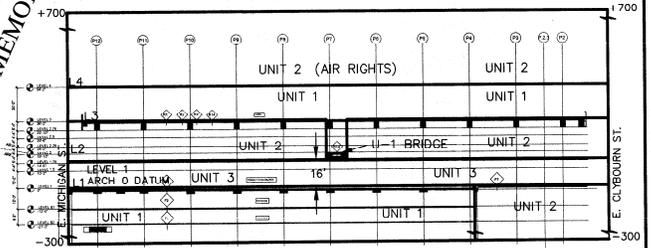
## DESIGNATION OF AREAS



THE FOLLOWING COLUMNS SHALL BE LIMITED COMMON ELEMENTS OF UNIT 1 AND UNIT 2: ALL OF THE COLUMNS LOCATED IN UNIT 1 TO THE WEST OF COLUMN LINE PD (BUT NOT INCLUDING COLUMN LINE PD).



TRANSIT AREA SECTION



## L2 FLOOR PLAN

**raSmith**  
 CREATIVITY BEYOND ENGINEERING

16745 W. Bluemound Road  
 Brookfield, WI 53005-5728  
 (262) 781-1000  
 raSmith.com

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## OPERATING AGREEMENT AND BYLAWS

### **The Couture Lakefront Condominium Association LLC**

Agreement made as of April 9, 2021, between and among the members from time to time (hereinafter referred to collectively as the “Members” and referred to otherwise as “Member(s)”) of The Couture Lakefront Condominium Association LLC, a Wisconsin limited liability company (the “Association”) for which management is vested in one (1) or more managers (collectively, from time to time, the “Board”) pursuant to section 183.0202(4) of Chapter 183 of the Wisconsin Statutes (the “LLC Act”).

#### **RECITALS**

The Association is the association of the owners (hereinafter referred to collectively as the “Unit Owners” and referred to otherwise as “Unit Owner(s)”) of the units (hereinafter referred to collectively as the “Units” and referred to otherwise as “Unit(s)”) of the land, building and improvements located at 909 E. Michigan Street, Milwaukee, Wisconsin known as The Couture Lakefront, A Condominium (the “Condominium”). The Condominium is subject to Chapter 703 of the Wisconsin Statutes (the “Condominium Act”) pursuant to the Declaration of The Couture Lakefront, A Condominium, which was recorded with the Register of Deeds of Milwaukee County, Wisconsin on April 6, 2021 as document number 11099452 (the “Declaration”). All defined terms used in this Agreement (hereinafter referred to as “these Bylaws”), but not otherwise defined in these Bylaws, shall have the same meaning ascribed to them in the Declaration or, if not defined therein, in the Condominium Act.

These Bylaws, as they may be amended from time to time pursuant to Article XIX, shall serve as the bylaws of the Association under section 703.10 of the Condominium Act, and, along with the Articles of Organization (the “Articles”), Declaration and Rules & Regulations for the Condominium, also serve as the Operating Agreement of the Association under section 183.0102(16) of the LLC Act. Each Unit Owner shall, by virtue of such ownership, automatically be a Member of the Association and own an interest in the Association (hereinafter referred to collectively as the “Interests” and referred to otherwise as “Interest(s)”) equal to the Percentage Ownership Interest assigned to his, her or its respective Unit(s) as set forth in Exhibit A (hereinafter referred to collectively as the “Percentage Ownership Interests” and referred to otherwise as “Percentage Ownership Interest(s)”).

#### **ARTICLE I** **Organization**

1.1 **Name and Organization.** The name of the Association is “The Couture Lakefront Condominium Association LLC.” The Association is a limited liability company organized under the LLC Act.

1.2 **Purposes.** The Association has been organized and shall at all times be operated as an association of the Unit Owners of the Condominium. The Association shall have the powers



set forth in the Condominium Documents and any other powers specified in Sections 703.15(3)(a) and (b) of the Condominium Act and the LLC Act.

1.3 **Indefinite Term.** The Association shall continue in existence until dissolved pursuant to Article XVII.

1.4 **Principal and Business Offices.** The Association may have such principal and other business offices, either within or outside the state of Wisconsin, as may be designated from time to time by the Board. The initial mailing address of the Association shall be 260 E. Highland Ave., Ste. 401, Milwaukee, Wisconsin 53202.

1.5 **Registered Agent and Office.** The Association's registered agent may be changed from time to time by or under the authority of the Board. The address of the Association's registered office may be changed from time to time by or under the authority of the Board, or by the registered agent, whose business office shall be identical with the registered office. The Association's registered office may be, but need not be, identical with the Association's principal office in the state of Wisconsin.

## **ARTICLE II** **Members**

2.1 **Membership.** All Unit Owners shall be entitled and required to be Members of the Association. Upon acquiring title to a Unit, a Unit Owner shall automatically, without any further consent on the part of the Members, become a Member of the Association and shall remain a Member, subject to all of the terms of these Bylaws, until such time as his, her or its ownership of such Unit ceases for any reason, at which time his, her or its membership in the Association shall automatically cease. All present and future Unit Owners, Mortgagees, lessees, occupants and other persons interested in any Units, or any portion thereof, as well as their employees and invitees and any other persons who may use any portion of the Condominium in any manner, are subject to the Condominium Documents, and to all covenants, agreements, restrictions, easements and declarations of record referred to in or created by the Declaration or otherwise duly effected. The acceptance of a deed, mortgage, lease or other document evidencing an interest in a Unit, or the use of any portion of the Condominium, shall constitute an acceptance, ratification and confirmation by the person accepting such document or engaging in such use to comply with the Condominium Documents (including, without limitation, these Bylaws) and such title conditions.

2.2 **Voting.** There shall be one hundred (100) votes in the Association, which shall be apportioned among the Units as set forth in the column entitled "No. of Votes" shown in attached Exhibit A (hereinafter collectively referred to as the "Votes" and referred to otherwise as "Vote(s)"). Each Member shall be entitled to vote his, her or its respective Votes on each matter submitted to a vote at a Members' meeting. If title to a Unit is held by more than one person, the Votes allocated to such Unit shall be voted by the person designated from time to time by such persons, in the manner described by the Board, as representing such persons for purposes of these Bylaws.



2.3 **Membership List.** The Association shall maintain a current Membership List showing the Interests and the respective percentages of the total for all of the Units, as well as, for each Unit, the address to which notice of meetings of the Association shall be sent, the mortgagee of the Unit, if any, and the person designated to vote with respect to such Unit. Only the person so designated shall be entitled to vote such Unit whether in person or by proxy. Any such designation may be changed by notice in writing to the Secretary of the Association signed by all of the persons having an ownership interest in the Unit, or in such other manner as the Board may prescribe. This Membership List shall also contain such other information as is necessary for it to satisfy the requirements of both section 183.0405(1)(a) of the LLC Act and section 703.15(4)(a) of the Condominium Act. A copy of the initial Membership List is attached as Exhibit A.

2.4 **Transfer of Membership.** Each Interest shall be appurtenant to the Unit to which it is related and shall be owned and transferred only in conjunction therewith, as provided in Section 2.1. Upon the transfer of any Unit, the transferor and transferee shall notify the Association of such transfer, including the Unit being transferred, name and address of the new Unit Owner, the name of the person designated to vote the Vote related to such Unit, the mortgagee of the Unit, if any, the value of any additions, improvements or other alterations as provided in Section 13.5, evidence of insurance as provided in Section 13.2, and any other information about the transfer which the Association may deem pertinent, and the Association shall make appropriate changes to the Membership List effective as of the date of transfer. The Association shall not be liable for failure to deliver notice to any Unit Owner as required by these Bylaws, the Declaration, the LLC Act or the Condominium Act if the Association was not notified of the transfer of the Unit as set forth in this Section 2.4.

2.5 **Liability.** No capital contributions shall be required or permitted by the Association, except as provided in the Condominium Documents. The value of any cash or other property contributed to the Association by the Members shall be valued by the Board. No Member shall be personally liable for any debt, obligation or liability of the Association, except as otherwise provided in these Bylaws, or under the LLC Act, the Condominium Act, the Declaration or other applicable law, or by reason of acts or conduct other than in his, her or its capacity as a Member or manager.

2.6 **Dissociation; Partition.** The occurrence of an event of dissociation with respect to a Member shall not dissolve the Association and shall not entitle the dissociating Member to receive a distribution in complete or partial redemption of such Member's Interest(s) in the Association. A Member shall not have the power to withdraw by voluntary act and may not be removed. Additionally, except as expressly provided in Articles XIV and XV, each Member hereby irrevocably waives any right that he, she or it might otherwise have to maintain an action for partition with respect to the Condominium, property of the Association or his, her or its Unit(s) or Interest(s), or to require the Association to pay fair value for or otherwise liquidate said Interests.

2.7 **Annual Meeting.** The Association shall hold an annual Members' meeting on the fourth Tuesday in May of each year at 1:00 p.m., or at such other date and time as may be fixed by or under the authority of the Board, for the purpose of electing managers and transacting such other business as may come before the meeting. If the day fixed for the annual meeting is a legal holiday in Wisconsin, the meeting shall be held on the next succeeding business day.



2.8. **Special Meetings.** Special Members' meetings may be called by: (a) the President; (b) the Board or such other officer(s) as the Board may authorize from time to time; or (c) the President or Secretary upon the written request of Members holding more than ten percent (10%) of the Member Votes. Upon delivery to the Secretary of a written request stating the purpose(s) of the requested meeting, dated and signed by person(s) entitled to request such a meeting, the Secretary shall give, within thirty (30) days of such delivery, notice of the meeting to the Members. Notice of any special meetings shall be given in the manner provided in Section 2.10. Only business within the purpose(s) described in the special meeting notice shall be conducted at a special Members' meeting.

2.9. **Place of Meeting.** The President may designate any place within the metropolitan Milwaukee area as the place of meeting for any annual or special Members' meeting or any adjourned meeting. If no designation is made by the President, the place of meeting shall be the Association's principal office.

2.10. **Notice of Meetings.** The President or Secretary, or his or her agent, shall notify each Member, as provided in Section 20.3, of the date, time and place of each annual or special Members' meeting. In the case of a special meeting, the notice shall also state the meeting's purpose(s). Unless otherwise required by these Bylaws or the LLC Act, the meeting notice shall be given not less than ten (10) days, nor more than sixty (60) days, before the meeting date. Notice of a Members' meeting to act on a plan of merger or exchange, or on a sale of assets, shall be given not less than ten (10) days before the date of the meeting.

2.11. **Waiver of Notice.** A Member may waive notice of any Members' meeting, before or after the date and time stated in the notice. Any such waiver must be in writing, containing the same information that would have been required in the notice (except for the time and place of the meeting) and signed by the Member, and shall be effective when delivered to the Association. A Member's attendance at a meeting, in person or by proxy, waives objection to lack of notice or defective notice, unless the Member at the beginning of the meeting or promptly upon arrival objects to the holding of the meeting or transacting business at the meeting and asserts valid grounds for such objection.

2.12. **Fixing of Record Date.** For the purpose of determining Members entitled to notice of or to vote at any Members' meeting, Members entitled to demand a special meeting under Section 2.8 or Members entitled to receive payment of any distribution or dividend, or in order to make a determination of Members for any other proper purpose, the Board may fix a future date and time as the record date. The record date shall not be more than seventy (70) days before the date on which the particular action requiring such determination of Members is to be taken. If no record date is so fixed by the Board, the record date shall be the close of business on the date specified as follows:

- (a) With respect to a special Members' meeting demanded by Members, the date the first Member signs the demand.



(b) With respect to any other special Members' meeting or an annual Members' meeting, the day before the first notice is sent or otherwise delivered to Members.

(c) With respect to actions taken in writing without a meeting (pursuant to Section 2.17), the date indicated in the writing, or if no date is so indicated the date the first Member signs a consent.

(d) With respect to determining Members entitled to a distribution (other than a distribution involving a repurchase or reacquisition of interests), the date the Board authorizes the distribution.

(e) With respect to any other matter for which such a determination is required, as provided by law.

When a determination of the Members entitled to vote at any Members' meeting has been made as provided in this Section, the determination shall apply to any adjournment of the meeting unless the Board fixes a new record date, which it must do if the meeting is adjourned to a date more than one hundred twenty (120) days after the date fixed for the original meeting.

2.13. **Quorum and Voting Requirements.** Except as otherwise provided by the Articles, these Bylaws or the LLC Act, Interests representing more than fifty percent (50%) of the Vote(s) entitled to be cast shall constitute a quorum for action at a meeting. If a quorum exists, action on a matter is approved if the number of Votes represented by the Interest(s) voting in favor of the action exceeds the number of Votes represented by the Interest(s) voting against such action, unless the Articles, these Bylaws, the Declaration, the Condominium Act or the LLC Act requires a greater number of affirmative votes. Once an Interest is represented for any purpose at a meeting, other than for the purpose of properly objecting to holding the meeting or transacting business at the meeting, it is considered present for purposes of determining whether a quorum exists, for the remainder of the meeting and for any adjournment thereof, unless a new record date is or must be set for that adjourned meeting. At an adjourned meeting at which a quorum is represented, any business may be transacted that might have been transacted at the meeting as originally noticed. This provision shall not, however, apply to reduce the number of affirmative votes required for any action taken by the Board pursuant to Articles XIV, XV or XVII, or in the event the affirmative vote of a greater number of Members is required by the LLC Act, the Articles, the Declaration or any other provision of these Bylaws.

2.14. **Order of Business at Meetings.** The order of business at any Members' meeting shall be as follows:

- (a) Roll call.
- (b) Appointment of inspectors of election, if requested.
- (c) Proof of proper notice of meeting or waiver of notice.

If a quorum is present, the meeting shall continue with the following items of business:

- (d) Approval of minutes of preceding meeting, unless dispensed with by unanimous consent.
- (e) Board's report, if any.
- (f) Officers' reports, if any.
- (g) Committee reports, if any.
- (h) Election of managers, if necessary.
- (i) Unfinished business, if any.
- (j) New business, if any.

However, the chairperson of the meeting may adjust such order of business as he or she deems appropriate. He or she may designate an officer or any other person in attendance to keep and prepare minutes of the meeting.

2.15 **Actions Requiring Vote of the Members.** Without limiting any other actions requiring Member approval hereunder and/or under the Declaration, the following actions shall require Member approval, in accordance with the provisions of Section 2.13:

- (a) any borrowing of funds in the name of the Association;
- (b) any special assessment under Section 9.6; and
- (c) any acquisition or conveyance of any right, title or interest in or to real property or the Condominium.

2.16. **Proxies.** At all Members' meetings, the Person(s) entitled to vote may vote in person or by proxy appointed in writing by the Member or by his, her or its duly authorized attorney-in-fact. A proxy appointment shall become effective when received by the Secretary or other officer or agent of the Association authorized to tabulate votes. Unless otherwise provided in the appointment form, a proxy appointment may be revoked at any time before it is voted, either by written notice filed with the Secretary or other officer or agent of the Association authorized to tabulate votes, or by oral notice given by such Person(s) during the meeting at which said vote is taken and prior to said vote. The presence of such Person(s) shall not of itself constitute a revocation. A proxy appointment shall be valid for a maximum of one hundred eighty (180) days from the date of its execution, unless granted to a Mortgagee or lessee of a Unit, or as otherwise provided in the appointment form. The Board shall have the power and authority to make rules establishing presumptions as to the validity and sufficiency of proxy appointments.

2.17. **Action Without a Meeting.** Any action required or permitted by the Articles, these Bylaws, the Declaration, the Condominium Act or the LLC Act to be taken at a Members' meeting



may be taken without a meeting if one or more written consents, setting forth the action so taken, shall be signed by Members holding Interests representing more than fifty percent (50%) of the Vote(s) entitled to be cast. Action taken pursuant to written consent shall be effective when consent(s), signed by Members holding the requisite number of Interests, are delivered to the Association for inclusion in the Association records, unless some other effective date is specified in the consent(s). If the action to be taken requires that advance notice be given to nonvoting Members, the Association shall give the nonvoting Members written notice of the proposed action at least two (2) days before the action is taken, which notice shall comply with the provisions of the LLC Act and the Condominium Act to the extent applicable and shall contain or be accompanied by the same material that would have been required to be sent to nonvoting Members in a notice of meeting at which the proposed action would have been submitted to the Members.

2.18. **Meetings by Electronic Means of Communication.** In addition to conducting meetings in which each Member participates in person, and notwithstanding any place set forth in the notice of the meeting or these Bylaws, any annual or special Members' meeting may be conducted, in whole or in part, by the use of any electronic means of communication, provided (a) all participating Members may simultaneously hear each other during the meeting or (b) all communication during the meeting is immediately transmitted to each participating Member, and each participating Member is able to immediately send messages to all other participating Members. Before the commencement of any business at a meeting at which any Members do not participate in person, all participating Members shall be informed that a meeting is taking place at which official business may be transacted.

2.19. **Units Subject to a Sub-Condominium.** If a Unit is divided into two or more Sub-Units by virtue of a declaration of Sub-Condominium, the Unit shall be regarded as jointly owned by each of the Sub-Unit owners thereof, on an undivided basis, in proportion to their respective percentage ownership interests in the Sub-Condominium. Further, the declaration of Sub-Condominium with respect to a Unit shall be regarded as an irrevocable designation of the Sub-Association for such Unit as the representative of the Unit for all notice, voting and other purposes under these Bylaws. Only the Sub-Association, through its board of directors, shall be entitled to vote the Member Votes associated with such Unit.

### **ARTICLE III** **Board**

3.1 **General Powers.** The Association's powers shall be exercised by or under the authority of, and its business and affairs shall be managed under the direction of, the Board, subject to any limitation set forth in the Articles and these Bylaws. Such Board shall, regardless of its designation as such, constitute and exercise all the powers of the "board of directors" of the Association within the meaning of the Condominium Act. In addition to the other provisions of the Condominium Documents and, except as otherwise limited therein, the powers and duties of the Board shall include, but not be limited to, the following:

- (a) To adopt budgets for revenues, expenditures, and reserves.



- (b) To levy and collect general and special assessments from Unit Owners and to disburse funds in payment of the Association's expenses.
- (c) To manage, maintain, repair, replace, improve, operate and regulate the Common Elements and any property owned or leased by the Association.
- (d) To grant and release easements, licenses, and rights-of-way over, under or through the Common Elements or other property subject to the Association's control.
- (e) To hire and supervise any property manager or agent, security manager or agent, other manager or agent, employee, attorney, accountant, or any other independent contractor whose services the Board determines are necessary or appropriate.
- (f) To initiate, prosecute, defend, mediate and settle litigation or arbitration for the Association.
- (g) To enter into contracts, deeds, leases and to incur, negotiate and satisfy liabilities.
- (h) To purchase, take, receive, rent or otherwise acquire and hold any interest in real or personal property, including a Unit.
- (i) To sell, convey, mortgage, encumber, lease, exchange, transfer or otherwise dispose of any interest the Association may have in real or personal property, including a Unit.
- (j) To receive income derived from payments, fees or charges for the use, rental, or operation of the Common Elements and/or any property owned, leased or controlled by the Association.
- (k) To adopt, amend, repeal, interpret, apply and enforce rules and regulations governing the ownership, operation, maintenance, and/or use of any portion of the Condominium and the activities of any Person(s) in connection therewith, including the imposition of charges for the portions thereof subject to the Association's control and penalties for failure to comply with such rules and regulations.
- (l) To keep all books and records and prepare accurate reports of all transactions of the Association.
- (m) To purchase goods and services for all or any part of the Condominium.
- (n) To designate depositories and establish accounts for the funds of the Association and determine which officers or agents shall be authorized to withdraw and transfer funds deposited in such accounts.



(o) To delegate any or part of the powers, duties or obligations of the Board or Association officers to committees of the Association or to a manager or managing agent, and to appoint an agent to receive proceeds from insurance policies.

(p) To exercise any other powers specified in Sections 703.15(3)(a) and (b) of the Condominium Act or by the Condominium Documents.

(q) To exercise any powers or otherwise take any actions reasonably necessary for the operation of the Condominium.

3.2 **Election.** The Board shall be elected by the Members at each annual Members' meeting. Each manager shall be elected by more than fifty percent (50%) of the Votes represented by the Interests at an annual Members' meeting at which a quorum is present.

3.3 **Number, Tenure and Qualifications.** The number of managers of the Association shall be three (3). A manager may be either a person or an entity. Managers need not be residents of the State of Wisconsin, but all, except one (1), of the managers must be Unit Owners at all times. Each manager shall hold office until the next annual Members' meeting at which time a complete slate of managers shall be elected, or until his, her or its prior death, termination, resignation or removal. A manager may be removed from office by the requisite vote of the Members taken at any Members' meeting called for that purpose, provided a quorum is present. A manager may resign at any time by delivering his, her or its written resignation to the Board, the President, or the Secretary. Any vacancy in the Board may be filled by the Members at a meeting then in session, or otherwise by the remaining managers. A record of the managers from time to time hereunder shall be maintained by the Association, all as required by section 183.0405(1)(a) of the LLC Act (as in effect from time to time, the "Manager List"). A copy of the initial Manager List is attached as Exhibit B.

3.4 **Regular Meetings.** A regular meeting of the Board shall be held without notice immediately after each annual Members' meeting. The place of the regular Board meeting shall be the same as the place of the Members' meeting that precedes it, or such other suitable place as may be specified by the President or Secretary at or prior to the Members' meeting.

3.5 **Special Meetings.** Special meetings of the Board may be called by or at the request of the President or Secretary. The President or Secretary may fix any place, within the state of Wisconsin, as the place for holding any special Board meeting, and if no other place is fixed, the meeting place shall be the Association's principal office in the state of Wisconsin, but any meeting may be adjourned to reconvene at any place designated by vote of a majority of the managers in attendance at the meeting.

3.6 **Meetings by Electronic Means of Communication.** The Board may, in addition to conducting meetings in which each manager participates in person, and notwithstanding any place set forth in the notice of the meeting or these Bylaws, conduct any regular or special meeting by the use of any electronic means of communication, provided (a) all participating managers may simultaneously hear each other during the meeting or (b) all communication during the meeting is



immediately transmitted to each participating manager, and each participating manager is able to immediately send messages to all other participating managers.

3.7 **Notice of Meetings; Waiver of Notice.** The President or Secretary shall give notice of each Board meeting, except meetings pursuant to Section 3.4, to each manager as provided in Section 20.3. Notice may be delivered in person or by telephone conversation, sent by e-mail, facsimile or other form of wire or wireless transmission or in any other manner permitted by the LLC Act at least two (2) days before the meeting being noticed. A manager may waive any notice required under this Section or by law at any time, whether before or after the time of the meeting. The waiver may be in writing, signed by the manager and retained in the Association records. A manager's attendance at or participation in a Board meeting shall constitute a waiver of notice of the meeting, unless the manager at the beginning of the meeting or promptly upon arrival objects to holding the meeting or transacting business at the meeting and states valid grounds for such objection, and does not thereafter vote for or assent to any action taken at the meeting. Neither the business to be transacted at nor the purpose of any regular or special Board meeting need be specified in the notice or waiver of notice of the meeting.

3.8 **Quorum Requirement.** Except as otherwise provided by the LLC Act, the Articles or these Bylaws, a majority of the number of managers specified in Section 3.3 shall constitute a quorum for the transaction of business at any Board meeting. This provision shall not, however, apply to change the quorum requirements for actions taken pursuant to Article VII or any other provisions of these Bylaws that fix different quorum requirements.

3.9 **Voting Requirement.** The affirmative vote of a majority of the number of managers specified in Section 3.3 shall be the act of the Board. This provision shall not, however, apply to reduce the number of affirmative votes required for any action taken by the Board pursuant to Article VII, or in the event the affirmative vote of a greater number of managers is required by the LLC Act, the Articles, the Declaration or any other provision of these Bylaws.

3.10 **Conduct of Meetings.** The President, and in the absence of the President, any manager chosen by the managers present, shall call each Board meeting to order and shall act as chairperson of the meeting. The Association's Secretary shall act as secretary of all Board meetings, unless the presiding officer appoints an assistant secretary or other person present to act as secretary *pro tempore* for the meeting. The chairperson of the meeting shall determine if minutes of the meeting are to be prepared, and if minutes are to be prepared, shall assign a person to do so.

3.11 **Compensation and Expenses.** Managers shall not be entitled to any compensation for services as a manager, but shall be entitled to reimbursement of reasonable expenses incurred in the performance of the managers' duties, including the expense of traveling to and from Board meetings.

3.12 **Managers' Assent.** A manager who is present at a meeting of the Board, or of a committee of the Board of which he, she or it is a member, at which meeting action on any Association matter is taken, shall be deemed to have assented to the action so taken unless: (a) the manager properly objects at the beginning of the meeting or promptly upon his, her or its arrival



to the holding of the meeting or transacting business at the meeting and asserts valid grounds for such objection; (b) minutes of the meeting are prepared and the manager's dissent to or abstention from the action taken is entered in those minutes; or (c) the manager delivers written notice of his, her or its dissent or abstention to the presiding officer of the meeting before the meeting's adjournment or to the Secretary for the meeting immediately after the adjournment. The right of dissent or abstention is not available to a manager who voted in favor of the action taken.

3.13 **Action Without a Meeting.** Any action required or permitted by the Articles, these Bylaws, the Declaration, the Condominium Act or the LLC Act to be taken at a Board meeting may be taken without a meeting if one or more written consents, setting forth the action so taken, shall be signed by a majority of the managers. Action taken pursuant to written consent shall be effective when the last required manager signs the consent or upon such other effective date as is specified in the consent, which shall be retained in the Association records.

## **ARTICLE IV** **Officers**

4.1 **Number and Titles.** The Association's principal officers shall be a President, one or more vice-presidents periodically determined by the Board, a Secretary and a Treasurer, each of whom shall be appointed by the Board. If there is more than one vice-president, the Board may establish designations for the vice-presidencies to identify their functions and/or order. The same person may simultaneously hold more than one office or all of the offices.

4.2 **Appointment, Tenure, Compensation and Qualification.** The officers shall be natural persons appointed by the Board, or to the extent authorized in these Bylaws, by another duly appointed officer. Each officer shall hold office until his or her successor shall have been duly appointed or until the officer's prior death, resignation or removal. The Board or a duly authorized committee of the Board shall fix the compensation of each officer, if any.

4.3 **Additional Officers, Agents, etc.** In addition to the officers referred to in Section 4.1, the Association may have such other officers, assistants to officers, acting officers and agents as the Board may deem necessary and may appoint. Each such person shall act under his or her appointment for such period and have such authority and perform such duties as may be provided in these Bylaws, or as the Board may from time to time determine. The Board may delegate to any officer the power to appoint any subordinate officers, assistants to officers, acting officers or agents. In the absence of any officer, or for any other reason the Board may deem sufficient, the Board may delegate, for such time as the Board may determine, any or all of an officer's powers and duties to any other officer, to any manager or to any other person.

4.4 **Removal.** The Board may remove any officer or other agent, but the removal shall be without prejudice to the contract rights, if any, of the person so removed. Appointment shall not of itself create contract rights. An officer may remove, with or without cause, any officer or assistant officer who was appointed by that officer.

4.5 **Resignations.** Any officer or other agent may resign at any time by giving written notice to the Board, the President or the Secretary. Any such resignation shall take effect when



the notice of resignation is delivered, unless the notice specifies a later effective date and the Association accepts the later effective date. Unless otherwise specified in the notice of resignation, the acceptance of the resignation shall not be necessary to make it effective.

4.6 **Vacancies.** A vacancy in any office because of death, resignation, removal, disqualification or other reason shall be filled in the manner prescribed for regular appointments to the office.

4.7 **President.** The President shall be the Association's chief executive officer, and, except with respect to matters as to which the Board has reserved to itself the power to decide and otherwise subject to the Board's control, shall:

- (a) superintend and manage the Association's business;
- (b) coordinate and supervise the work of its other officers;
- (c) employ, direct, fix the compensation of, discipline and discharge its employees;
- (d) employ agents, professional advisors and consultants;
- (e) perform all functions of a general manager of the Association's business;
- (f) have authority to sign, execute and deliver in the Association's name all instruments either when specifically authorized by the Board or when required or deemed necessary or advisable by the President in the ordinary conduct of the Association's normal business, except in cases where the signing and execution of the instruments shall be expressly delegated by these Bylaws, the Board or by law to some other officer(s) or agent(s) of the Association; and
- (g) in general, perform all duties incident to the office of the President and such other duties as from time to time may be assigned to him or her by the Board.

4.8 **Vice-Presidents.** In the President's absence, or in the event of his or her death or inability or refusal to act, or if for any reason it shall be impractical for the President to act personally, the vice-president (or if there is more than one vice-president, the vice-presidents in the order designated by the Board, or in the absence of any designation, in the order of their appointment) shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. Each vice-president shall perform such other duties and have such other authority as from time to time may be delegated or assigned to him or her by the President or by the Board.

4.9 **Secretary.** The Secretary shall:

- (a) keep minutes of any meeting of the Members, the Board and its committees in one or more books provided for that purpose;

(b) see that all notices are duly given in accordance with these Bylaws or as required by law;

(c) be custodian of the Association's records and see that the books, reports, statements, certificates and all other documents and records required by law are properly kept and filed; and

(d) in general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him or her by the Board or the President.

4.10 **Treasurer**. The Treasurer shall:

(a) have charge and custody of, and be responsible for, all of the Association's funds and securities; receive and give receipts for monies due and payable to the Association from any source whatsoever; deposit all such monies in the Association's name in such banks, financial institutions, trust companies, or other depositories as shall be selected in accordance with the provisions of Section 5.4 of these Bylaws; cause such funds to be disbursed by checks or drafts on the Association's authorized depositories, signed as the Board may require; and be responsible for the accuracy of the amounts of, and cause to be preserved proper vouchers for, all monies disbursed;

(b) have the right to require from time to time reports or statements giving such information as he or she may desire with respect to any and all of the Association's financial transactions from the officers, employees or agents transacting the same;

(c) keep or cause to be kept, at the Association's principal office or such other office or offices as the Board shall from time to time designate, correct records of the Association's funds, business and transactions, and exhibit those records to any manager of the Association upon request at that office;

(d) deliver to the Board or the President whenever requested an account of the Association's financial condition and of all transactions of the Association, and promptly after the close of each fiscal year, make or cause to be made and submit to the Board a like report for such fiscal year;

(e) at each annual Members' meeting or the meeting held in lieu thereof, furnish copies of the Association's most current financial statement to the Members and answer questions that may be raised regarding such statement; and

(f) in general, perform all duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him or her by the Board or the President.



If required by the Board, the Treasurer shall furnish a bond for the faithful discharge of his or her duties in such sum and with such surety(ies) as the Board shall determine. Notwithstanding anything to the contrary, any or all of the functions set forth in subsection (a), above, may be delegated to an outside property manager pursuant to a written engagement approved by the Board.

## ARTICLE V

### **Contracts, Loans, Checks and Deposits**

5.1 **Contracts.** The Board may authorize any officer or officers, or agent or agents, to enter into any contract or execute or deliver any instrument in the Association's name and on its behalf. The authorization may be general or confined to specific instruments.

5.2 **Loans.** No indebtedness for borrowed money shall be contracted on the Association's behalf and no evidences of such indebtedness shall be issued in its name unless authorized by or under the authority of the Board. The authorization may be general or confined to specific instances. The Board shall not, however, have the authority to grant a mortgage or to otherwise encumber the Common Elements without Member approval.

5.3 **Checks, Drafts, etc.** All checks, drafts or other orders for the payment of money, or notes or other evidences of indebtedness, issued in the Association's name shall be signed by such officer or officers or agent or agents of the Association and in such manner as shall, from time to time, be determined by or under the authority of the Board.

5.4 **Deposits.** All funds of the Association not otherwise employed shall be deposited from time to time to the Association's credit in such banks, trust companies or other depositories as may be selected by or under the authority of the Board.

## ARTICLE VI

### **Voting of Securities Owned by the Association**

6.1 **Authority to Vote.** Any interests or other securities issued by any other entity and owned or controlled by the Association may be voted at any meeting of the issuing entity's security holders by the President of the Association in person, or in his or her absence by any vice-president of the Association who may be present.

6.2 **Proxy Authorization.** Whenever, in the judgment of the President, or in his or her absence of any vice-president, it is desirable for the Association to execute a proxy appointment or written consent with respect to any interests or other securities issued by any other entity and owned or controlled by the Association, the proxy appointment or consent shall be executed in the Association's name by the President or one of the vice-presidents of the Association, without necessity of any authorization by the Board or countersignature or attestation by another officer. Any person(s) designated in this manner as the Association's proxy(ies) shall have full right, power and authority to vote the interests or other securities issued by the other entity and owned or controlled by the Association in the same manner as the interests or other securities might be voted by the Association.



**ARTICLE VII**  
**Contracts Between the Association and Related Persons**

Any contract or other transaction between the Association and one or more of its managers, or between the Association and any entity of which any of its managers are shareholders, members, partners or other owners or directors, managers, employees or employees or other officials, or in which any of its managers are interested, shall not be voidable by the Association solely because of the manager's interest, whether direct or indirect, in the transaction if:

- (a) the material facts of the transaction and the manager's interest were disclosed or known to the Board or a committee of the Board, and a majority of the disinterested members of the Board or committee authorized, approved or specifically ratified the transaction;
- (b) the material facts of the transaction and the manager's interest were disclosed or known to the Members entitled to vote on the matter, and a majority of the Interests held by disinterested Members authorized, approved or specifically ratified the transaction; or
- (c) the transaction was fair to the Association.

For purposes of this Article VII, a majority of managers having no direct or indirect interest in the transaction shall constitute a quorum of the Board or a committee of the Board for the purpose of acting on the matter, and a majority of the Interests entitled to vote on the matter, other than those owned by or under the control of a manager having a direct or indirect interest in the transaction, shall constitute a quorum of the Members for the purpose of acting on the matter. This Article VII is not intended to modify the application provisions of section 703.35 of the Condominium Act.

**ARTICLE VIII**  
**Tax Matters**

8.1 **Character of Organization.** The Association is designed to be a condominium management association within the meaning of section 528 of the Code and the provisions of these Bylaws shall be interpreted accordingly. In furtherance of this purpose, the Association may at any time prepare and file an election to be classified as an association taxable as a corporation under the Code.

8.2 **Fiscal Year and Methods of Accounting.** The fiscal year of the Association shall be the calendar year. The Association shall use such methods and practices of accounting as the managers shall, from time to time, determine to be advantageous.

8.3 **Inspection of Records by Members.** The Association shall maintain the records required by section 703.20 of the Condominium Act. Upon reasonable request, which, among other things, requires that the request be made in good faith and for a proper purpose, a Member shall have the right to inspect and copy during regular business hours at a reasonable location specified by the Association any or all of the following records: (a) the Member List and the



Manager List; (b) the Association's Articles, these Bylaws, and any amendments thereto; (c) the Association's accounting records, financial statements and tax returns for the four (4) most recent fiscal years; and (d) information relating to the value of each Member's contribution to the Association and other writings required to be maintained by these Bylaws. If the Association agrees to make copies of any of the foregoing for any Member, the Association shall be entitled to charge a reasonable fee for the time and expense in making such copies. NOTWITHSTANDING THE PROVISIONS OF THIS SECTION 8.3, FOR SO LONG AS HUD IS THE HOLDER OR INSURER OF A MORTGAGE OF A UNIT, HUD AND ANY MORTGAGEE OF A HUD-INSURED MORTGAGE SHALL HAVE COMPLETE ACCESS TO ALL OF THE ASSOCIATION'S BOOKS AND RECORDS UPON WRITTEN REQUEST AND MAY REQUEST COPIES OF SAME FROM THE ASSOCIATION.

8.4 **Net Earnings.** All of the net earnings of the Association shall be devoted to the benefit of the Association and no part of its net earnings shall inure to the benefit of any individual, except that the Association shall be authorized and empowered to pay reasonable compensation for services rendered, and may return assessments which are in excess of the ordinary and necessary expenses of operating, managing and maintaining the Association's operations and properties.

8.5 **Propaganda.** No substantial part of the activities of the Association shall consist of carrying on propaganda or otherwise attempting to influence legislation, except as otherwise provided in section 501(h) of the Code, and the Association shall not participate or intervene in, including the publication or distribution of statements, any political campaign on behalf of or in opposition to any candidate for public office.

## **ARTICLE IX** **Condominium Operations**

9.1 **General.** The Association, acting through the Board, shall be responsible for the administration, maintenance, management and operation of the Condominium in accordance with the Declaration, these Bylaws, the Condominium Act and other applicable law.

9.2 **Budget Process.**

(a) **New Budget.** Prior to the beginning of each fiscal year of the Association, the Board shall adopt a new annual operating budget for the Condominium containing the items required under section 703.161 of the Condominium Act, including an estimate of the total Common Expenses (as defined in the Declaration) for such upcoming year and allocating such Common Expenses as provided herein. Before such fiscal year, the Association shall send a copy of such budget to each Unit Owner, including a statement setting forth the periodic time(s) and amount(s) for the payment of such assessments by each Unit Owner pursuant to the terms hereof. The Board may revise the current annual operating budget from time to time during a fiscal year as it deems necessary or appropriate and shall promptly give each Unit Owner notice of any change that affects such Unit Owner's assessments. Any assessments under any annual operating budget may take into



account transitional adjustments (if any) from previous budgets that the Board deems appropriate.

(b) Continued Budget. In the event that the Board fails to adopt a new annual operating budget, each Unit Owner shall continue to pay assessments at the same periodic time(s) during succeeding fiscal year(s) and in the same amount(s) as were previously in effect for the preceding fiscal year unless and until a revised budget is adopted and disseminated to Unit Owners.

9.3 Operating Budget. The annual operating budget established as provided in Section 9.2 shall provide for a designated “operating fund,” and may further provide for a “reserve fund” as defined in this Section 9.3.

(a) Operating Fund. The operating fund (“Operating Fund”) shall be used for all Common Expenses that are anticipated or which occur annually or more frequently, such as amounts required for the cost of services, insurance, administration, materials and supplies, and costs associated with anticipated or routine maintenance of the Condominium.

(b) Reserve Fund. The reserve fund (“Reserve Fund”), if established, shall be used for contingencies, or unanticipated or non-periodic expenses, such as unexpected or non-routine repair and renovation. All monies collected for the Reserve Fund shall be held in a separate, segregated account maintained in the name of the Association. In the event the Association incurs expenditures not originally included in the annual operating budget, then such expenditures may be paid from the Reserve Fund. In the event that such amount is insufficient to pay all of such expenditures, or at the discretion of the Board, the Association may levy further assessment(s) against the Unit Owners. The Reserve Fund may also be used to discharge construction liens or other encumbrances levied against the Condominium and/or any Unit. Notwithstanding the previous sentence, if any construction lien or other encumbrance was caused by or created by a Unit Owner, the Reserve Fund shall not be used to discharge the construction lien or other encumbrance as to such Unit Owner’s Unit. In the event that any such liens or other encumbrances are, in the reasonable discretion of the Board, appropriately allocable exclusively to one (1) or more Unit(s), such expenditures shall be allocated and assessed against such Unit(s). Any charges against the Reserve fund in accordance with the provisions of these Bylaws that are not otherwise repaid to the Fund shall be replenished by additional assessments against the Unit Owners in subsequent years. NOTWITHSTANDING ANY OTHER PROVISION OF THESE BYLAWS, WHENEVER A UNIT OWNER IS REQUIRED TO FUND AND/OR MAINTAIN A SEPARATE RESERVE FUND IN CONNECTION WITH ALL OR ANY PORTION OF THE CONDOMINIUM WITH HUD OR A MORTGAGEE OF A HUD-INSURED MORTGAGE, SUCH UNIT OWNER SHALL BE EXEMPT FROM PAYING ANY ASSESSMENTS IN CONNECTION WITH THE RESERVE FUND. WHENEVER THE ASSOCIATION ELECTS TO PAY AN EXPENSE FROM THE RESERVE FUND, IT SHALL ASSESS SUCH EXEMPT UNIT OWNER FOR HIS, HER OR ITS ASSESSMENT INTEREST OF SUCH EXPENSE BEING PAID, AND THE REMAINING BALANCE OF SUCH EXPENSE SHALL BE PAID FROM THE



RESERVE FUND. NOTWITHSTANDING ANY OTHER PROVISION OF THE CONDOMINIUM DOCUMENTS, THE FOREGOING PROVISION INVOLVING EXEMPTIONS FROM THE RESERVE FUND SHALL NOT BE REVOKED OR OTHERWISE MODIFIED, FOR SUCH TIME AS HUD EITHER OWNS OR INSURES A MORTGAGE AGAINST A UNIT, WITHOUT THE WRITTEN CONSENT OF HUD OR THE MORTGAGEE OF THE HUD-INSURED MORTGAGE. THE RESERVE FUND IS NOT A STATUTORY RESERVE ACCOUNT UNDER SECTION 703.163 OF THE CONDOMINIUM ACT. THE DECLARANTS (IN THEIR CAPACITY AS UNIT OWNERS AND NOT THROUGH DECLARANT CONTROL) HAVE ELECTED NOT TO ESTABLISH A STATUTORY RESERVE ACCOUNT.

9.4 **Allocation of Expenses.** The total amount of the estimated Common Expenses (including reserves) for each fiscal year of the Association, as set forth in the annual operating budget adopted by the Board for the Condominium for such fiscal year, shall be assessed against all of the Units on a pro rata basis pursuant to each Unit's Percentage Assessment Interest as set forth in attached Exhibit A (hereinafter referred to collectively as the "Percentage Assessment Interests" and referred to otherwise as the "Percentage Assessment Interest(s)"), except as otherwise set forth herein. To the extent reasonably practical, all expenses and reserves allocable to Limited Common Elements shall be directly assessed against the Unit or Units to which such Limited Common Elements are appurtenant either directly (in the case of one Unit), or on a pro rata basis with all other applicable Units (in the case of more than one, but less than all Units), or in such other manner as the Board reasonably determines is appropriate. If and to the extent the Board determines that an expense or reserve is properly allocable to one (1) or more individual Unit(s), based on the use thereof or the benefit derived therefrom, the Board shall, acting reasonably and in good faith, so allocate such expenses to such individual Unit(s) from such expense. In performing such analysis, the Board shall not consider any lack of use or benefit caused by any vacancy of the applicable Unit(s). Notwithstanding anything to the contrary contained herein, to the extent practicable and commercially reasonable, any contracts entered into by the Board to provide services, utilities or other benefits to the Condominium shall separately allocate all charges to be paid thereunder to the Units, General Common Elements and/or Limited Common Elements that will be served thereby, and the Board shall assess the Units for such charges on the basis of such allocation. If the charges are separately allocated between the Units and General Common Elements, the charges allocable to the General Common Elements shall be assessed against the Units pro rata according to each Unit's Assessment Percentage Interest(s), or in such other manner as the Board reasonably determines is appropriate.

9.5 **General Assessments.** Notices of assessments against the Units shall set forth separately each Unit's share of the amount of the total assessment allocated to the Operating Fund and/or Reserve Fund. Common Expenses for a fiscal year shall be deemed assessed for, with respect to, and as of the first day of each fiscal year of the Association even if payable in installments. The Board shall determine for each item of budgeted expense, whether such item shall be assessed on an annual, semi-annual, quarterly or monthly basis, and each Unit Owner shall be obligated to pay to the Association the appropriate periodic installment prior to the commencement of the relevant annual, quarterly or monthly period. If the Board revises an annual operating budget during any fiscal year, it may specify the date as of which any additional expenses based on such revision shall be assessed. In the absence of such specification, all such additional



expenses shall be assessed as of the first day of the month following the month in which such revision was so adapted. Within ninety (90) days after the end of each fiscal year, the Board shall supply to all Unit Owners an itemized accounting of all expenses paid or incurred by the Association during such fiscal year, as well as amounts assessed and collected pursuant this Article for such fiscal year. Any amount(s) collected in excess of the amount required for actual expenses and reserves for such fiscal year shall, in the discretion of the Board, be (a) credited against the appropriate Unit Owner(s)' obligation to pay future assessments; (b) refunded to the appropriate Unit Owner(s); and/or (c) added to reserves. Any deficiency in amounts so collected, including any portion thereof arising from the failure of a Unit Owner to pay an assessment levied against such Unit Owner's Unit, shall be allocated, assessed, paid and collected in accordance with the provisions of this Article.

9.6 **Special Assessments.** If reserves established and maintained in accordance with this Article shall be inadequate for any reason, including, without limitation, the non-payment of any Unit Owner's assessments, any shortage or loss incurred or suffered in a fiscal year, or the cost of any construction, reconstruction or replacement of, or insurance coverage of, the Common Elements, the Board may at any time or from time to time make a special assessment in order to satisfy such deficiency. All special assessments shall be allocated, assessed, paid and collected as provided in accordance with the provisions of this Article. **FOR SUCH TIME AS HUD IS THE HOLDER OR INSURER OF A MORTGAGE ON ANY UNIT, ALL SPECIAL ASSESSMENTS AGAINST SUCH UNIT (AND THE ENFORCEMENT OF ANY LIEN CREATED THEREBY) ARE SUBJECT TO THE PRIOR WRITTEN APPROVAL OF HUD OR THE MORTGAGEE OF THE HUD-INSURED MORTGAGE.**

9.7 **Obligation to Pay Expenses.**

(a) **Generally.** Each Unit Owner shall be obligated to pay such Unit Owner's share of the Common Expenses assessed against such Unit Owner's Unit in accordance with the provisions of this Article and, by acceptance of the deed or other conveyance documents for such Unit, whether or not it is so expressed in such deed or conveying instrument, shall be deemed to covenant and agree with the Association and each other Unit Owner, to pay all amounts so assessed, together with any expenses (including reasonable attorneys' fees) paid or incurred by the Association in the collection thereof, all of which shall be a personal liability of such Unit Owner. Such obligation shall be joint and several if such Unit Owner consists of more than one person or, if the Unit is divided into more than one Sub-Unit pursuant to a declaration of Sub-Condominium, such obligation shall run to the Sub-Association of the Sub-Condominium, which (in turn) may apportion such obligation as provided in its declaration and/or bylaws. No Unit Owner may be exempted from liability to contribute toward payment of Common Expenses or other assessments by waiver of the use or enjoyment of any of the Common Elements or by abandonment of such Unit Owner's Unit. However, upon acceptance by a successor Unit Owner of a deed or other conveyance document for such Unit Owner's Unit in accordance with the procedures set forth in the Condominium Documents, the predecessor Owner shall not be liable for amounts assessed with respect to such Unit subsequent to such acceptance.

(b) Commencement of obligation. The assessment obligation shall commence at the times set forth in the Declaration. Before the commencement of the assessments, no Declarant shall be obligated to pay assessments for Units that they own.

(c) No right of offset. Notwithstanding the existence of any dispute between any or all of the Unit Owners and the Association and/or its Board, all Unit Owners shall be obligated to timely pay all assessments due hereunder, pending the resolution of such dispute and without any right of offset.

9.8 **Default and Liens.** If any Unit Owner fails to pay any amount assessed hereunder, whether general, special or other, on or before the date due, the Association may assess interest on such amount from the due date thereof at the lesser of (a) one percent (1%) per month or (b) the highest rate permitted by law, along with all costs (including reasonable attorneys' fees) paid or incurred by the Association in enforcing its rights hereunder. Such Unit Owner shall still be entitled to vote such Unit Owner's Interest(s) at any meeting of the Association notwithstanding the past due amounts or any other default under the Condominium Documents. All assessments due hereunder, including, without limitation, amounts payable under the foregoing provisions of this Section, shall be secured by a lien on the Units to which they are attributed, all as provided in the Declaration and may be enforced by the Association as provided in the Condominium Act.

## **ARTICLE X**

### **Maintenance and Repairs**

#### 10.1 **Individual Units and Limited Common Elements.**

(a) Maintenance. Except as otherwise provide herein, each Unit Owner shall, at such Unit Owner's own cost and expense, maintain such Unit Owner's Unit and all Unit Service Facilities (as defined in the Declaration) and Limited Common Elements associated with or appurtenant to such Unit in a decent, safe and sanitary condition and in good repair. Such Unit Owner's obligations under this Section 10.1 shall include, but not be limited to, (i) performing all maintenance, repair and/or replacement work to such Unit Owner's Unit and all Unit Service Facilities and/or Limited Common Elements associated with or appurtenant to such Unit which, if omitted, would adversely affect the Common Elements or other Units in any respect; (ii) performing all maintenance, repair and replacement work necessary to keep any Unit Service Facilities and/or Limited Common Elements associated with or appurtenant to such Unit Owner's Unit in a safe, clean and sanitary condition; (iii) all painting, decoration, maintenance, repair, restoration, and/or replacement necessary to keep any portion of a Unit visible to any other Units in good condition and repair and otherwise in a safe, clean and sanitary condition. All such work shall be subject to the provisions of Section 11.4, and otherwise subject to any other restrictions set forth in the Condominium Documents.

(b) Special Provisions.

(i) Couture Parking LLC and each successor Unit 2 Owner shall have the option, but not the obligation, at their sole cost and expense, to perform any and all



painting, decorative and cosmetic work within (i) the Transit Concourse within Unit 3, and (ii) the decorative portions of the Transit Lane within Unit 3 (as set forth in the RCA Drawings), but not asphalt, subject to prior approval of Unit 3 Owner.

(ii) The Couture LLC and each successor Unit 1 Owner shall, at their sole cost and expense, keep the U-1 Walkway and Concourse in good condition and repair and otherwise in a safe, clean and sanitary condition.

(iii) The Couture LLC and each successor Unit 1 Owner shall, at their sole cost and expense, keep any doors, gates or other fixtures located within Unit 2, but exclusively serving Unit 1 and its Occupants, in good condition and repair and otherwise in a safe, clean and sanitary condition.

(iv) For purposes of this Section 10.1, the Unit 1 Owner and Unit 2 Owner shall be jointly and severally responsible for maintaining the U-1/U-2 LCEs in proportion to their Percentage Assessment Interests for U-1/U-2 LCEs as provided in the attached Exhibit A. If the Unit 2 Owner fails to comply with its obligations under this Section 10.1(b)(iv), the Unit 1 Owner may take any actions necessary to maintain the U-1/U-2 LCEs.

(v) For purposes of this Section 10.1, and subject to subsection (c), below, in the event of any maintenance, repair and/or replacement to the portion of the slab within Unit 1 and directly beneath Unit 3 between Column Lines PC.1 and PC.8 on the RCA Drawings (the “Transit Support Slab”), the Unit 3 Owner shall be responsible for that portion of the cost of such maintenance, repair and/or replacement work to the Transit Support Slab to accommodate loads exceeding those defined in the Streetcar Design Criteria Manual dated April 28, 2017, on file with and available from City of Milwaukee’s Department of Public Works (the “Streetcar Specifications”). Subject to subsection (d), below, in the event that repairs are needed to the Transit Support Slab or support components within Unit 3 to accommodate loads defined in the Streetcar Specifications, the Unit 1 Owner shall be responsible to compensate the Unit 3 Owner for the cost to replace any Transit Amenities removed to accommodate the repair, unless such Transit Amenities were also in need of repairs in order to accommodate said loads.

(c) Damage Caused by Unit Owners. To the extent that any cleaning, maintenance, repair, replacement, restoration or other work with respect to all or any part of any Common Element or other Unit is required as a result of (i) the failure of a Unit Owner to comply with such Unit Owner’s obligations under this Article X; (ii) the negligent, reckless or intentional act or omission of a Unit Owner or such Unit Owner’s Designees; (iii) an alteration to a Unit by a Unit Owner or removal of such alteration (regardless whether the alteration was approved by the Association or any committee thereof); or (iv) the failure of a Unit Owner to comply with the provisions of the Condominium Documents, such Unit Owner shall pay the cost of such cleaning, maintenance, repair, replacement, restoration or other work.

(d) Damage Caused by Transit Operations. Without limiting the provisions of subsection (c), above, the Unit 3 Owner shall be liable for costs and expenses incurred by the Association, the Board and all other Unit Owners as a result of (i) any negligent or wrongful intentional acts or omissions by such Unit 3 Owner or of any of such Unit 3 Owner's Invitees; (ii) any transit operations by the Unit 3 Owner that are not consistent with the design set forth in the HNTB Drawings; or (iii) any failure of such Unit Owner 3 to fulfill such Unit Owners' obligations under the Condominium Documents. If and during such time that the City of Milwaukee is the Unit 3 Owner, the City of Milwaukee's obligations under item (i) of this Section 10.1(d) shall be for the negligent or wrongful intentional acts or omissions of the City of Milwaukee or its Designees. The City of Milwaukee will not be liable for the negligent or wrongful intentional acts or omissions of members of the general public who are accessing and using the areas Condominium that are subject to public access easements. Nothing in this subsection (d) shall be construed as a waiver of any defenses, immunities or limitations of liability to which the City of Milwaukee is entitled under statutory or common law.

(e) Owner Default. If any Unit Owner fails to fulfill such Unit Owner's obligations under this Section 10.1 of these Bylaws, any other provision of any of the Condominium Documents, and/or the Condominium Act, the Association may provide thirty (30) days' written notice to such Unit Owner giving such Unit Owner the opportunity to correct such failure within such 30-day period. Upon such failure, the Association may cure such failure, as determined to be necessary by the Board, and the Association shall assess such Unit Owner for the costs and expenses thereof.

10.2 Common Elements. The Association shall be responsible for the management and control of the General Common Elements and shall cause the same to be maintained, repaired and kept in good, clean, attractive and sanitary condition, order and repair, including, without limitation, cleaning, painting, repair, replacement, restoration and general maintenance. All such work shall be substantially similar to the original construction and installation unless otherwise determined by the Board and shall be allocated and assessed in accordance with the provisions of Article IX.

10.3 Delegation to Sub-Association. Notwithstanding the foregoing provisions of this Article X, the Association may delegate its rights and obligations under Section 10.1 with respect to any Unit and any Unit Service Facilities and Limited Common Elements (including the U-1/U-2 LCEs) associated with or appurtenant to such Unit to a Sub-Association established specifically for such Unit pursuant to a declaration of Sub-Condominium. Any Sub-Association accepting such delegation must contain within its declaration and/or bylaws provisions that are at least as stringent as those provided in this Article X, provided that (i) all references to the Association and the Board shall be adjusted to refer to the Sub-Association and its own board, and (ii) all references to the Condominium shall be adjusted to refer to the Unit and any subdivisions thereof.

10.4 Special Provisions Relating to the City of Milwaukee. Notwithstanding any other provision of these Bylaws, the following provisions of this Section 10.4 of these Bylaws shall apply only for so long as the City of Milwaukee is the Unit 3 Owner:

(a) The obligations with respect to Unit 3 shall be allocated in the following manner:

i. The City of Milwaukee shall, at its sole expense, be responsible for the following items with respect to Unit 3:

1. The construction, installation, repair, maintenance, replacement, operation and capital expenditures relating to each of the Streetcar Amenities.
2. All utility costs for the operation of each of the Streetcar Amenities except as provided in subsection 10.4(a)ii.6, below.
3. The construction, installation maintenance, repair, upgrades, replacement and capital expenditures relating to any separate utility connections needed for each of the Streetcar Amenities.
4. All street sweeping and snow and ice removal within the Transit Lane in accordance with the City of Milwaukee's standard frequency for sweeping, snow and ice removal on downtown streets.
5. Marking and maintaining any safety railings and pedestrian crossings for or within the Transit Lane or associated with any of the other Streetcar Amenities.
6. Patrol of the Transit Area, the U-1 Walkway and Concourse, the U-1 Greenspace and Retail Concourse and all other public areas of the Condominium by the Milwaukee Police Department in the same manner that the Milwaukee Police Department polices other public transportation, pedestrian and park areas within the City of Milwaukee, as determined by the sole discretion of the Chief of Police, and enforcement within all such areas of all applicable statutes and ordinances.
7. The maintenance, repair, replacement, operation and capital expenditures relating to the Streetcar Lane and the Streetcar Loading Platform, including, but not limited to, all streetcar rails and repaving of the Streetcar Lane and the Streetcar Loading Platform.
8. The construction, installation, maintenance, repair, and replacement of any signage related to the Streetcar.

9. To keep all Streetcar Amenities and the surface of the Streetcar Lane in good condition and repair.
  10. Any compliance with requirements of the Americans with Disabilities Act as it relates to the Streetcar Amenities and Streetcar Lane.
  11. Any other costs directly related to the City of Milwaukee's public transportation uses of the Transit Area.
  12. All necessary permits, licenses and approvals from applicable government authorities required to complete any of the items in this Section 10.4(a).
- ii. The Unit 2 Owner shall, at its sole expense, be responsible for the following with respect to Unit 3:
1. Security at levels determined to be adequate in the Unit 2 Owner's sole discretion above and beyond the police patrols provided by the City of Milwaukee pursuant to Section 12.4(a)(vi) of this Declaration.
  2. Any costs of installation, maintenance, repair, replacement, operation and capital expenditures relating to the general lighting for the areas within the Transit Area, including without limitation, all utility costs related to same. All such general lighting shall remain operational on a 24-hour, seven days a week basis except when maintenance, repairs or replacement requires them to be out of operation.
  3. Trash removal, cleaning and janitorial services for the Transit Concourse.
  4. Installation, maintenance, repair and replacement of any signage within the Transit Area related to parking, advertisements and way-finding (but exclusive of the City of Milwaukee's public transportation use of the Transit Area and/or the Streetcar Amenities).
  5. Snow and ice removal on all pedestrian and public walkways within the Transit Concourse.
  6. Notwithstanding the provisions of subsection (a)i.2, above, all electrical costs for the operation of each of the Streetcar Amenities, so long as the expense therefor is minimal.

7. Repair, maintenance, replacement and capital improvements of the RT Lane and the Transit Concourse including, but not limited to: (a) mechanical, HVAC, electrical, plumbing and fire/life safety systems serving the Transit Area and (b) repaving the RT Lane.
  8. Any compliance with requirements of the Americans with Disabilities Act as it relates to the Transit Concourse, but not as it relates directly to the Streetcar Amenities and Streetcar Lane.
  9. The repair, maintenance, and replacement of any Transit Area Gates.
- iii. Any costs related to the maintenance or operation of the Transit Area that are not specifically defined in Sections 10.4(a)(i) or 10.4(a)(ii) above shall be equally shared between the City of Milwaukee and the Unit 2 Owner unless such costs are (i) related to either party's use of the Transit Area, in which case that party shall be responsible for the costs or (ii) related to Milwaukee County's use of the Transit Lane and/or other portions of the Transit Area, in which case the Unit 2 Owner shall work with Milwaukee County and the City of Milwaukee to determine the entity responsible for such costs. The City of Milwaukee shall have no responsibility for any such costs that are caused solely by Milwaukee County's use of the Transit Area.
- (b) Any work done by the City of Milwaukee or the Unit 2 Owner related to construction, installation, repair, maintenance, replacement of any improvements (including capital improvements) within the Transit Area shall be performed in compliance with the following:
- (i) All work shall be done in coordination with the City of Milwaukee, the Unit 2 Owner and Milwaukee County to commencement and completion of such work so as to result in the least amount of interruption or interference with the transportation use of the Transit Area. The coordination with Milwaukee County under this Section 10.4(b) shall only apply for so long as Milwaukee County is operating its transit operations in the RT Lane.
  - (ii) Each party shall be responsible for supervision and direction of any staff, contractors or subcontractors completing such work for such party so that the work is performed using the skill, care and safety precautions of reasonable contractors in the same industry.



(iii) All work completed under this Section 10.4 shall be consistent with the DPD and in compliance with all applicable laws, ordinances, rules and regulations.

(c) Any assessments (whether general, special or otherwise), fines, fees or other monetary charges against the City of Milwaukee under these Bylaws shall be limited to (i) the obligations set forth in Section 10.4(a)(i), Section 10.4(a)(iii) and/or Section 10.4(b) of these Bylaws; (ii) any applicable obligations in Article 16, Section 10.1(e), Section 11.2, Section 11.3 and/or Section 13.5(c) of these Bylaws; (iii) any expenses the City of Milwaukee consents in writing to pay; and/or (iv) any default of the City of Milwaukee's obligations under the Condominium Documents and/or Condominium Act.

(d) FOR SO LONG AS THE CITY OF MILWAUKEE IS THE UNIT 3 OWNER, WITHOUT THE PRIOR WRITTEN APPROVAL OF THE CITY OF MILWAUKEE, THESE BYLAWS MAY NOT BE AMENDED TO (I) ALTER THE SIZE, LOCATION AND/OR CONFIGURATION OF THE TRANSIT LANE OR STREETCAR LOADING PLATFORM OR (II) INCREASE THE CITY OF MILWAUKEE'S MAINTENANCE, REPAIR AND/OR RESTORATION OBLIGATIONS WITHIN UNIT 3 OR ANY OTHER UNIT IN THE CONDOMINIUM FROM THE OBLIGATIONS SET FORTH IN THESE BYLAWS OR (III) MODIFY THE CITY OF MILWAUKEE'S MONETARY OBLIGATIONS SET FORTH IN THESE BYLAWS.

(e) FOR SO LONG AS THE CITY OF MILWAUKEE IS THE UNIT 3 OWNER, THE PROVISIONS OF THIS SECTION 10.4 SHALL NOT BE AMENDED WITHOUT THE PRIOR WRITTEN APPROVAL OF THE CITY OF MILWAUKEE.

10.5. **HUD Inspection Rights**. NOTWITHSTANDING THE PROVISIONS OF THESE BYLAWS, FOR SO LONG AS HUD IS THE HOLDER OR INSURER OF A MORTGAGE OF A UNIT, HUD AND ANY MORTGAGEE OF A HUD-INSURED MORTGAGE AND/OR THEIR RESPECTIVE AGENTS, REPRESENTATIVES AND DESIGNEES MAY UPON REASONABLE NOTICE MAKE OR CAUSE TO BE MADE ENTRIES UPON AND INSPECTIONS OF UNIT 1, THE U-1 LCES, AND/OR THE U-1/U-2 LCES (INCLUDING ANY ENVIRONMENTAL INSPECTIONS AND TESTS) DURING NORMAL BUSINESS HOURS OR ANY OTHER REASONABLE TIME.

## **ARTICLE XI** **Alterations**

11.1 **General Common Elements**. Any and all alterations to the General Common Elements shall comply with section 703.06 of the Condominium Act and all applicable Governmental Regulations.

11.2 **Units**. Any and all alterations to the Unit shall comply with section 703.13(5) of the Condominium Act and all applicable Governmental Regulations. Except as otherwise provided in the Declaration, without first receiving the prior written consent of the Board, a Unit

Owner shall not make any modification, penetration, decoration, installation, build-out, renovation, removal, reconstruction, repair or other alteration within such Unit Owner's Unit (or to any Unit Service Facilities or Limited Common Elements associated with or appurtenant to such Unit) which, in any way, (i) alters any portion of the U-1/U-2 LCEs or any other portion of the Condominium other than the Unit Owner's own Unit and Limited Common Elements appurtenant solely to such Unit; (ii) could materially impair the structural integrity or the soundness and safety of any other portion of the Condominium; or (iii) materially changes the exterior appearance of the Unit. In order to request the consent of the Board, a Unit Owner shall file an application therefor with the President of the Association. Such application shall include a detailed description of the proposed change, including all drawings, plans and specifications therefor and a list of all contractor(s) and other person(s) that would implement such change if approved. The Board may require such Unit Owner to procure and submit, at such Unit Owner's own expense, such reports and other information as it determines is necessary or appropriate to evaluate such application, including, without limitation, x-ray, magnetometer and structural engineering reports if deemed necessary by the Board. The Board may also hire its own professionals and other consultants to evaluate such application and assess the cost thereof as a special assessment to such Unit Owner (regardless whether such application is ultimately approved). The Board shall have complete discretion to grant or deny any such application in whole or in part. Upon substantial completion or discontinuance of any alteration by a Unit Owner hereunder, such Unit Owner shall update the value of all additions, improvements and other alterations previously reported to the Board pursuant to Section 13.5.

11.3 **Compliance.** All work done by or through a Unit Owner to all or any portion of the Condominium, whether or not pursuant to consent procured under this Article, shall, unless specifically otherwise authorized by the Board:

- (a) comply with all applicable Governmental Regulations; and
- (b) be paid for by such Unit Owner and not give rise to any liens on any portion of the Condominium.

In the event that any such work nonetheless damages any portion of the Common Elements or other Units, the Association may, in the discretion of the Board, correct such damage and assess such Unit Owner for the expense related to such correction. Unless specifically authorized by the Board to do so, no Unit Owner shall have the right to procure labor or materials in any way that could give rise to a lien on any portion of the Condominium other than such Unit Owner's Unit. Any Unit Owner who performs or allows such work to be done shall indemnify, defend and hold the Association, the Board, Declarants and all other Unit Owners harmless from and against any and all claims, liability, loss, cost, damage or expense (including reasonable attorneys' fees and court costs) suffered or incurred thereby as a result of such work.

11.4 **Delegation to Sub-Association.** Notwithstanding the foregoing provisions of this Article XI, the Association may delegate its rights and obligations under the foregoing Sections of this Article with respect to any Unit (including, without limitation, Unit Service Facilities associated with a Unit) to a Sub-Association established specifically for such Unit pursuant to a declaration of Sub-Condominium. Any Sub-Association accepting such delegation must contain



within its declaration and/or bylaws provisions substantially similar to this Article XI, provided that (i) all references to the Association and the Board shall be adjusted to refer to the Sub-Association and its own board, and (ii) all references to the Condominium shall be adjusted to refer to the Unit and any subdivisions thereof.

## **ARTICLE XII** **Use Restrictions**

No unlawful use shall be made of all or any part of the Condominium. The Association and each Unit Owner shall strictly comply with all Governmental Regulations applicable to the Condominium. Such compliance shall be accomplished by and at the sole expense of each Unit Owner or the Association, as the case may be. Each Unit Owner shall give prompt notice to the Association of any written notice of a violation of any legal requirements affecting a Unit or the Condominium. Notwithstanding the foregoing provisions, any Unit Owner may, at such Unit Owner's expense, defer compliance with and contest (by appropriate proceedings prosecuted diligently and in good faith) the validity or applicability of any legal requirement affecting any portion of the Condominium which such Unit Owner is obligated to maintain and repair, and the Board shall cooperate with such Unit Owner in such proceedings, provided that: (i) such Unit Owner shall indemnify, defend, and hold the Association, Declarants, the Board, Declarants' Mortgagees and every other Unit Owner harmless from and against all claims, loss, liability, cost or damage (including reasonable attorneys' fees and court costs) which any of them may suffer as a result of such contest or noncompliance with such legal requirements; (ii) such Unit Owner keeps the Board informed as to the status of such proceedings; (iii) such noncompliance shall not create a dangerous condition or constitute a crime, a public or private nuisance, or an offense punishable by fine or imprisonment; (iv) no part of the Condominium shall be affected by reason of such contest or noncompliance; and (v) such Unit Owner shall, if required by the Association, post a bond to ensure compliance with his obligations hereunder. The Association may also contest any legal requirements and the costs and expenses thereof shall be allocated and assessed in accordance with Article IX.

## **ARTICLE XIII** **Insurance**

13.1 **General Statement.** Each of the Declarants (both for themselves and all successor Unit Owners) hereby acknowledges and agrees that the Units in the Condominium have fundamentally separate and distinct uses and structures that share few Common Elements. Each of the Declarants (both for themselves and all successor Unit Owners) hereby agree that the Association shall, therefore, have the option of either procuring and maintaining insurance for the entire Condominium against loss or damage by fire and such other hazards (the "Association Procured Portfolio"), or delegating such obligation for procuring and maintaining such insurance for each Unit to each Unit Owner of a Unit and having the Association only procuring and maintaining insurance on certain Common Elements described below (the "Unit Owner Procured Portfolio"). In the absence of a decision to the contrary by the Association, the Association shall be deemed to have elected to fulfill its insurance obligations through the Association. At any time when the Association is procuring an Association Procured Portfolio, the Unit Owners shall advise



the Association on the amount of property insurance that should be carried for such Unit Owner's Unit, which amount may be different than the Unit Owner's interest in the Common Elements.

13.2 **Association Procured Portfolio.**

(a) **Association Insurance.** The Association shall procure and maintain the following insurance, to be effective as of substantial completion of all buildings within the Condominium:

1. Insurance on the Condominium, including Common Elements, Unit Service Facilities and all Units, including but not limited to, all walls, structures, fixtures, furniture, appliances, carpeting, drapes, furnishings, personal property, improvements and/or betterments owned, installed or made by the Association or by the Unit Owners and disclosed to the Association, against all perils of direct physical loss or damage in an amount not less than the full replacement value thereof, based upon the construction standards and finish for the original construction of the buildings within the Condominium (the "Association Property Policy"). The Association Property Policy shall not include any fixtures, furniture, appliances, carpeting, drapes, furnishings, personal property, improvements and/or betterments owned by any Occupant of a Unit.
2. Commercial general liability insurance (including umbrella coverage) covering the Association for the General Common Elements with a combined single limit of not less than \$11,000,000 per occurrence, for personal and bodily injury, death and property damage, or such higher limit as the Board may from time to time determine to be reasonable and proper (the "Association CGL Policy");

In addition to the insurance required under the foregoing Section, the Association may also procure and maintain the following insurance:

3. At the request of a Unit Owner, business interruption insurance in such amounts, and including such coverage, as may be requested by such Unit Owner; provided that (i) the additional costs incurred by the Association in connection with such requested insurance shall be paid for by such Unit Owner, and if not so paid by such Unit Owner, then the Association may, at the Board's sole discretion, assess such cost against such Unit Owner's Unit(s) and/or cancel any such insurance and (ii) if such business interruption insurance is so obtained, any payments thereunder shall first be paid to the Association to be applied against any amounts due the Association by such Unit Owner, with the remainder to be disbursed to such Unit Owner;

4. During any period when any repair or reconstruction of a building within the Condominium is taking place, builder's risk insurance on the building;
5. Insurance against damage by such other hazards in such amounts as any mortgage lending institution holding a mortgage on any Unit may require; provided, however, that any additional premium incurred thereby shall be chargeable to the Unit Owner of such Unit (except as provided below with respect to the insurance required by HUD and/or a Mortgagee of a Unit with a HUD-insured Mortgage);
6. Director's and officer's liability insurance covering each manager and officer of the Association;
7. Fidelity coverage against dishonest acts by any Person responsible for handling funds belonging to or administered by the Association;
8. Workers compensation insurance, employer's liability insurance and non-owned automobile insurance with respect to employees of the Association; and
9. Such other insurance and endorsements to any of the insurance specified in the foregoing provisions of this Article as the Board may, from time to time, determine to be reasonable and proper.

All required insurance policies and optional insurance policies procured and maintained by Unit Owner under this Section 13.2(a) shall be referred to as the "Association Policies."

(b) Policy Terms. All Association Policies required or permitted hereunder shall be in such amounts, with such deductibles and other terms and through such carriers, as the Board shall determine. Unless otherwise determined by the Board or provided in these Bylaws, all such policies shall:

1. Name the Association as the insured (both in its own behalf and as trustee for the affected Unit Owner(s));
2. Provide that all adjustment of loss shall be made by the Board; and
3. Provide for waivers of the following rights: (i) any subrogation of claims against Declarants and/or the Association, including, without limitation, any right to require any assignment of any mortgage to the insurer; (ii) any right of set-off, counterclaim, apportionment, proration or contribution by reason of other insurance not carried by the Association; (iii) any invalidity, defense or other adverse effect, on account of any act, neglect or omission of any insured(s) or their respective agents,



contractors and employees or any vacancy or abandonment of all or any part of the Condominium; and (iv) any right of the insurer to repair, rebuild or replace or, in the event that all or any part of the Condominium is not repaired, rebuilt or replaced, to pay an amount less than the replacement value of such part of the Condominium.

Notwithstanding any of the foregoing provisions of this Section 13.2(b), the Association shall not be required to procure war risk, flood, earthquake, umbrella or other insurance or coverage, or any specific waiver with respect thereto, if the Board determines that the procurement of such insurance, coverage or waiver is not economically advisable.

(c) Claims under Association Policies. By acceptance of a deed or other conveyance document with respect to a Unit, each Person accepting same shall be deemed to have appointed the Board as such person's attorney-in-fact for the purpose of purchasing and maintaining the Association Policies including, where applicable, the collection and appropriate disposition of the proceeds thereof, the negotiation of losses and execution and delivery of releases of liability in connection therewith and the execution and delivery of all other documents and the performance of all other acts necessary to accomplish such purpose. The Association shall be responsible for all deductibles under the Association Policies. The Board may establish reserves for deductibles under policies and other coverage of the Association and Unit Owners with respect to the Condominium. The Board shall allocate and assess such reserves, deductibles, as well as any uninsured casualty and other loss amounts, either pro rata among all of the Unit Owners or in such other manner as it deems reasonably appropriate, all as provided in Article IX. Except as otherwise provided in these Bylaws, the Board, acting on behalf of the Association and the Unit Owners, shall have the exclusive right to bind all such parties in respect of all matters affecting all insurance policies procured and maintained by the Association, including, without limitation, the surrender, cancellation and modification thereof, and no insurer need inquire as to the identity or rights of any Unit Owner or mortgagee of a Unit. Notwithstanding any other provisions of these Bylaws, the Board hereby assigns its rights to adjust losses under this Section 13.2(c) (*i.e.*, negotiate losses, adjust and compromise any claims, appear in and prosecute any action arising from the property damage, execute and deliver releases of liability in connection therewith, and execute and deliver all other documents and perform all other acts necessary to accomplish such purposes) to the owners of Unit 1 to the extent that such losses only impact Unit 1, the U-1 LCEs and/or the U-1/U-2 LCEs. The assignment hereunder shall be effective at such time as the applicable Unit Owners accept such assignment and shall not impact the funding for the repair or replacement of all such losses under these Bylaws, but in no event shall the Association be obliged to reimburse the electing Unit Owners for any time or expense associated with such Unit Owners' own activities under this Section 13.2(c).

(d) INSURANCE RELATED TO HUD LOAN. NOTWITHSTANDING ANY OTHER PROVISIONS OF THESE BYLAWS, FOR SO LONG AS HUD IS EITHER A HOLDER OR INSURER OF A MORTGAGE ON A UNIT AND THE ASSOCIATION ELECTS TO USE THE ASSOCIATION PROCURED PORTFOLIO, THE ASSOCIATION SHALL PROCURE AND MAINTAIN INSURANCE POLICIES



PROVIDING COVERAGE FOR LOSSES BY FIRE AND SUCH OTHER LOSSES, RISKS OR HAZARDS AS HUD AND/OR THE MORTGAGEE OF A UNIT WITH A HUD-INSURED MORTGAGE MAY, FROM TIME TO TIME, REQUIRE (COLLECTIVELY, THE "HUD-REQUIRED POLICIES"). THE PREMIUMS FOR THE HUD-REQUIRED POLICIES SHALL BE A COMMON EXPENSE. THE ASSOCIATION SHALL, STARTING ON THE FIRST DAY OF THE MONTH AFTER THE DATE OF ANY HUD-INSURED MORTGAGE, AND CONTINUING ON THE FIRST DAY OF EACH CONSECUTIVE MONTH THEREAFTER UNTIL HUD NO LONGER HOLDS OR INSURES SUCH MORTGAGE, PAY TO THE MORTGAGEE OF THE HUD-INSURED MORTGAGE (OR SUCH OTHER PERSON AS HUD OR SUCH MORTGAGEE SHALL DIRECT) AN AMOUNT SUFFICIENT TO ACCUMULATE IN THE HANDS OF SUCH MORTGAGEE (OR ITS DESIGNEE) THE TOTAL PREMIUMS DUE ON ALL OF THE HUD-REQUIRED POLICIES AT LEAST ONE MONTH BEFORE SUCH PREMIUMS AND CHARGES ARE DUE. THE MORTGAGEE OF THE HUD-INSURED MORTGAGE (OR ITS DESIGNEE) SHALL HOLD SUCH FUNDS IN TRUST TO BE UTILIZED SOLELY FOR THE TIMELY PAYMENT OF THE PREMIUMS DUE ON THE HUD-REQUIRED POLICIES.

UPON WRITTEN REQUEST, DUPLICATE ORIGINALS OF ALL HUD-REQUIRED POLICIES AND OF ALL RENEWALS THEREOF SHALL BE DELIVERED BY THE BOARD TO HUD AND ANY MORTGAGEE OF A UNIT WITH A HUD-INSURED MORTGAGE. ALL INSURANCE COMPANIES PROVIDING THE HUD-REQUIRED POLICIES SHALL BE SUBJECT TO THE APPROVAL OF HUD OR THE MORTGAGEE OF THE HUD-INSURED MORTGAGE.

ALL HUD-REQUIRED POLICIES SHALL COMPLY WITH ALL REQUIREMENTS OF HUD AND/OR THE MORTGAGEE OF THE HUD-INSURED MORTGAGE. ALL HUD-REQUIRED POLICIES SHALL BE ENDORSED WITH STANDARD MORTGAGEE CLAUSES PROVIDING THAT LOSSES SHALL BE INITIALLY PAYABLE TO THE MORTGAGEE OF THE HUD-INSURED MORTGAGE. THESE POLICIES SHALL PROVIDE THAT THEY MAY NOT BE CANCELED, NON-RENEWED OR SUBSTANTIALLY MODIFIED BY THE INSURER FOR ANY REASON OTHER THAN NON-PAYMENT WITHOUT AT LEAST THIRTY (30) DAYS' PRIOR WRITTEN NOTICE TO ANY MORTGAGEE OF A UNIT WITH A HUD-INSURED MORTGAGE (FOR SUCH TIME AS HUD IS THE HOLDER OR INSURER OF SUCH MORTGAGE). ALL PROCEEDS GENERATED FROM SUCH POLICIES SHALL BE HELD BY THE MORTGAGEE OF THE HUD-INSURED MORTGAGE IN TRUST UNTIL SUCH TIME AS THERE IS A DETERMINATION WHETHER TO REBUILD AND REPAIR THE DAMAGE UNDER ARTICLE XIV (IN WHICH CASE, THE INSURANCE PROCEEDS SHALL BE USED FOR THAT PURPOSE), OR TO PARTITION THE CONDOMINIUM (IN WHICH CASE, THE INSURANCE PROCEEDS SHALL BE DISTRIBUTED PURSUANT TO SECTION 703.18(2)(B) OF THE CONDOMINIUM ACT).

NOTWITHSTANDING ANY OTHER PROVISION OF THE CONDOMINIUM DOCUMENTS, THE FOREGOING PROVISIONS OF THIS SECTION 13.2 SHALL



NOT BE REVOKED OR OTHERWISE MODIFIED, FOR SUCH TIME AS HUD EITHER OWNS OR INSURES A MORTGAGE AGAINST A UNIT, WITHOUT THE WRITTEN CONSENT OF HUD OR THE MORTGAGEE OF THE HUD-INSURED MORTGAGE.

13.3 **Unit Owner Insurance.** Each Unit Owner shall, at such Unit Owner's cost and expense, procure and maintain commercial general liability insurance (including umbrella coverage) covering the Unit with a combined single limit of not less than \$2,000,000.00 per occurrence, for personal and bodily injury, death and property damage, or such higher limit as the Unit Owner may from time to time determine to be reasonable and proper (the "Unit Owner Liability Policies").

13.4 **Coverage Review and Update.** From time to time, the Board may review the insurance and other coverage carried by the Association and Unit Owners, which review may include obtaining an appraisal of all or any part of the Condominium, the expense of which shall be a Common Expense allocated and assessed in accordance with Article IX. In order to assist such review, each Unit Owner shall, in addition to reporting as required under Sections 2.4 and 11.2, at any time and from time to time upon request, report to the Board in writing, the estimated full replacement value of all additions, improvements or other alterations made to such Unit Owner's Unit. In the event that any Unit Owner fails to accurately so report such value to the Board hereunder, it may, but shall not be required to, adjust the portion of any insurance recovery allocable to such Unit Owner in such manner as the Board deems appropriate to equitably account for such failure. Also, in connection with any such review, the Board shall have the right to inspect some or all of the Units upon reasonable advance notice.

13.5 **Special Provisions Relating to Unit 3.** Notwithstanding any other provision of these Bylaws, for so long as the City of Milwaukee holds legal title to Unit 3, the following provisions shall apply:

(a) **The Association Property Policies and HUD-Required Policies.**

(i) The Unit 2 Owner shall pay the premiums, deductibles or reserves attributable to the RT Lane and Transit Concourse in the Association Property Policies and/or the HUD-Required Policies providing insurance coverage for the Streetcar Amenities. In the event that all or any portion of the RT Lane and/or Transit Concourse are damaged by fire or other casualty, the provisions of Section 14.1(c) and Section 14.2 of these Bylaws shall apply, except the Unit 2 Owner shall be substituted for the Unit 3 Owner.

(ii) The City of Milwaukee intends to self-insure the Streetcar Amenities. However, the Association Property Policies and/or HUD-Required Policies may still include insurance coverage for the Streetcar Amenities. Except as otherwise provided in Section 13.5(c) of these Bylaws, the City of Milwaukee shall not be required to pay any portion of the premiums, deductibles or reserves attributable to the Association Property Policies and/or the HUD-Required Policies providing insurance coverage for the Streetcar Amenities. Any premiums, deductibles or reserves applicable to such



Association Property Policies and/or HUD-Required Policies that would otherwise have been attributable to the City of Milwaukee as the Unit 3 Owner shall be paid by the Unit 2 Owner. Except as otherwise provided in Section 13.5(c) of these Bylaws, the City of Milwaukee shall have no right to tender, file or make any claims for insurance coverage under the Association Property Policies or any of the HUD-Required Policies. In the event that all or any portion of the Streetcar Amenities is damaged by fire or other casualty, the City of Milwaukee shall promptly undertake to repair and restore the Streetcar Amenities without regard to the Association Property Policies or the HUD-Required Policies, and the City of Milwaukee shall have the right to supervise and/or control any such repair or reconstruction of such Streetcar Amenities.

(b) The Association CGL Policy. Except as otherwise provided in this Section 13.5(c) of these Bylaws, the City of Milwaukee shall not be required to pay any portion of the premiums, deductibles or reserves attributable to the Association CGL Policy. Any premiums, deductibles or reserves that would otherwise have been attributable to the City of Milwaukee as the Unit 3 Owner shall be paid by the Unit 2 Owner. Except as provided in Section 13.5(c) of these Bylaws, the City of Milwaukee shall have no right to tender, file or make any claims for insurance coverage under the Association CGL Policy.

(c) City of Milwaukee Claims. If the City of Milwaukee ever tenders a claim under any Association Property Policy, any HUD-Required Policy, or any Association CGL Policy (the “Claim”), the provisions of Section 13.5(a)(ii) and Section 13.5(b) of these Bylaws shall be null and no longer apply to the City of Milwaukee. In such event, the City of Milwaukee shall immediately reimburse the Unit 2 Owner for all premiums, reserves and deductibles paid by the Unit 2 Owner as the City of Milwaukee’s allocation for the Association Property Policy, the HUD-Required Policy and the Association CGL Policy for the year in which the Claim is tendered. In addition, the City of Milwaukee shall be responsible for any increase in the premiums for any future Association Property Policy, the HUD-Required Policy and the Association CGL Policy as a result of the City of Milwaukee’s claim.

(d) Unit Owner Liability Policy. The City of Milwaukee shall not be required to obtain the Unit Owner Liability Policy described in Section 13.3 of these Bylaws. The City of Milwaukee is a municipal body corporate that self-funds for general liability under Wis. Stat. §§ 893.80 and 895.46(1).

(e) Other Insurance. The City of Milwaukee is also permissibly self-insured under Wis. Stat. § 102.28(2)(b) for workers’ compensation. The protection is applicable to officers, employees and agents while acting within the scope of their employment or agency. Retentions and other costs of risk, including contractual obligations, are financed under appropriation and fund accounting principles applicable to government operations.

(f) Non-Waiver. Nothing in these Bylaws shall be construed as a waiver by the City of Milwaukee of any rights to immunity, limitation of liability or any other protection that the City of Milwaukee may have by law.



(f) Modification. NOTWITHSTANDING ANY OTHER PROVISION OF THE CONDOMINIUM DOCUMENTS, FOR SO LONG AS THE CITY OF MILWAUKEE IS THE UNIT 3 OWNER, THE PROVISIONS OF THIS SECTION 13.5 SHALL NOT BE AMENDED WITHOUT THE PRIOR WRITTEN APPROVAL OF THE CITY OF MILWAUKEE.

## **ARTICLE XIV** **Casualty**

### **14.1 Reconstruction Determination.**

(a) Unit 1, U-1 LCEs and U-1/U-2 LCEs. In the event that all or any portion of the Unit 1, the U-1 LCEs and/or the U-1/U-2 LCEs are damaged by fire or other casualty, the Board shall call a meeting of the Unit Owners no later than sixty (60) days after the occurrence of such casualty to consider whether to repair or reconstruct the damage, or to subject the Condominium to an action for partition, all on the terms set forth herein. If Unit Owners holding at least seventy-five percent (75%) of the Vote submit to the Board written consent(s) for an action for partition of the Condominium either at or prior to such meeting (the “Unit 1 Partition Vote”), the Condominium shall be subject to an action for partition under Chapter 842 of the Wisconsin Statutes. If the Unit Owners do not consent to subject the Condominium to an action for partition, the Unit 1 Owner shall undertake to repair or reconstruct all or any portion of Unit 1, the U-1 LCEs and/or the U-1/U-2 LCEs damaged by such fire or other casualty. The Unit 1 Owner shall have the right to supervise and/or control any repair or reconstruction of Unit 1, the U-1 LCEs and/or the U-1/U-2 LCEs damaged by fire or other casualty under this Section 14.1(a) of these Bylaws. Any insurance proceeds available for such damage to Unit 1, the U-1 LCEs and/or the U-1/U-2 LCEs shall be distributed to the Unit 1 Owner for such repair or reconstruction. By acceptance of a deed or other conveyance document with respect to a Unit, each Unit Owner shall be deemed to have agreed with the provisions of this Section 14.1(a) of these Bylaws.

(b) Unit 2 and U-2 LCEs. In the event that all or any portion of Unit 2 or the U-2 LCEs are damaged by fire or other casualty and there are sufficient insurance proceeds (excluding, for this purpose, the cost of any deductibles) to repair such damage, the Unit 2 Owner shall promptly undertake to repair and restore Unit 2 and any U-2 LCEs using such insurance proceeds. Such authorization and direction shall be deemed to be effective action by the Association by unanimous consent without a meeting pursuant to Section 2.17 and shall constitute the determination by the Association and all of the Unit Owners to repair and reconstruct as required by the Condominium Act. In the event that all or any portion of Unit 2 or the U-2 LCEs are damaged by fire or other casualty to an extent more than the available insurance proceeds for such fire or other casualty (excluding, for this purpose, the cost of any deductibles), the Board shall call a meeting of the Unit Owners no later than sixty (60) days after the occurrence of such casualty to consider whether to repair or reconstruct the damage, or to subject the Condominium to an action for partition. If Unit Owners holding at least seventy-five percent (75%) of the Vote submit to the Board written consent(s) for an action for partition of the Condominium either at or prior to such meeting,

the Condominium shall be subject to an action for partition under Chapter 842 of the Wisconsin Statutes. If the Unit Owners do not so consent to an action for partition, the Unit 2 Owner shall undertake (within a reasonable time) to repair or reconstruct Unit 2 and/or the U-2 LCEs as provided herein. The Unit 2 Owner shall have the right to supervise and/or control any repair or reconstruction of such Unit and/or the U-2 LCEs. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION 14.1(b), FOR SO LONG AS HUD IS EITHER A HOLDER OR INSURER OF A MORTGAGE ON ANY PORTION OF UNIT 1, THERE SHALL BE NO SALE OF UNIT 1, ANY OF THE U-1 LCEs AND/OR ANY OF U-1/U-2 LCEs IN ANY PARTITION ACTION UNDER THIS SECTION 14.1(b) WITHOUT THE PRIOR WRITTEN APPROVAL OF HUD OR SUCH HOLDER OF THE HUD-INSURED MORTGAGE. Any insurance proceeds available for such damage to Unit 2 and/or the U-2 LCEs shall be distributed to the Unit 2 Owner. By acceptance of a deed or other conveyance document with respect to a Unit, each Unit Owner shall be deemed to have agreed with the provisions of this Section 14.1(b).

(c) Unit 3. In the event that all or any portion of Unit 3 is damaged by fire or other casualty and there are sufficient insurance proceeds (excluding, for this purpose, the cost of any deductibles) to repair such damage, the Unit 3 Owner shall promptly undertake to repair and restore Unit 3 using such insurance proceeds. Such authorization and direction shall be deemed to be effective action by the Association by unanimous consent without a meeting pursuant to Section 2.17 and shall constitute the determination by the Association and all of the Unit Owners to repair and reconstruct as required by the Condominium Act. In the event that all or any portion of Unit 3 is damaged by fire or other casualty to an extent more than the available insurance proceeds for such fire or other casualty (excluding, for this purpose, the cost of any deductibles), the Board shall call a meeting of the Unit Owners no later than sixty (60) days after the occurrence of such casualty to consider whether to repair or reconstruct the damage, or to subject the Condominium to an action for partition. If Unit Owners holding at least seventy-five percent (75%) of the Vote submit to the Board written consent(s) for an action for partition of the Condominium either at or prior to such meeting, the Condominium shall be subject to an action for partition under Chapter 842 of the Wisconsin Statutes. If the Unit Owners do not so consent to an action for partition, the Unit 3 Owner shall undertake (within a reasonable time) to repair or reconstruct Unit 3 as provided herein. The Unit 3 Owner shall have the right to supervise and/or control any repair or reconstruction of such Unit. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION 14.1(c), FOR SO LONG AS HUD IS EITHER A HOLDER OR INSURER OF A MORTGAGE ON ANY PORTION OF UNIT 1, THERE SHALL BE NO SALE OF UNIT 1, ANY OF THE U-1 LCEs AND/OR ANY OF U-1/U-2 LCEs IN ANY PARTITION ACTION UNDER THIS SECTION 14.1(c) WITHOUT THE PRIOR WRITTEN APPROVAL OF HUD OR SUCH HOLDER OF THE HUD-INSURED MORTGAGE. Any insurance proceeds available for such damage to Unit 3 shall be distributed to the Owners of Unit 2 and/or Unit 3 in accordance with the repair and restoration obligations set forth in Section 10.4. By acceptance of a deed or other conveyance document with respect to a Unit, each Unit Owner shall be deemed to have agreed with the provisions of this Section 14.1(c).

(d) Damage to General Common Elements or Multiple Units. The provisions of Section 14.1(a) of these Bylaws shall control any damage to the General Common Elements or to any portion of the Condominium involving Unit 1, the U-1 LCEs and/or the U-1/U-2 LCEs. If the Unit Owners do not consent to subject the Condominium to an action for partition through the Unit 1 Partition Vote, (i) the provisions of Section 14.1(a) shall apply to any damage to Unit 1, the U-1 LCEs, the U-1/U-2 LCEs and/or the General Common Elements; (ii) the provisions of Section 14.1(b) shall apply to any damage to Unit 2 and/or the U-2 LCEs; and (iii) the provisions of Section 14.1(c) shall apply to any damage to Unit 3. If any portion of Unit 2 and/or the U-2 LCEs are damaged solely in combination with any portion of Unit 3 (but not involving Unit 1, the U-1 LCEs and/or the U-1/U-2 LCEs) and there are sufficient insurance proceeds (excluding, for this purpose, the cost of any deductibles) to repair all such damage, the Association shall promptly undertake to repair and restore Unit 2, the U-2 LCEs and Unit 3 using such insurance proceeds. Such authorization and direction shall be deemed to be effective action by the Association by unanimous consent without a meeting pursuant to Section 2.17 and shall constitute the determination by the Association and all of the Unit Owners to repair and reconstruct as required by the Condominium Act. In the event that all or any portion of Unit 2, the U-2 LCEs and Unit 3 are damaged by fire or other casualty to an extent more than the available insurance proceeds for such fire or other casualty (excluding, for this purpose, the cost of any deductibles), the Board shall call a meeting of the Unit Owners no later than sixty (60) days after the occurrence of such casualty to consider whether to repair or reconstruct the damage, or to subject the Condominium to an action for partition. If Unit Owners holding at least seventy-five percent (75%) of the Vote submit to the Board written consent(s) for an action for partition of the Condominium either at or prior to such meeting, the Condominium shall be subject to an action for partition under Chapter 842 of the Wisconsin Statutes. If the Unit Owners do not so consent to an action for partition, the Association shall undertake (within a reasonable time) to repair or reconstruct Unit 2, the U-2 LCEs and Unit 3 as provided herein, and any insurance proceeds for such damage shall be used for such purpose. The Association shall have the right to supervise and/or control any repair or reconstruction of such Units and/or the U-2 LCEs. **NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION 14.1(d), FOR SO LONG AS HUD IS EITHER A HOLDER OR INSURER OF A MORTGAGE ON ANY PORTION OF UNIT 1, THERE SHALL BE NO SALE OF UNIT 1, ANY OF THE U-1 LCEs AND/OR ANY OF U-1/U-2 LCEs IN ANY PARTITION ACTION UNDER THIS SECTION 14.1(d) WITHOUT THE PRIOR WRITTEN APPROVAL OF HUD OR SUCH HOLDER OF THE HUD-INSURED MORTGAGE.** By acceptance of a deed or other conveyance document with respect to a Unit, each Unit Owner shall be deemed to have agreed with the provisions of this Section 14.1(d).

(e) Partition Procedure. In the event of a sale of solely Unit 1 and/or the U-1 LCEs under Section 14.1(a), the net proceeds from such sale shall be distributed solely to the Unit 1 Owner. In the event of a sale of solely Unit 2 and/or the U-2 LCEs under Section 14.1(b), the net proceeds from such sale shall be distributed solely to the Unit 2 Owner. In the event of a sale of the U-1/U-2 LCEs, the net proceeds from such sale shall be distributed to the Unit 1 Owner and the Unit 2 Owner pro rata according to their Assessment Percentage Interest(s). In the event of a sale of solely Unit 3 under Section 14.1(c), the net



proceeds from such sale shall be distributed solely to the Unit 3 Owner. In any action for partition under Chapter 842 of the Wisconsin Statutes, the Unit Owners shall recognize and acknowledge the easement and access rights of the City of Milwaukee pursuant to the (the “City Easement”), as continuing property rights of the City of Milwaukee over the Land following partition. FOR SO LONG AS THE CITY OF MILWAUKEE IS THE UNIT 3 OWNER, THE PROVISIONS OF THIS SECTION 14.1(E) IN CONNECTION WITH THE RECOGNITION AND ACKNOWLEDGEMENT OF THE CITY EASEMENT SHALL NOT BE AMENDED WITHOUT THE PRIOR WRITTEN APPROVAL OF THE CITY OF MILWAUKEE.

14.2 **Restoration**. Except as otherwise provided in these Bylaws, any portion of the Condominium damaged by fire or other casualty shall be repaired and reconstructed as soon as practicable in a good and workmanlike manner to at least the equivalent of its original condition, pursuant to the procedure described in this Section.

(a) **Procedure**. Promptly after the damage of any portion of the Condominium by casualty, the Board or Unit Owner (depending on who is supervising and controlling the repair and restoration) shall procure such cost estimates as it determines are appropriate. Such estimates may include amounts for professional fees, the costs of an architect or engineer to monitor construction for conformance with specifications and budget, bonding and such other labor and materials as the Board determines are appropriate. The Board or Unit Owner shall be in charge of planning, implementing and paying for all restoration and other repair under this Article, except that (if the Association is responsible for supervising and controlling such repair and restoration) each Unit Owner shall be responsible for repairing and replacing any additions, improvements and other alterations to such Unit Owner’s Unit that were not installed or insured by the Association and personal property owned by Occupants thereof, and shall be allowed to monitor interior cosmetic decoration arranged by the Board for such Unit. Notwithstanding any other provisions of these Bylaws, if any damage described in this Section 14.2(a) is solely to Unit 1, the U-1 LCEs and/or the U-1/U-2 LCEs (or any combination thereof), the Unit 1 Owner shall procure the cost estimates to repair such damage and be in charge of planning and implementing the repair or reconstruction of such damage (including, but not limited to, ensuring payment of all such repair or restoration), and the Association hereby assigns all such rights to such Unit 1 Owner. If any damage described in this Section 14.2(a) is solely to a Unit (other than Unit 1) and/or the Limited Common Elements appurtenant to such Unit, the owner of such Unit shall procure the cost estimates to repair such damage and be in charge of planning and implementing the repair or reconstruction of such damage (including, but not limited to, ensuring payment of all such repair or restoration), and the Association hereby assigns all such rights to such Unit Owner. The Association’s assignment of rights under this Section 14.2(a) shall not impact the funding for the repair or replacement of all such damage under these Bylaws, but in no event shall the Association be obliged to reimburse the electing Unit Owners for any time or expense associated with such Unit Owners’ own activities under this Section 14.2(a).

(b) **Funding**. Except as otherwise provided in these Bylaws: (i) the proceeds of any insurance from a casualty shall be used for restoration; (ii) the Board may, but shall



not be required to, apply all or any portion of the Association's Reserve Fund to such restoration; (iii) all costs of such restoration in excess of funds available under the foregoing provisions shall be a Common Expense, and shall be allocated and assessed in accordance with the provisions of Article IX.

14.3 **Emergency**. Notwithstanding the foregoing Sections of this Article, the Board may have work essential to the preservation of the Condominium, the safety of persons, the non-interruption of Condominium services or facilities and/or other matters important to the usage and convenience of Unit Owner(s) performed prior to the adjustment of the associated loss or receipt of the proceeds therefrom. In connection therewith, the Board may draw upon the Reserve Fund and/or allocate and assess Unit Owner(s), all as provided in Article IX.

14.4 **MODIFICATION**. NOTWITHSTANDING ANY OTHER PROVISION OF THE CONDOMINIUM DOCUMENTS, THE FOREGOING PROVISIONS OF THIS ARTICLE XIV SHALL NOT BE REVOKED OR OTHERWISE MODIFIED, FOR SUCH TIME AS HUD EITHER HOLDS OR INSURES A MORTGAGE AGAINST A UNIT, WITHOUT THE WRITTEN CONSENT OF HUD OR THE MORTGAGEE OF THE HUD-INSURED MORTGAGE.

14.5 **Delegation to Sub-Association**. Notwithstanding the foregoing provisions of this Article XIV, the Association may delegate its rights and obligations under the foregoing Sections of this Article with respect to any Unit (including, without limitation, Unit Service Facilities associated with a Unit) to a Sub-Association established specifically for such Unit pursuant to a declaration of Sub-Condominium. Any Sub-Association accepting such delegation must contain within its declaration and/or bylaws provisions substantially similar to this Article XIV, provided that (i) all references to the Association and the Board shall be adjusted to refer to the Sub-Association and its own board, and (ii) all references to the Condominium shall be adjusted to refer to the Unit and any subdivisions thereof.

## **ARTICLE XV** **Condemnation**

15.1 **Authority**. Each Unit Owner shall represent himself, herself, itself or themselves with respect to all matters relating exclusively to the actual or threatened condemnation of such Unit Owner's Unit or the Limited Common Elements appurtenant to such Unit Owner's Unit. Each Unit Owner may also elect to represent himself, herself, itself or themselves in matters relating to the actual or threatened condemnation of all or any part of the General Common Elements under the procedures set forth in section 703.195 of the Condominium Act.

### 15.2 **Determination**.

(a) In the event that all or any portion of the Condominium is taken by condemnation, the Condominium shall be restored in accordance with its procedures set forth therefor in Sections 14.2, except as otherwise provided in this Section. If such taking is so extensive in relation to the remaining portion of the Condominium as to render such restoration impractical, or if the Board otherwise determines that such restoration may not be in the best interests of the Unit Owners, the



Board shall call a meeting of the Unit Owners prior to the expiration of sixty (60) days after such taking to consider whether to partition the Condominium. If Unit Owners holding at least seventy-five percent (75%) of the Vote deliver to the Board written consent(s) (including consent(s) of any Mortgagee(s) to the extent required by law or applicable mortgage documents) to such partition, either at or prior to such meeting, the Condominium shall be subject to an action for partition. Any such sale shall be effected as set forth in Section 14.1(d), provided that all references to the net proceeds of such sale shall be adjusted to refer to the net proceeds of the condemnation award.

(b) No transferee in any condemnation proceeding shall be entitled, as such, to exercise any rights hereunder or with respect to Interests or voting, and all such rights shall be retained by the Unit Owners until such time as their respective Units are completely transferred. Notwithstanding any other provisions of these Bylaws, if any taking described in this Section 15.2 relates solely to one or more Units, the owners of such Units may determine whether to restore such Units or whether to accept the condemnation award in lieu of restoration.

15.3 **Award.** The allocation of any award resulting from a condemnation with respect to all or any portion of the Condominium shall be made pursuant to Sections 703.19(3), 703.19(4) and 703.19(6) of the Condominium Act. If the Condominium is restored under Section 15.2 hereunder, any awards from the condemnation shall be disbursed for that purpose. In the event such proceeds are insufficient to pay for the restoration, the Board shall allocate and assess such deficiency in accordance with the provisions of Article IX.

15.4 **Adjustment.** Following a taking of a Unit or a portion thereof, the percentage ownership interests and percentage assessment interests for each remaining Unit of the Condominium shall be adjusted in accordance with the square footage of each remaining Unit in relation to the Condominium as it exists without the taken Unit(s) or portions thereof. The Board shall promptly prepare and have recorded an amendment to the Declaration reflecting such adjustments. The vote appurtenant to a taken Unit shall become appurtenant to the remainder of such Unit; however, the vote appurtenant to a taken Unit shall terminate if the entire Unit is taken.

15.5 **MODIFICATION.** NOTWITHSTANDING ANY OTHER PROVISION OF THE CONDOMINIUM DOCUMENTS, THE FOREGOING PROVISIONS OF THIS ARTICLE XV SHALL NOT BE REVOKED OR OTHERWISE MODIFIED, FOR SUCH TIME AS HUD EITHER HOLDS OR INSURES A MORTGAGE AGAINST A UNIT, WITHOUT THE WRITTEN CONSENT OF HUD OR THE MORTGAGEE OF THE HUD-INSURED MORTGAGE.

## **ARTICLE XVI** **Compliance and Default**

16.1 **Unit Owners Subject to Condominium Documents and Condominium Act.** All Unit Owners shall be subject to and governed by, and shall comply with, the provisions of the Condominium Act and the Condominium Documents, as any of the same may be amended from time to time.



16.2 **Legal Proceedings.** In the event that any Unit Owner fails to satisfy such Unit Owner's obligations under the Condominium Act or the Condominium Documents, the Association shall be entitled to commence an action for recovery of money damages, injunctive relief, foreclosure of the lien for payment of assessments, any other relief provided for in the Condominium Documents and/or any other relief available under applicable law. Commencement of any such action shall not constitute an election of remedies.

16.3 **Other Remedies.** The violation of any provision of the Condominium Act or the Condominium Documents with respect to a Unit shall give the Association the right, in addition to any other rights set forth in the Condominium Documents to enter such Unit and summarily abate and remove, at the expense of the Unit Owner thereof, any structure, thing or condition that constitutes such violation, and neither the Board, the Association nor the Declarants shall thereby be deemed guilty in any manner of trespass.

## **ARTICLE XVII** **Dissolution**

17.1 **Events of Dissolution.** The Association shall dissolve only upon the happening of one (1) or more of the following events: (a) the vote of Unit Owners holding at least one hundred percent (100%) of the Votes to dissolve the Association or (b) the entry of a decree of judicial dissolution with respect to the Association under section 183.0902 of the LLC Act. An event of dissociation of a Member shall not cause the dissolution of the Association.

17.2 **Consequences of Dissolution.** Upon dissolution of the Association, the Association shall be wound up and, unless the Board determines otherwise with respect to any particular asset or assets of the Association, all of the assets of the Association shall be sold for cash and assumption of (or acceptance subject to) liability. In so doing, the Association may sell assets of the Association to Persons related to one or more of the managers so long as such sale is at fair market value. The assets remaining after all liabilities of the Association have been satisfied or provided for shall be distributed to the Unit Owners pro rata according to their respective Percentage Interests.

## **ARTICLE XVIII** **Indemnification**

18.1 **Definitions.** All capitalized terms used in this Article XVIII and not otherwise defined in this Article XVIII shall have the meanings set forth in section 183.0403 of the LLC Act.

18.2 **Indemnification.** To the fullest extent required under section 183.0403 of the LLC Act, the Association shall indemnify a manager or officer from and against Liabilities.

18.3 **Determination of Indemnification.** The determination of whether a manager or officer seeking indemnification hereunder is entitled to same shall be by a majority vote of a quorum of the Board consisting of managers not at the time parties to the same or related proceedings or by such other means ("Authority") provided under section 183.0403 of the LLC Act as such manager or officer may select.

18.4 **Allowance of Expenses.**

(a) If required, the Association shall advance, pay or reimburse, within ten (10) days after receipt of a manager's or officer's written request therefor, the reasonable Expenses of the manager or officer as such Expenses are incurred; provided that the following conditions are satisfied:

(i) The manager or officer furnishes to the Association an executed written certificate affirming his or her good faith belief that he or she has not engaged in misconduct which constitutes a Breach of Duty; and

(ii) The manager or officer furnishes to the Association an unsecured executed written agreement to repay any advances, payments or reimbursements made under this Section 18.4 if it is ultimately determined that he or she is not entitled to be indemnified by the Association for such Expenses pursuant to this Section 18.4.

(b) If the manager or officer must repay any previously advanced Expenses pursuant to this Section 18.4, such manager or officer shall not be required to pay interest on such amounts.

18.5 **Insurance.** The Association may purchase and maintain insurance on behalf of a manager or officer or any individual who is or was an employee or authorized agent of the Association against any Liability asserted against or incurred by such individual in his or her capacity as such or arising from his or her status as such, and any related Expenses, regardless of whether the Association is required or permitted to indemnify against any such Liability and Expenses under this Article XVIII.

18.6 **Notice to the Association.** A manager or officer shall promptly notify the Association in writing when he or she has actual knowledge of a proceeding which may result in a claim of indemnification against Liabilities or allowance of Expenses hereunder, but the failure to do so shall not relieve the Association of its obligations to the manager or officer hereunder unless the Association shall have been irreparably prejudiced by such failure (as determined by such means as may be selected by the manager or officer pursuant to Section 18.3).

18.7 **Severability.** If any provision of this Article XVIII shall be deemed invalid or inoperative, or if a court of competent jurisdiction determines that any of the provisions of this Article XVIII contravenes public policy, this Article XVIII shall be construed so that the remaining provisions shall not be affected, but shall remain in full force and effect, and any such provisions which are invalid and inoperative or which contravene public policy shall be deemed, without further action or deed by or on behalf of the Association, to be modified, amended and/or limited, but only to the extent necessary to render the same valid and enforceable.

18.8 **Nonexclusivity.** The rights granted to any manager or officer (or other person) under this Article XVIII shall not be deemed exclusive of any other rights to indemnification



against Liabilities or allowance of Expenses to which such manager or officer (or other person) may be entitled under any written agreement, Board resolution, vote of Unit Owners or otherwise, including, without limitation, under section 183.0403 of the LLC Act. Nothing contained in this Article XVIII shall be deemed to limit the Association's obligations to indemnify against Liabilities or allow Expenses to a manager or officer under the Statute.

18.9 **Contractual Nature of Article XVIII; Repeal or Limitation of Rights.** This Article XVIII shall be deemed to be a contract between the Association and each manager and officer and any repeal or other limitation of this Article XVIII or any repeal or limitation of section 183.0403 of the LLC Act or any other applicable law shall not limit any rights of indemnification against Liabilities or allowance of Expenses then existing or arising out of events, acts or omissions occurring prior to such repeal or limitation, including, without limitation, the right of indemnification against Liabilities or allowance of Expenses for proceedings commenced after such repeal or limitation to enforce this Article XVIII with regard to acts, omissions or events arising prior to such repeal or limitation.

## **ARTICLE XIX** **Amendments**

19.1 **Generally.** These Bylaws may be altered, amended or repealed and new Bylaws may be adopted by the Unit Owners, at any meeting called for such purpose, by the affirmative vote of Unit Owners holding at least seventy-five percent (75%) of the Vote.

### 19.2 **Limitations.**

(a) No amendment of these Bylaws may be adopted which shall be inconsistent with the provisions of the Condominium Act or the Declaration. An amendment, once adopted as provided for in these Bylaws, shall then constitute part of the official Bylaws of the Condominium, and all Unit Owners shall be bound to abide by such amendment.

(b) Anything herein to the contrary notwithstanding, and subject to any limitations imposed by either the Declaration or the Condominium Act (with specific reference to section 703.10 of the Condominium Act), this Article XIX shall not be amended except with the unanimous agreement of all of the Unit Owners.

## **ARTICLE XX** **Miscellaneous**

20.1 **Seal.** The Association shall not have a company seal, and all formal Association documents shall, to the extent required, carry the designation "No Seal" along with the signature of the Association's officer or officers.

20.2 **Definitions.** The following terms, when used in these Bylaws, shall have the meanings indicated and derivatives thereof should be interpreted accordingly:

(a) Article – a portion of these Bylaws headed by a Roman numeral.

(b) the Code – the Internal Revenue Code of 1986 and the provision(s) thereof referred to in these Bylaws, respectively, as of the date of these Bylaws, except as they may be renumbered or otherwise amended from time to time hereafter to the extent that reflection of such changes would not defeat the purposes of these Bylaws.

(c) Member – Person(s) and/or entity(ies) constituting a Unit Owner of a Unit in the Condominium as reflected in the Association records, regardless of whether any other person has or claims to have an interest therein.

(d) Section – a portion of these Bylaws delineated by an Arabic numeral or any subdivision.

(e) the Wisconsin Statutes – the Wisconsin Statutes and the provisions thereof referred to in these Bylaws, respectively, as of the date of these Bylaws, except as they may be renumbered or otherwise amended from time to time hereafter to the extent that reflection of such changes would not defeat the purposes of these Bylaws.

20.3 **Notices.** Any and all notices required or permitted hereunder shall be in writing and may be delivered in person or sent by United States registered or certified mail, by facsimile, e-mail or other form of wire or wireless communication, or any other reasonable method. Notices so mailed to a Member, manager or other person at his, her or its address in the Member List, Manager List or other records of the Association shall be deemed given two (2) days after it is deposited, postage prepaid, in the United States mail; notices sent by wire or wireless transmission shall be deemed given upon successful transmission to his, her or its number or address shown in such records; notice provided in any other manner is effective when received. Notice to the Association may be sent to the resident agent thereof at its registered office.

20.4 **Severability.** In the event that any provision of these Bylaws is ever finally determined to be wholly or partially illegal, invalid or unenforceable, either in all jurisdictions and circumstances or in particular jurisdictions or circumstances, such provision shall be deemed severed herefrom in those jurisdictions and circumstances as to which it is so determined to be wholly illegal, invalid or unenforceable and shall be limited to the extent required in those jurisdictions and circumstances as to which it is so determined to be partially illegal, invalid or unenforceable, and such severance or limitation shall not affect the legality, validity or enforceability of any of the other provisions of these Bylaws or of such provision to the extent not so severed or limited.

20.5 **Successors.** All present and future Unit Owners, and any other persons claiming by or through them in any manner, are subject to the Condominium Documents, and to all covenants, agreements, restrictions, easements and declarations of record referred to therein or created thereby or otherwise duly effected.



20.6 **Interpretation.** In interpreting these Bylaws, whenever the context so permits, (a) the singular shall include the plural and the plural shall include the singular and (b) any gender shall include all genders. The headings in these Bylaws are intended for convenience only and shall not affect the meaning or interpretation of these Bylaws.

**Signatures on next page**



In witness whereof, the undersigned have adopted this Operating Agreement and Bylaws as of the date first above written.

DECLARANTS/INITIAL MEMBERS:

THE COUTURE LLC

By:   
Richard J. Barrett, Manager

COUTURE PARKING LLC

By:   
Richard J. Barrett, Manager

TRANSIT HUB MKE LLC

By:   
Richard J. Barrett, Manager



**EXHIBIT A**

Membership List

April 9, 2021

Unit No.	Unit Owner Name	Unit Owner Address	Use	Percentage Ownership Interest	Percentage Assessment Interest	Percentage Ownership Interests in U-1/U-2 LCEs	Percentage Assessment Interests in U-1/U-2 LCEs	No. of Votes	Begin	End
1	The Couture LLC	260 East Highland Avenue, Suite 401 Milwaukee, WI 53202	Residential, Retail, Below-Ground Parking, Public Walkway and Park	87.18%	87.18%	88.04%	88.04%	87.18	04/09/21	N/A
2	Couture Parking LLC	260 East Highland Avenue, Suite 401 Milwaukee, WI 53202	Above-Ground Parking,	11.84%	11.84%	11.96%	11.96%	11.84	04/09/21	N/A
3	Transit Hub MKE LLC	260 East Highland Avenue, Suite 401 Milwaukee, WI 53202	Public Transit	0.98%	0.98%	N/A	N/A	0.98	04/09/21	N/A
				<b>100.00%</b>	<b>100.00%</b>	100.00%	100.00%	<b>100.00</b>		



**EXHIBIT B**

**Manager List**

April 9, 2021

<b>Manager Name</b>	<b>Unit Owner Address</b>	<b>Begin</b>	<b>End</b>
Barrett/Lo Visionary Development	260 East Highland Avenue, Suite 401 Milwaukee, WI 53202	04/09/21	N/A
The Couture LLC	260 East Highland Avenue, Suite 401 Milwaukee, WI 53202	04/09/21	N/A
Couture Parking LLC	260 East Highland Avenue, Suite 401 Milwaukee, WI 53202	04/09/21	N/A

EXHIBIT C

Certificate of Completion

EXHIBIT C

CERTIFICATE OF COMPLETION

Document Number

Document Title

CERTIFICATE OF COMPLETION

Recording Area

Name and Return Address

392-1678-122

Parcel Identification Number (PIN)

*Project:* TID 82 – The Couture Project

*Site Address:* 909 East Michigan, Milwaukee, Wisconsin

*Developer:* The Couture LLC and The Couture Holdings Group Inc.  
(collectively, “Developer”)

*Agreement:* Cooperation, Contribution & Redevelopment Agreement dated April 28, 2017 (the “Agreement”)

Legal Description:

THIS IS TO CERTIFY that the undersigned, on behalf of the Redevelopment Authority of the City of Milwaukee that it is satisfied that the PROJECT has been completed in accordance with the requirements of the Agreement dated as of \_\_\_\_\_, 201\_.

THIS CERTIFICATE when signed by the Redevelopment Authority of the City of Milwaukee shall constitute a conclusive determination of satisfaction and termination of the agreements and covenants in

the Agreement with respect to the obligations of the Developer, and its successors and assigns, to construct improvements on the Property.

ISSUANCE OF THIS CERTIFICATE shall mean that the Property may be conveyed, mortgaged or leased and that any party purchasing or leasing the Property shall not incur any obligation with respect to the construction of improvements on the Property and that neither the Redevelopment Authority of the City of Milwaukee nor any other party shall thereafter have or be entitled to exercise any rights or remedies or controls with respect to the Property that it might otherwise have or be entitled to exercise with respect to the Property as a result of a default in or breach of any provision of the Agreement.

Dated at Milwaukee, Wisconsin this \_\_\_\_ day of \_\_\_\_, 201\_\_.

(SEAL)

**REDEVELOPMENT AUTHORITY  
OF THE CITY OF MILWAUKEE**

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_, Chairperson

Assistant Executive Director-Secretary

STATE OF WISCONSIN )  
  )SS.  
MILWAUKEE COUNTY )

Personally came before me this \_\_\_\_ day of \_\_\_\_, 201\_\_, \_\_\_\_\_, Chairperson, and \_\_\_\_\_, Assistant Executive Director-Secretary of the above-named Redevelopment Authority of the City of Milwaukee, to me known to be the persons who executed the foregoing instrument, and to me known to be such Chairperson and Assistant Executive Director-Secretary of said Redevelopment Authority of the City of Milwaukee, and acknowledged that they executed the foregoing instrument as such officers as the deed of said Redevelopment Authority by its authority.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My Commission \_\_\_\_\_

This document was drafted by Mary L. Schanning, Deputy City Attorney

EXHIBIT D

Easement & Maintenance Agreement

Document Number

Amended and Restated  
Transportation & Public Access Easement and  
Maintenance & Operation Agreement  
(Couture Project)

**AMENDED AND RESTATED  
TRANSPORTATION & PUBLIC ACCESS EASEMENT  
AND MAINTENANCE & OPERATION AGREEMENT**

**Couture Project**

**Recording Area**

Name and Return Address

Mary L. Schanning,  
Dept. of City Development  
809 N. Broadway  
Milwaukee, WI 53202

Tax Key No.

Part of 396-0511-000

This document was drafted by:

Atty. Mary L. Schanning  
Dept. of City Development  
809 N. Broadway  
Milwaukee, WI 53202

1050-2012-1849

**AMENDED AND RESTATED  
TRANSPORTATION & PUBLIC ACCESS EASEMENT  
AND MAINTENANCE & OPERATION AGREEMENT**

THIS AMENDED AND RESTATED TRANSPORTATION & PUBLIC ACCESS EASEMENT AND MAINTENANCE & OPERATION AGREEMENT (“**Restated Easement**”) is made as of April \_\_, 2021, by and between The Couture LLC, a Wisconsin limited liability company (“**Couture**”) and Transit Hub MKE LLC, a Wisconsin limited liability company (“**Hub MKE**”) (Couture and Hub MKE being hereinafter collectively defined as “**DEVELOPERS**”) and the CITY OF MILWAUKEE, a Wisconsin municipal corporation (“**CITY**”) (collectively referred to herein as the “parties” and individually as “party”).

**RECITALS**

A. DEVELOPERS are the owners of certain property located at 909 East Michigan Street in the City of Milwaukee, State of Wisconsin more particularly described on **EXHIBIT A** attached hereto (the “**Property**”).

B. CITY, the Redevelopment Authority of the City of Milwaukee and Couture are parties to an Amended and Restated Cooperation, Contribution and Redevelopment Agreement dated April \_\_\_\_, 2021 (the “**Development Agreement**”) related to the redevelopment of the Property.

C. CITY and Couture entered into a Transportation & Public Access Easement and Maintenance & Operation Agreement dated April 28, 2017 and recorded against the Property in the Office for the Register of Deeds for Milwaukee County, Wisconsin on August 7, 2019 as Document Number 10895602 (the “**Initial Public Easement**”) encumbering the Property. This Restated Easement terminates, supersedes and replaces the Initial Public Easement.

D. In accordance with the Tax Increment Law, found at 66.1105 of the Wisconsin Statutes, by passage of Common Council Resolution Files No. 141263, on January 21, 2015; No. 170169 on May 31, 2017 and No. 201062 on December 15, 2020, CITY approved and amended the Project Plan for CITY’s Tax Incremental District No. 82 (East Michigan Street) (“**TID 82**”) in order to provide for the funding for certain TID 82 project costs, including, among other things, the Grant to be used for certain expenses related to the Project as described in the Development Agreement.

E. In accordance with Section 3.3.C. of the Development Agreement, the payment of the Grant is contingent upon Couture signing and remaining in compliance with all Project Documents including the Initial Public Easement which constitutes the Easement & Maintenance Agreement required under the Development Agreement.

F. Couture acquired the Property from Milwaukee County (“**County**”) and, in addition to various other agreements, entered into a Public Access and Use Easement Agreement dated August 26, 2016, and recorded in the Office of the Register of Deeds for Milwaukee County, Wisconsin (“**Register’s Office**”) on August 30, 2016, as Document Number 10597894 (the

“**County Easement**”), giving County (on behalf of the public) a perpetual, non-exclusive public access and use easement over, across and upon the Easement Area (as defined herein).

G. Since the execution of the Initial Public Easement and the County Easement, Couture transferred interests in the Property to Couture Parking LLC, a Wisconsin limited liability company (“**Couture Parking**”), and Hub MKE, and subjected the Property to a condominium form of ownership pursuant to Chapter 703 of the Wisconsin Statutes, a Declaration of Condominium of The Couture Lakefront, A Condominium recorded in the Register’s Office on April 6, 2021 as Document No. 11099452 (the “**Declaration**”), and a Condominium Plat recorded in the Register’s Office on April 6, 2021 as Document No. 11099453 (“**Plat**”). The Declaration and Plat created The Couture Lakefront, A Condominium (“**Condominium**”) which is subject to an Operating Agreement and Bylaws (“**Bylaws**”) (Declaration, Bylaws and Plat being hereinafter collectively defined as the “**Condominium Documents**”). DEVELOPERS granted easements in the Declaration in, over, upon and across portions of the Condominium (the “**Declaration Easements**”).

H. The Condominium consists of Unit 1, Unit 2 and Unit 3. Unit 1 is owned by Couture, Unit 2 is owned by Couture Parking and Unit 3 is owned by Hub MKE. The Transportation Concourse (as defined in the Development Agreement) has been divided among Unit 1 and Unit 3. The Declaration and Bylaws contemplate that upon completion of certain improvements, Hub MKE will convey Unit 3 to the CITY such that the CITY will own a portion of the Transportation Concourse for public transportation. Thus, many of the provisions relating to the maintenance and operation of Unit 3 are now contained in the Declaration and Bylaws. This Restated Easement updates and conforms the provisions of the Initial Public Easement to the Condominium Documents.

I. Hub MKE entered into a lease agreement with County dated April \_\_, 2021, a memorandum of which is recorded in the Register’s Office on April \_\_, 2021 as Document No. \_\_\_\_\_ (the “**County Lease**”) under which County will lease portions of the Transportation Concourse from Hub MKE for public transportation purposes. The County has terminated the County Easement as a result of the County Lease. Upon the transfer by Hub MKE of its ownership interests in Unit 3 to the CITY, Hub MKE’s interests in the County Lease will be assigned to, and assumed by, the CITY.

J. CITY has been selected to receive the TIGER Grant to be administered by the FTA for the construction of the Milwaukee Streetcar Lakefront Line extension, which is part of the Streetcar Amenities.

K. As a condition of the TIGER Grant, CITY must demonstrate satisfactory continuing control of the Easement Area, as defined below, to the FTA in accord with 49 U.S.C. 5307 and 49 C.F.R. 624.9, generally defined as the legal assurance that the Easement Area will remain available to be used for transit purposes throughout its useful life or until disposition, which control shall be non-exclusive and subject to the terms and conditions set forth herein.

L. Any capitalized terms not otherwise defined in this Agreement shall be defined as they are in the Condominium Documents, and as defined in the Development Agreement if not otherwise defined in the Condominium Documents.

## EASEMENT

NOW, THEREFORE, in consideration of the above recitals which, along with the attached exhibits, are incorporated herein and for other good and valuable consideration, DEVELOPERS and CITY agree as follows:

1. Definitions. The following capitalized terms used in this Restated Easement shall have the following meanings:

- a. “**Common Areas**” means, collectively, the U-1 Walkway and Concourse (as that term is defined in the Condominium Documents), the U-1 Bridge (as that term is defined in the Condominium Documents), and those areas identified on **EXHIBIT B**, attached hereto, as the Public Elevator Lobby [01-11], [02-01], [03-01], Restroom [01-22], and Elevator 5. Upon completion of construction of the Condominium, DEVELOPERS shall prepare an “as-built” survey and/or an actual legal description of the Common Areas. The parties shall immediately thereafter amend this Restated Easement in a recordable form to refer to such “as-built” survey and/or legal description and thereafter all references herein to the “Common Areas” shall be as so amended. Couture shall bear the costs of preparation of the as-built legal descriptions and recording costs for the amendment to this Restated Easement.
- b. “**County**” has the meaning described in Recital F, above.
- c. “**County Easement**” has the meaning described in Recital F, above.
- d. “**County Lease**” has the meaning described in Recital I, above.
- e. “**County RT Lane**” means that the RT Lane as defined in the Declaration and Plat.
- f. “**Development Agreement**” has the meaning described in Recital B, above.
- g. “**Easement Area**” means collectively the Common Areas, as defined above, and the U-1 Greenspace and Retail Connection as identified in the Plat. Upon completion of construction of the Condominium, DEVELOPERS shall prepare an “as-built” survey and/or an actual legal description of the Easement Area. The parties shall immediately thereafter amend this Restated Easement in a recordable form to refer to such “as-built” survey and/or legal description and thereafter all references herein to the “Easement Area” (or any component thereof) shall be as so amended. Couture shall bear the costs of preparation of

the as-built legal description and recording costs for the amendment to this Restated Easement.

- h. “**FTA**” means the Federal Transit Administration acting under the jurisdiction of the United States Department of Transportation.
- i. “**Property**” has the meaning described in Recital A, above.
- j. “**Streetcar Amenities**” means the “Streetcar Amenities” as defined in the Declaration.
- k. “**Streetcar Lane**” means the “Streetcar Lane” as defined in the Declaration and Plat.
- 1. “**Transit Plans**” means the “Transit Plans” as defined in the Development Agreement.

2. Easements. Couture hereby grants to CITY a perpetual and nonexclusive easement in, over, upon and across the Easement Area for public access purposes as described in Section 2.b of this Restated Easement and subject to the limitations set forth in this Restated Easement (the “**Public Access Easement**”). Hub MKE hereby grants CITY a perpetual and nonexclusive easement in, over, upon and across all of Unit 3 for public access purposes as described in Section 2.b. of this Restated Easement and subject to the limitations set forth in this Restated Easement (the “**Unit 3 Public Access Rights**”). Hub MKE also hereby grants CITY a perpetual and nonexclusive easement in, over, upon and across all of Unit 3 for the installation and maintenance of the Streetcar Amenities (the “**Public Transportation Easement**”). The Public Transportation Easement shall be as described in Section 2.a. of this Restated Easement and subject to the limitations set forth in this Restated Easement. The parties acknowledge that title to Unit 3 will eventually be transferred to CITY in accordance with the provisions of the Development Agreement. At such time the Unit 3 Public Access Rights and the Public Transportation Easement will terminate due to merger of title. Notwithstanding any other provision of this Restated Easement, no parties’ use of Unit 3 shall unreasonably interfere with the use of Unit 3 by County pursuant to the County Lease or by any of the DEVELOPERS or CITY and their respective tenants, invitees, employees, licensees, customers, successors and assigns pursuant to the Condominium Documents and the Development Agreement. Nothing in this Restated Easement shall have any impact on any of the Declaration Easements.

a. Public Transportation.

- i. Limitation on Location. CITY’s use of Unit 3 for public transportation uses shall be limited to the Streetcar Lane, Streetcar Loading Platform (as defined in the Declaration and Plat) and any areas necessary for the Streetcar Facilities (as defined in the Declaration and Plat).
- ii. Use. CITY’s use of the Streetcar Lane and Streetcar Loading Platform for public transportation purposes shall include, but is not limited to, the right

to construct, install, maintain, repair, use, operate and replace the Streetcar Amenities. CITY's construction and installation of the Streetcar Amenities shall be substantially similar to the Transit Plans. The Transit Plans may be updated and revised upon mutual written consent of DEVELOPERS and the DPW Commissioner.

- iii. Construction. CITY's construction of the Streetcar Amenities shall be coordinated with DEVELOPERS' construction of the Project (as defined in the Development Agreement) in accordance with the terms of the Development Agreement.
- iv. Bike Share. Hub MKE also hereby grants to CITY a revocable license to construct, install, maintain, repair, use, operate and replace a bike share station ("**Bike Station**") within Unit 3, but not within the Transit Lane, subject to the provisions of this Restated Easement.
- v. Design. Notwithstanding DEVELOPERS' review of the Transit Plans as necessary to update and amend them pursuant to subsection (ii) above, CITY shall be solely responsible for the design and engineering of the Streetcar Amenities and for ensuring the safety of the public when using the Streetcar Amenities and crossing through the Streetcar Lane. CITY shall construct the Streetcar Amenities, at its cost, in accordance with the Transit Plans, this Restated Easement, the Development Agreement and all applicable federal, state and local laws, statutes, ordinances, codes, regulations and requirements now or hereinafter in effect.

b. Public Access.

- i. Hours. With regard to the Public Access Easement and the Unit 3 Public Access Rights, except for such times as all or any part of the Easement Area or Unit 3 must be closed for maintenance or repair, during initial construction of the Project and Streetcar Amenities or to avoid the acquisition of adverse or prescriptive rights, as provided herein, DEVELOPERS, as applicable, shall keep the Easement Area, except for the U-1 Greenspace and Retail Connection, and Unit 3 open to the general public on a 24-hours a day, seven-days a week, 365-days a year basis for pedestrian purposes and for public access to the Streetcar Amenities. Couture shall keep the U-1 Greenspace and Retail Connection open to the general public during hours when Milwaukee County Parks are typically open to the public.
- ii. Closing of the Easement Area. The Easement Area may be closed as needed for maintenance and repair with prior notice to CITY in writing at least five business days prior to such closure unless such closure is due to an emergency or unforeseen repairs requiring immediate attention for public safety or security reasons, in which case CITY shall be notified as soon as

reasonably possible. Notwithstanding any provision of this Restated Easement to the contrary, Couture shall also have the right to close off some or all of the Easement Area to public access in order to prevent the acquisition of any adverse or prescriptive rights with prior notice to CITY in writing at least 10 business days prior to such closure; *provided, however*, that such closure shall not occur more than once a year and not more than 24 hours at a time.

- iii. Use. Use of the Easement Area and the Unit 3 Public Access Rights by the general public shall be in accordance with all applicable federal, state and local laws, statutes, ordinances, codes and regulations provided, however, that public use shall be limited to normal and customary pedestrian uses appropriate for a public way of the size and scope of the Easement Area and Unit 3 and otherwise in accordance with the terms of this Restated Easement and provided further that the public access and rights granted herein shall exclude any commercial activities or operations by members of the public not expressly permitted by Couture. The only permitted use of the Unit 3 Public Access Rights is for public access to the Streetcar Amenities and the Easement Area.
- iv. Prohibited Uses. The right of CITY and the public to use the Easement Area shall not extend to uses inconsistent with, or which would work an unreasonable interference with or disruption of, the use and operation of Unit 1 by Couture, such as loitering, vendor or commercial activities or other types of uses that may constitute a public or private nuisance. The right of CITY and the public to use the Temporary Public Access Rights shall not extend to uses inconsistent with, or which would work an unreasonable interference with or disruption of, the use and operation of Unit 3 by Hub MKE, such as loitering, vendor or commercial activities or other types of uses that may constitute a public or private nuisance.
- v. Common Areas. The only rights of the public to the Common Areas are for (i) ingress and egress to and from the U-1 Greenspace and Retail Connection and the other portions of the Condominium open to the public, and (ii) use of public restrooms.
- vi. Rules and Regulations by Couture. Couture shall have the right, to establish, modify and enforce reasonable rules and regulations governing the use of and/or access to the Easement Area by the public; *provided however*, that Couture's rules and regulations shall be posted and shall not impose an unreasonable restriction on CITY's and the public's rights hereunder. Any such rules and regulations shall be in addition to, and not in lieu of, any municipal ordinance which may also apply to the Easement Area. Further, Couture may, at all times, exclude any vendor, or other commercial activity, from use of the Easement Area. Hub MKE shall have the right, to establish, modify and enforce reasonable rules and regulations governing the use of

and/or access Unit 3 by the public under the Unit 3 Public Access Rights; *provided however*, that Hub MKE's rules and regulations shall be posted and shall not impose an unreasonable restriction on CITY's and the public's rights hereunder. Any such rules and regulations shall be in addition to, and not in lieu of, any municipal ordinance which may also apply to Unit 3. Further, Hub MKE may, at all times, exclude any vendor, or other commercial activity, from use of the Easement Area.

- vii. Rules and Regulations by CITY. In addition to any municipal ordinance and with Couture's prior written consent, City shall have the right to establish, modify and enforce reasonable rules and regulations governing the use of and/or access to the Easement Area by the public; *provided however*, that CITY's rules and regulations shall be posted and shall not impose an unreasonable restriction on the use and operation of Unit 1 by Couture. In addition to any municipal ordinance and with Hub MKE's and County's prior written consent, City shall have the right to establish, modify and enforce reasonable rules and regulations governing the use of and/or access to Unit 3 by the public under the Unit 3 Public Access Rights and the Public Transportation Easement; *provided however*, that CITY's rules and regulations shall be posted and shall not impose an unreasonable restriction on the use and operation of Unit 3 by Hub MKE.

3. Maintenance and Operation. The Easement Area and Streetcar Amenities shall be kept in good repair and working order. With regard to maintenance and operation of the Streetcar Amenities within Unit 3, the CITY's obligations shall be as set forth in the Bylaws. With regard to maintenance and operation of the Easement Area, Couture and CITY shall have the responsibilities as described below.

- a. Couture, at its expense, shall be responsible for the following items:
  - i. Security at levels determined to be adequate in Couture's sole discretion above and beyond the police patrols provided by CITY pursuant to subsection b, below.
  - ii. Any costs of installation, maintenance, repair, replacement, operation and capital expenditures relating to any general lighting and the elevator within the Easement Area, including without limitation, all utility costs related to same. Any lights and the elevator shall remain operational on a 24-hour, seven days a week basis except when maintenance, repairs or replacement requires them to be out of operation.
  - iii. Any costs of installation, maintenance, repair, replacement, operation and capital expenditures relating to any restrooms within the Easement Area.
  - iv. Trash removal, cleaning and janitorial services for the Easement Area.
  - v. Decorative and aesthetic improvements within the Easement Area including, but not limited to, painting, lighting, decorative plantings and landscaping.

- vi. Installation, maintenance, repair and replacement of all signage within the Easement Area related to parking, advertisements and way-finding in Couture's sole discretion, but not signage related to the Streetcar Amenities.
  - vii. Snow and ice removal on all pedestrian and public walkways within the Easement Area.
  - viii. Compliance with requirements of the Americans with Disabilities Act as it relates to the Easement Area.
  - ix. Couture's own liability insurance coverage for the Easement Area.
- b. CITY, at its expense, shall be responsible for the following items:
- i. Patrol of the Easement Area by the Milwaukee Police Department in the same manner that the Milwaukee Police Department polices other public pedestrian and park areas within the City of Milwaukee, as determined by the sole discretion of the Chief of Police, and enforcement within the Easement Area of all applicable statutes and ordinances.
- c. Any work done by CITY related to construction, installation, repair, maintenance, replacement of any improvements (including capital improvements) within Unit 3 pursuant to the Public Transportation Easement shall be performed in compliance with the following:
- i. All work shall be done in coordination with the DEVELOPERS as to commencement and completion of such work so as to result in the least amount of interruption or interference with any of the DEVELOPERS' and the public's use of the Easement Area.
  - ii. The CITY shall be responsible for supervision and direction of any staff, contractors or subcontractors completing such work for such party so that the work is performed using the skill, care and safety precautions of reasonable contractors in the same industry.
  - iii. All work completed by the CITY under this Section 3 shall be consistent with the Transit Plans, the Development Agreement and the terms of this Restated Easement and in compliance with all applicable laws, ordinances, rules and regulations.

4. Scope of Easement. Neither CITY nor the public shall have any easement or access rights with respect to any part of the Condominium, except as expressly delimited by the terms of this Restated Easement. By way of illustration, and not limitation, CITY and the public shall not have any easement or access rights with respect to all or any portion of the Condominium below Level 1, the U-1 Tower (except the Common Areas), the U-2 Parking Garage or the U-1 Retail Building as all of those areas are described in the Condominium Documents, all of which are the exclusive domain of either Couture or Couture Parking. Couture and/or Couture Parking may

make some or all portions of the Condominium within their exclusive domain available to the public, but any such rights will not have been granted under this Restated Easement.

5. Non-Interference with Other Rights. Except as otherwise provided in this Restated Easement, City shall not make any improvements or place any obstructions in the Easement Area.

6. Alterations. Couture shall not make any material structural alterations or modifications to the Easement Area inconsistent with the rights of CITY and the public to use the Easement Area as provided in this Restated Easement without the prior written consent of CITY, which consent shall not be unreasonably withheld, conditioned or delayed. CITY shall not make any modifications to the Easement Area without the prior written consent of Couture. Notwithstanding the foregoing, or anything else contained herein:

- a. Couture may, from time to time and with prior written notice to CITY, vary the configuration and/or relocate the U-1 Greenspace and Retail Connection portion of the Easement Area throughout the Property, including, without limitation, moving some or all of such space indoors; *provided, however*, that in all events, the total amount of Natural Spaces (as that term is defined in the Development Agreement) shall not be less than 30,000 square feet. In the event of such alteration, Couture shall provide as-built legal descriptions of the new U-1 Greenspace and Retail Connection and the parties shall immediately thereafter amend this Restated Easement in a recordable form to refer to such “as-built” legal description as being U-1 Greenspace and Retail Connection portion of the Easement Area. Couture shall bear the costs of any such alterations and preparation of the as-built legal descriptions and recording costs for the amendment to this Restated Easement.
- b. In the event Unit 1 or Unit 3 is partially or totally destroyed or demolished, the easement rights granted herein shall nevertheless continue for the benefit of the CITY and public, but may be modified and relocated into a replacement Easement Area of approximately equivalent sizes, shapes and locations, as approved by CITY, in any repaired or substitute building or structure which is constructed by Couture on the Property.
- c. It is possible that all or portions of the Condominium (including, without limitation, the Easement Area) may be put into a subcondominium form of ownership by the adoption and recording of a declaration of subcondominium under Chapter 703 of the Wisconsin Statutes. Some or all of the Easement Area may be designated as being within one or more subcondominium units and/or common elements of a subcondominium association, but the parties’ rights with respect to such Easement Area shall continue with respect to such unit(s) and/or common elements post-declaration. Upon request by Couture, CITY shall provide written consent to the recording of the aforementioned declaration of subcondominium, *provided that* such declaration of condominium does not infringe upon the rights of CITY or the public granted under this Restated Easement. Additionally, the parties agree to make any and all amendments

hereto that are necessary to reflect the appropriate designation and ownership of the Easement Area under any declaration of subcondominium, or that are reasonably required in order to conform this Restated Easement to the requirements of Chapter 703 of the Wisconsin Statutes.

7. Insurance.

- a. Couture's Obligations. Couture's obligations to insuring the Easement Area are set forth in the Declaration and Bylaws. If, at any time after the execution of this Restated Easement, the Easement Area, or any portion thereof, should be damaged or destroyed by any casualty (including war, terrorism or bioterrorism) Couture's repair and restoration obligations shall be as set forth in the Declaration and Bylaws.
- b. CITY's Obligations. CITY is a municipal body corporate that self-funds for general liability under Wis. Stat. §§ 893.80 and 895.46(1). CITY is also permissibly self-insured under Wis. Stat. § 102.28(2)(b) for workers' compensation. The protection is applicable to officers, employees and agents while acting within the scope of their employment or agency. Retentions and other costs of risk, including contractual obligations, are financed under appropriation and fund accounting principles applicable to government operations. Nothing in this Restated Easement shall be construed as a waiver by CITY of any rights to immunity, limitation of liability or any other protection that the CITY may have by law.

8. Environmental Requirements.

- a. For purposes of this subsection, these capitalized terms are defined as follows:
  - i. "Environmental Laws" means the Clean Air Act, the Federal Water Pollution Control Act, the Safe Drinking Water Act, the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments, the Comprehensive Environmental Response Compensation and Liability Act, the Toxic Substances Control Act, the Occupational Safety and Health Act, the Federal Insecticide, Fungicide, and Rodenticide Act, the Emergency Planning and Community Right-to-Know Act, the Oil Pollution Act of 1990, the Wisconsin Spill Statute and/or all amendments thereto and regulations, rules, orders and directives issued thereunder, as well as all other federal, state, local or foreign acts, statutes, laws, orders, directives or regulations governing or otherwise relating to control or management of Hazardous Materials and the protection of the public health, safety and welfare or the environment, or otherwise empowering any act or action by the United States Environmental Protection Agency, the Occupational Safety and Health Administration, the Wisconsin Department of Natural Resources and/or any other governmental agency.

- ii. “Hazardous Materials” means contaminants, pollutants, bio-hazardous materials, hazardous substances, oil, molds, radioactive or toxic substances, wastes (including hazardous and medical wastes) and similar terms, as defined in or regulated by any of the Environmental Laws or other statutory or common law.

b. Both parties shall comply with all Environmental Laws and obtain all applicable licenses, permits, approvals, authorizations, exemptions, certificates and registrations, and make all applicable filings, required of each party under any of the Environmental Laws in connection with each party’s occupancy or use of the Easement Area for the purposes described herein. All such licenses, permits, approvals, authorizations, exemptions, certificates and registrations and filings shall be made available to the other party for inspection and copying upon reasonable notice and during business hours. Neither party shall cause or permit any Hazardous Materials to be brought upon, kept or used in or about the Property in violation of any of the Environmental Laws.

9. Default and Remedies. Either party shall be in breach of this Restated Easement if it fails to perform any of the covenants, obligations or conditions set forth herein to be performed by it (for purposes of this Section, the “**Defaulting Party**”) and such default continues for twenty (20) days after written notice of such default is given to the Defaulting Party. In the event of such breach, the other party may, upon written notice to the Defaulting Party: (i) file a lawsuit against the Defaulting Party seeking any damages against the Defaulting Party resulting from the Defaulting Party’s breach; (ii) file a lawsuit against the Defaulting Party seeking specific performance of the Agreement and/or enjoining the Defaulting Party’s breach; or (iii) cure the Defaulting Party’s breach, in which event the Defaulting Party shall reimburse the other party for the reasonable cost thereof within ten (10) business days of the Defaulting Party receiving an invoice from the other party for the costs of such cure. Neither party is under any obligation to cure the other’s breach. The Defaulting Party must reimburse the other party for all reasonable costs and expenses incurred in enforcing the provisions of this Restated Easement, including reasonable attorneys’ fees and court costs. All rights and remedies herein shall be cumulative and none shall exclude any other right or remedy allowed by law.

10. Assignment.

- a. CITY shall not assign this Restated Easement as to the Easement Area without the written consent of Couture. However, CITY may assign some or all of its rights, liabilities and obligations under the Public Transportation Easement to a public transit entity, commission or board created by CITY for the operation of CITY’s Streetcar Amenities by providing DEVELOPERS with written notice within 30 days of such assignment.
- b. Couture may assign its rights, liabilities and obligations under this Restated Easement without the consent of CITY to any and all successor owners of all

or any part of Unit 1. Couture shall provide CITY with written notice within 30 days of such assignment.

11. Term. This Restated Easement shall become effective on the date hereof and shall remain in effect permanently until both parties mutually agree in a written recordable document to terminate the Agreement. Upon termination, CITY shall, at its sole cost and within 180 days of the signing of such termination document, remove all Streetcar Amenities from the Property and repair any damage to the Property from such removal. The obligations in this Section shall survive the termination of this Restated Easement.

12. Run with the Land. This Restated Easement is a permanent easement which shall run with the land and shall be binding on and shall inure to the benefit of the parties hereto and to their respective heirs, successors and assigns. This Restated Easement shall survive the termination of the Development Agreement. In the event the Easement Area is partially or totally destroyed, or demolished, the easement will nevertheless continue for the benefit of the CITY and public in replacement easement areas of approximately equivalent sizes and purposes in any repaired or substitute building which is constructed by the then current owner.

13. Notices. All notices to be given by one party to the other under this Restated Easement shall be in writing and given either by personal delivery or certified mail, postage prepaid, to the addresses set forth in this paragraph. A notice shall be deemed delivered either upon actual receipt or upon refusal by a party to accept delivery. Any party may change its address for purposes of receiving notice by delivering written notice thereof in accordance with the requirements of this paragraph.

To COUTURE:

The Couture LLC  
260 East Highland Avenue, Suite 401  
Milwaukee, WI 53202  
Attn: Rick Barrett

With a copy to:

Attorney Adam J. Tutaj  
Meissner Tierney Fisher & Nichols SC  
111 East Kilbourn Avenue, 19th Floor  
Milwaukee, WI 53202

To HUB MKE:

Transit Hub MKE LLC  
260 East Highland Avenue, Suite 401  
Milwaukee, WI 53202  
Attn: Rick Barrett

With a copy to:

Attorney Adam J. Tutaj  
Meissner Tierney Fisher & Nichols SC  
111 East Kilbourn Avenue, 19th Floor  
Milwaukee, WI 53202

To CITY:

Commissioner of Public Works  
841 N. Broadway, 5<sup>th</sup> Floor  
Milwaukee, WI 53202

With copies to:

Commissioner of City Development  
809 North Broadway  
Milwaukee, WI 53202

and

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

14. Force Majeure. Neither party shall be liable or in default hereunder for any delay or failure to perform under this Restated Easement to the extent that such delay or failure was attributable to flood, hurricane, tornado, earthquake, storm or other acts of God; war, acts of a public enemy, insurrection, riot, vandalism or other civil or military action; terrorism; accident, fire, explosion or other casualty; nationalization; violence; seizure, embargos or other government actions or restrictions; stock outs; failure of transportation, supply or utilities; strike or other work interruption or any other cause beyond the reasonable control of such party.

15. Further Assurance. Each of the parties agrees to execute and deliver such documents and to take such other actions at any time and from time to time hereafter as may be reasonably requested by the other party to carry out the provisions or purposes of this Restated Easement.

16. Severability. In the event that any provision of this Restated Easement is later determined to be illegal, invalid or unenforceable for any reason, such provision shall be deemed severed from this Restated Easement and such severance shall not affect the legality, validity or enforceability of the other provisions hereof.

17. Amendment. Except as otherwise provided herein, this Restated Easement may be amended only by a written instrument executed by both parties.

18. Counterparts. This Restated Easement may be executed in any number of counterparts, and each counterpart shall be deemed to be an original instrument, but all such counterparts together shall constitute but one Agreement.

19. Headings. The headings of the sections or paragraphs of this Restated Easement are for convenience only and shall in no way affect the construction of, or effect of, any of the terms, covenants, or conditions hereof. In interpreting this Restated Easement, whenever the context so permits, (i) the singular shall include the plural and the plural shall include the singular and (ii) any gender shall include all genders. Reference to any federal or state statute shall be deemed to refer to all rules and regulations promulgated thereunder unless the context otherwise requires and shall be deemed to incorporate amendments thereto except to the extent that taking such amendments into account would defeat the purposes of this Restated Easement. The word “including” shall mean “including, without limitation,” and any exhibit, schedule or other document referred to herein is incorporated in this Restated Easement and made a part hereof. This Restated Easement was drafted jointly by all of the parties, and no rule of construction or other presumption shall arise by reason of authorship of any of the provisions hereof.

20. Governing Law. This Restated Easement will be governed and construed in accordance with the laws of the State of Wisconsin.

21. No Joint Venture. No provision hereof shall be deemed to constitute the parties as partners of one another or joint ventures of one another or in any way obligate any party for the performance of any obligation of the other party.

22. Estoppel Certificates. At any time and from time to time upon not less than twenty (20) days' prior request of CITY, CITY's DPW Commissioner shall execute, acknowledge and deliver to Couture or Hub MKE a statement in writing certifying (a) that this Restated Easement is unmodified and in full force and effect (or if there have been modifications, specifying the same), (b) that, so far as CITY knows, Couture or Hub MKE (as applicable) is not in default under any provisions of this Restated Easement (or if CITY knows of any such default, specifying the same) and (c) such other matters as Couture or Hub MKE or their respective mortgagees may reasonably require. Any such statement may be relied upon by any person proposing to acquire Couture or Hub MKE's interest in this Restated Easement or any prospective mortgagee of, or assignee of any mortgage upon, such interest.

23. Authority. Each individual executing this Restated Easement on behalf of CITY or any DEVELOPER thereby warrants and represents that he or she is authorized to so execute this Restated Easement and this Restated Easement thereby constitutes a valid and binding obligation enforceable in accordance with its terms. Whenever in this Restated Easement the consent or approval of CITY is required or the discretion of CITY may be exercised, the DPW Commissioner shall have the authority to provide such a consent or approval or to exercise such discretion.

24. HUD Requirements. The parties acknowledge that the Streetcar Amenities will be funded in part by the TIGER Grant awarded to CITY by the FTA and the Project will be funded in part by programs administered by the U.S. Department of Housing and Urban Development (“HUD”). Notwithstanding any provision in this Restated Easement, CITY agrees that this

Restated Easement and all of the terms, covenants and provisions hereof and all rights, title, interests, and remedies of the CITY and the public hereunder (and the instruments referenced herein) may, in the event that DEVELOPERS finance portions of the Easement Area by or through any program administered by HUD or any subdivision thereof, including the Federal Housing Administration (any such person or entity being hereinafter referred to as a “**HUD Insured Lender**”), be subject and subordinate in all respects to the right, title, interest and remedies of any such HUD Insured Lender. In the event that DEVELOPERS propose to encumber the Project to secure financing for all or any portion of the Project from any person or entity who is not a HUD Insured Lender (each a “**Conventional Lender**”), all rights, title, interests, and remedies of the CITY and general public hereunder (and the instruments referenced herein) shall be subject and subordinate to the rights of the Conventional Lender; *provided, however*, that each such Conventional Lender shall provide an agreement under which such Conventional Lender agrees to recognize all rights, title, interests and remedies of the FTA, pursuant to any grant agreement between CITY and FTA, and of CITY and the general public pursuant to the terms of this Restated Easement (and the instruments referenced herein) in the event of foreclosure, if the CITY is not then in default, so long as the CITY observes and performs all of the obligations, provisions, covenants, and conditions required of the CITY hereunder (and the instruments referenced herein).

Dated this \_\_\_\_ day of April, 2021.

**CITY OF MILWAUKEE**

\_\_\_\_\_  
Tom Barrett, Mayor

\_\_\_\_\_  
James R. Owczarski, City Clerk

COUNTERSIGNED:

\_\_\_\_\_  
Aycha Sawa, Comptroller

**CITY ATTORNEY APPROVAL/AUTHENTICATION**

\_\_\_\_\_, as a member in good standing of the State Bar of Wisconsin, hereby approves the signatures of the City representatives above per M.C.O. § 304-21, and also authenticates the signatures of those City representatives/signatories per Wis. Stat. § 706.06 so this document may be recorded per Wis. Stat. § 706.05 (2)(b).

\_\_\_\_\_  
\_\_\_\_\_  
State Bar No. \_\_\_\_\_ City Attorney

**The Couture LLC**

By: \_\_\_\_\_  
Richard J. Barrett, Manager

**Transit Hub MKE LLC**

By: \_\_\_\_\_  
Richard J. Barrett, Manager

**ACKNOWLEDGEMENT**

STATE OF WISCONSIN    )  
  ) SS.  
MILWAUKEE COUNTY    )

This instrument was acknowledged before me on \_\_\_\_\_, 2021 by the above-named Richard J. Barrett as Manager of The Couture LLC and Transit Hub MKE LLC.

\_\_\_\_\_  
Notary Public, State of Wisconsin

My commission expires: \_\_\_\_\_  
[Seal]

**AUTHENTICATION**

Signature of Richard J. Barrett authenticated on \_\_\_\_\_, 2021.

\* \_\_\_\_\_  
Title: Member of State Bar of Wisconsin

## **EXHIBIT A**

### **Legal Description of the Property**

#### **PARCEL A:**

Units One (1) and Three (3), together with said units' undivided appurtenant interest in the common elements, and the use of the limited common elements appurtenant to said unit, all in THE COUTURE LAKEFRONT, A CONDOMINIUM, being a condominium created and existing under and by virtue of the Condominium Ownership Act of the State of Wisconsin and by Declaration of Condominium of The Couture Lakefront, a Condominium, and recorded April 6, 2021 as Document No. 11099452 (the "Declaration"); and Condominium Plat recorded April 6, 2021, as Document No. 11099453, said condominium being located in the City of Milwaukee, Municipal Grantor of Milwaukee, State of Wisconsin on the real estate described in and made subject to said Declaration and incorporated herein by this reference thereto.

Tax Key No. 396-0511-000 (pt)

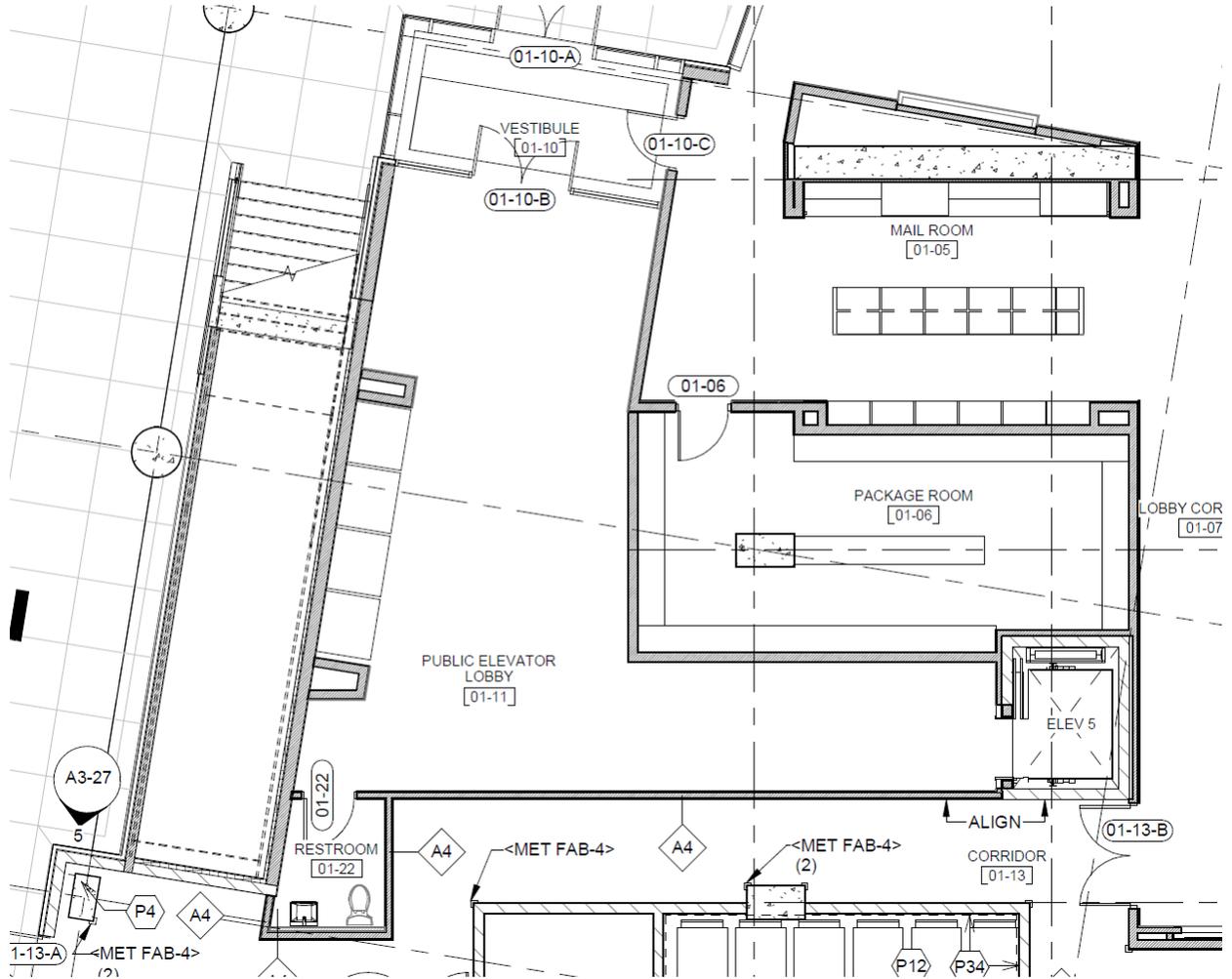
Address: 909 E. Michigan Street, Milwaukee, WI

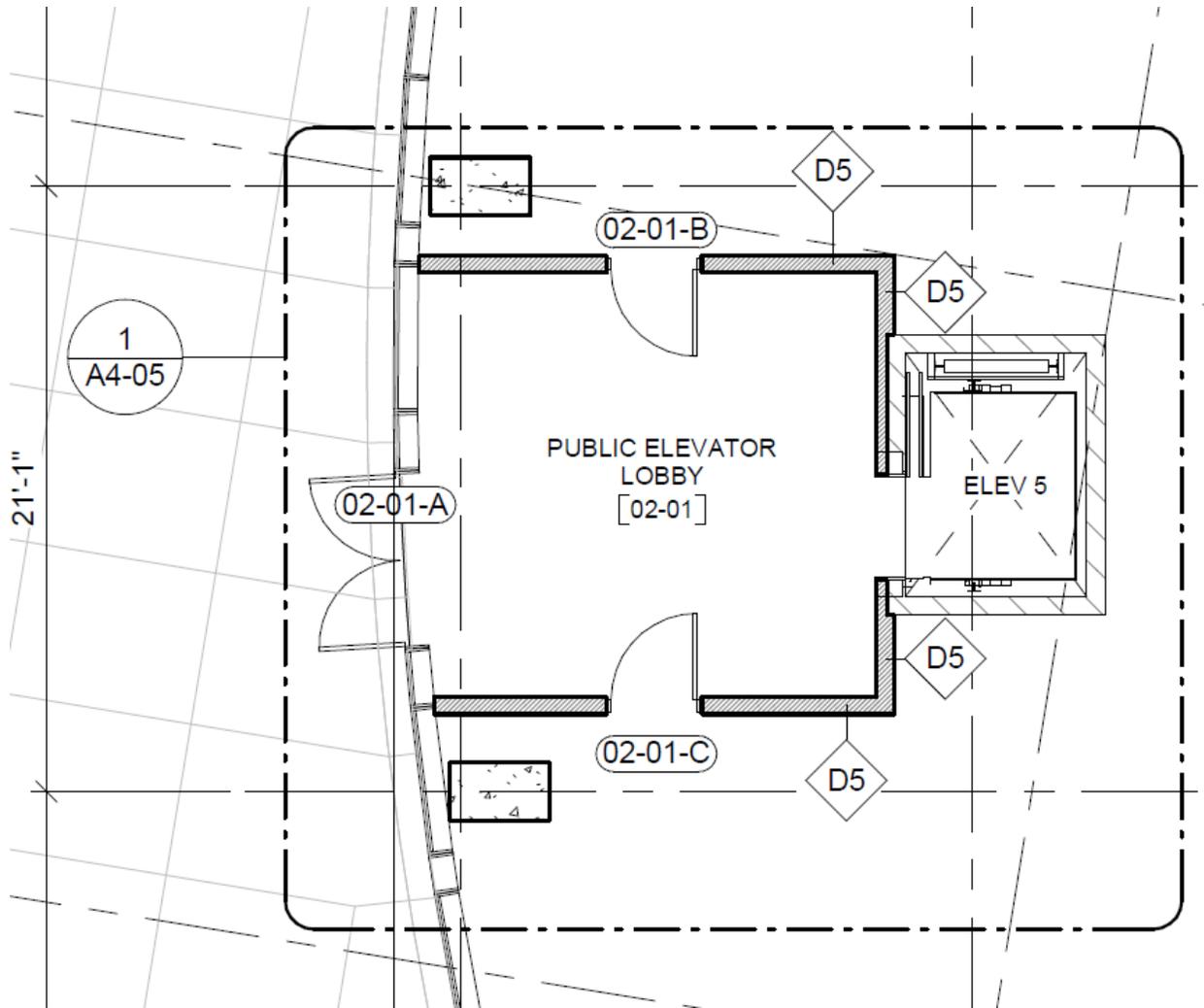
#### **PARCEL B:**

Easements benefitting the above-described Units as set forth in Sections 14.7 and 14.9 of the Declaration and/or otherwise under Article XIV of the Declaration

# EXHIBIT B

## Depiction of Common Areas





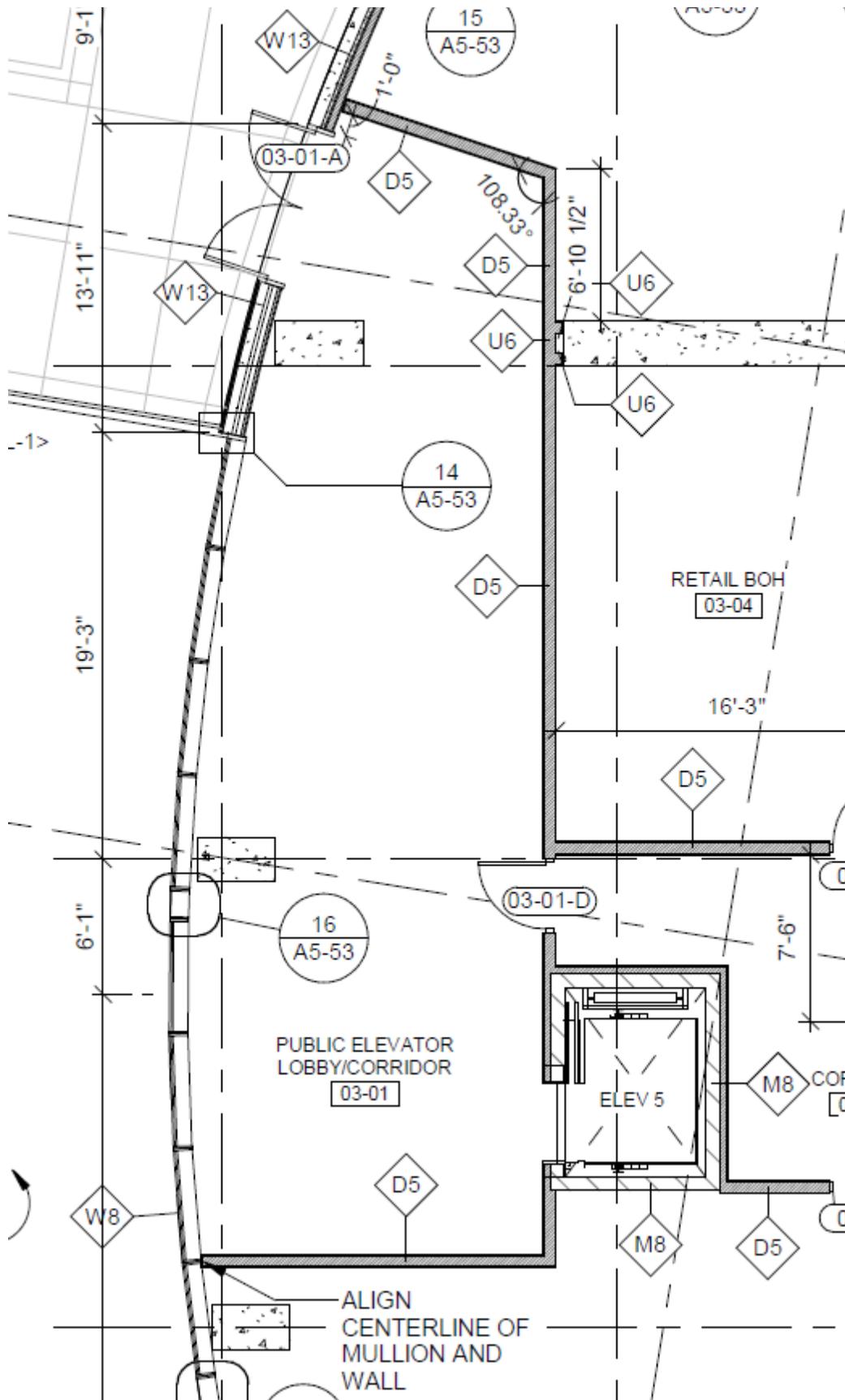


EXHIBIT E

HR Agreement

EXHIBIT E

**HUMAN RESOURCES AGREEMENT  
(COUTURE PROJECT)**

This Human Resources Agreement (“Agreement”) is entered into as of the 28th day of April, 2017, by and between the City of Milwaukee (“CITY”), on the one hand and THE COUTURE LLC, a Wisconsin limited liability company, and THE COUTURE HOLDINGS GROUP INC., a Wisconsin business corporation, on the other (collectively, the “DEVELOPER”).

**WHEREAS**, the parties to this Agreement acknowledge and understand that this Agreement is executed in conjunction with the Cooperation, Contribution and Redevelopment Agreement for the Couture Project dated even herewith (“Development Agreement”) executed by the parties in connection with the implementation of a development project located at 909 East Michigan Street, Milwaukee, Wisconsin;

**WHEREAS**, DEVELOPER acknowledges that CITY has established policies regarding the utilization of SBEs (defined below), in Chapters 355 and 370 of the Milwaukee Code of Ordinances (“MCO”); and

**WHEREAS**, DEVELOPER acknowledges that CITY has established policies regarding the utilization of unemployed and underemployed CITY residents in development projects pursuant to sec. 355-7 of the MCO; and

**WHEREAS**, DEVELOPER acknowledges that approval and execution of the Development Agreement was conditioned upon the DEVELOPER, its affiliates and their agents, agreeing to meet the requirements of this Agreement with respect to the development of the Project.

**NOW, THEREFORE**, the parties agree as follows:

**I. DEFINITIONS**

1. SMALL BUSINESS ENTERPRISE (“SBE”) is a business that has been certified by the City of Milwaukee Office of Small Business Development (the “OSBD”) based on the requirements of sec. 370-25 of the MCO.

2. FIRST-SOURCE EMPLOYMENT PROGRAM means an employment program operated by CITY or its designee which is to be utilized as contractors’ first source for recruiting applicants for both new and replacement employment.

3. JOINT VENTURE is an association of two or more persons or businesses to carry out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills and/or knowledge.

4. PROJECT means the Public Infrastructure Project, as defined in Section 1.1 of the Development Agreement, as part of the development of property located at 909 East Michigan Street, Milwaukee, Wisconsin.

5. PROJECT COSTS means all costs of the PROJECT, but less and excluding all costs associated with the purchase, lease or right to use any land; permit fees paid to CITY or any other governmental entity or quasi-governmental entity; utility company fees; financing and interest expenses; insurance premiums; other work not contracted through DEVELOPER and over which DEVELOPER does not have direction or control in the selection of contractors or material providers for the same; and other costs approved by DEVELOPER and the OSBD, with such approval not being unreasonably withheld. DEVELOPER or its representatives and the OSBD shall meet and confer to determine the eligible PROJECT COSTS for such phase or portion of the PROJECT.

6. RPP means CITY’s Resident Preference Program as described in sec. 355-7 of the MCO.

## II. SMALL BUSINESS ENTERPRISE PROGRAM

In accordance with sec. 355-13-4 of the MCO, DEVELOPER shall, in developing and constructing the PROJECT, utilize SBEs for no less than 25% of the total PROJECT construction costs including the amounts expended for the purchase of non-professional services and supplies and 18% of the amounts expended for the purchase of professional services for the PROJECT deemed eligible pursuant to SBE guidelines, as summarized in **Exhibit A “Categories of Work.”** Prior to the commencement of the PROJECT, DEVELOPER or its representatives and the OSBD shall meet and confer to determine the eligible PROJECT COSTS subject to the SBE requirements.

A. DEVELOPER from and after the date of this Agreement and in conjunction with the implementation of the PROJECT, shall undertake the following activities:

1. Advertise in general circulation and trade association media, as well as in community newspapers regarding contracting and subcontracting opportunities. Advertising in the Daily Reporter and two other publications shall be the minimum acceptable level of performance. Complete **Exhibit B “SBE Marketing Plan – Publications/Advertising Contacts”** and submit it to the OSBD. Advertisements shall be submitted to OSBD for review prior to publication.
2. Provide interested SBEs and the agencies listed in **Exhibit C “SBE Marketing Plan – Community Agency Contacts”** with adequate information about the PROJECT plans, specifications, and contract/subcontract requirements at least two weeks prior to the date the contract bidding process commences. DEVELOPER shall document Community Agency Contacts by completing the Contact Sheet attached as **Exhibit C1 “SBE Contact Sheet”** and submitting the completed Contact Sheet to the OSBD prior to commencement of the bidding process.
3. Complete and submit **Exhibit D “Form A – Contractor Compliance Plan”** to the OSBD upon execution of the prime contractor’s contract, if any, or upon commencement of construction.
4. Conduct pre-bid or selection conferences and a walk-through at least two weeks in advance of the date that bids are due.
5. Provide written notice of the PROJECT to all pertinent construction trade and professional service SBEs listed in the current City of Milwaukee Directory

soliciting their services in sufficient time (at least two weeks) to allow those businesses to participate effectively in the contract bidding or selection process. To identify SBEs for the PROJECT, utilize the current *Official City of Milwaukee SBE Directory* published by CITY's OSBD. The directory can be accessed on-line at:

<https://milwaukee.diversitycompliance.com/FrontEnd/VendorSearchPublic.asp?TN=milwaukee&XID=2276>

6. Follow-up with SBEs who show an interest in the PROJECT during the initial solicitation process and document contact with SBE firms using **Exhibit E "SBE Solicitation Form."**
  7. Select trade and professional service areas for SBE awards wherein the greatest number of SBEs exist to perform the work, thereby increasing the likelihood of contracts or subcontracts being awarded to SBEs. Where appropriate, split contracts or subcontracts into smaller, economically feasible units to facilitate SBE participation.
  8. Negotiate in good faith with interested SBEs, not reject SBE bids or proposals as unqualified or too high without sound reasons based on a thorough review of the bid or proposal submitted and maintain documentation to support the rejection of any SBE bid or proposal. Bids that are not cost effective and/or are not consistent with the PROJECT schedule will be considered "rejectable." Rejected bids or proposals shall be documented on **Exhibit F "SBE Rejection of Bid or Proposal Form."**
  9. Utilize the services available from public or private agencies and other organizations for identifying SBEs available to perform the work.
  10. Include in the PROJECT bid, requests for proposals or selection documents and advertisements an explanation of PROJECT requirements for SBE participation to prospective contractors and subcontractors.
  11. As necessary and whenever possible, facilitate the following:
    - (a) Joint ventures, limited partnerships or other business relationships intended to increase SBE areas of expertise, bonding capacity, credit limits, etc.
    - (b) Training relationships
    - (c) Mentor/protégé agreements
- B. If the DEVELOPER meets or exceeds the 25% requirement for SBE participation for the construction, including supplies and non-professional services, for the entire PROJECT and the 18% requirement for SBE participation for the purchase of professional services for the

entire PROJECT, whether commenced before or after the date hereof, it shall be deemed that DEVELOPER has achieved or exceeded CITY's SBE requirement with respect to that aspect of the PROJECT, for the purposes of fulfilling the terms of this Agreement.

C. Contract or subcontract amounts awarded to SBE suppliers, that do not manufacture products they supply, may only be counted for up to one-fifth of the entire SBE participation requirement for construction supplies described in subsection B, above.

### **III. RESIDENT PREFERENCE PROGRAM**

A. DEVELOPER shall, in developing and constructing the PROJECT, utilize unemployed or underemployed residents, as defined in sec. 355-1.3. of the MCO, for no less than 40% of the total "worker hours" expended on "Construction," as those terms are defined in sec. 309.41 of the MCO,<sup>1</sup> included in PROJECT COSTS but less and excluding all non-Construction PROJECT COSTS.

1. In accordance with sec. 355-7-2-a of the MCO, DEVELOPER shall provide to the OSBD a city resident utilization plan and gap analysis detailing how the 40% resident utilization requirement will be achieved.
2. In accordance with sec. 355-7-2-a-1 of the MCO, at least one-quarter of the 40% resident utilization requirement shall be performed by unemployed or underemployed residents who maintain their permanent residence in zip codes established as high-poverty. Every worker hour exceeding this requirement shall count for 1.5 hours toward the overall 40% resident utilization requirement for the PROJECT.
3. In accordance with sec. 355-7-2-a of the MCO, up to one-third of the 40% resident utilization requirement may be achieved by documenting the use of

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<sup>1</sup> The definition of "Construction" shall mean "Construction" as defined in sec. 309.41 of the MCO, but as modified to reflect the private nature of the PROJECT.

unemployed and underemployed residents on projects undertaken by the DEVELOPER where such compliance is not required or by hiring unemployed or underemployed residents on a full-time permanent basis for non-construction job categories connected to the PROJECT. Such adjustments must be proposed in an affidavit on a form provided by the OSBD setting forth the facts upon which the request for adjustment is based.

4. In accordance with sec. 355-7-2-a-2 of the MCO, if DEVELOPER cannot meet the 40% resident utilization requirement, the appropriate level of participation may, at the discretion of the OSBD, be met by utilizing unemployed or underemployed residents to work on concurrent projects in any Wisconsin county, provided those residents began their employment on projects in the City of Milwaukee.

B. DEVELOPER from and after the date of this Agreement and in conjunction with the PROJECT, shall undertake the following activities:

1. Listing and causing contractors and sub-contractors to list open positions with any first source hiring agency specified by the OSBD.
2. Disseminating information provided by the OSBD to all contractors and sub-contractors on how to recruit unemployed and underemployed residents.
3. Listing and causing contractors and sub-contractors to list job openings with Wisconsin Job Service, W-2 agencies and other agencies as specified by the OSBD.
4. Working in cooperation with CITY, identify and implement any other activities and steps to maximize utilization of unemployed and underemployed residents on the PROJECT.

5. Disseminating the Employee Affidavit form, attached as **Exhibit G**, to all contractors and sub-contractors for their use in documenting RPP compliance.

6. Causing contractors and sub-contractors to participate in training on the CITY's LCP Tracker Labor Compliance Software.

7. Throughout the construction of the PROJECT, causing contractors and sub-contractors to provide timely payroll information, on at least a monthly basis, via LCP Tracker, including data on the race, gender, zip code, trade and hourly wage of unemployed and underemployed residents utilized in the PROJECT.

C. Prior to the commencement of the PROJECT, DEVELOPER or its representatives and the OSBD shall meet and confer to determine the eligible PROJECT COSTS, which are Construction costs subject to the mandatory RPP requirement.

D. DEVELOPER shall file the reports attached as **Exhibit H "Construction RPP Hours Calculation"** to evidence compliance with RPP requirements with the OSBD. All RPP reports shall be accompanied by supporting Employee Affidavits, in the form attached as **Exhibit G**.

E. Apprenticeship and On-The-Job Training Requirements. In accordance with sec. 355-9-1 of the MCO, DEVELOPER shall require its contractors and subcontractors on the PROJECT to employ apprentices and on-the-job trainees in the performance of all construction contracts and subcontracts for the PROJECT in accordance with the maximum ratio of apprentices to journeymen established by the Wisconsin Department of Workforce Development and in accordance with the following requirements:

1. One-quarter of the apprentices and on-the-job trainees required for the PROJECT as measured in worker hours, shall be unemployed or underemployed residents of the CITY. For every worker hour exceeding the requirements of this

subsection, 1.5 hours shall be credited toward the 40% resident utilization requirement for the PROJECT.

2. Of the apprentice and on-the-job trainee worker hours required for the PROJECT under this section, at least 40% shall be attributable to unemployed or underemployed residents residing in zip codes established as high-poverty pursuant to sec. 355-9-1-a-2 of the MCO.

The requirements of this section E are subject to sec. 355-9-1-b of the MCO. In the event that the OSBD finds that the apprenticeship or on-the-job training are not appropriate for the PROJECT, the requirements of this section E may be waived or adjusted administratively by the OSBD without the need for an amendment to this Agreement.

#### **IV. SBE AND RPP REPORTING**

DEVELOPER agrees to report to the OSBD, CITY's Common Council and the Zoning, Neighborhoods and Development Committee of the CITY's Common Council on DEVELOPER's utilization of SBEs and unemployed or underemployed residents in its contracting activities for the PROJECT, pursuant to Chapters 355 and 370 of the MCO and in accordance with the requirements of this Agreement. In order to monitor the PROJECT's SBE and RPP worker participation, CITY requires, and DEVELOPER agrees to take the following steps:

- A. Provide a list of all categories of work for each phase or portion of the PROJECT, with budget allowances, for which bids will be solicited and highlight those categories, based upon DEVELOPER's knowledge and experience, which are conducive to SBE participation.
- B. Provide the OSBD with documentation supporting efforts extended to solicit bids from SBEs. Upon request, DEVELOPER shall make information related to SBE bids available to the OSBD.
- C. Submit an SBE Monthly Report to the OSBD on or before the 20th of each month, or a quarterly report with the approval of the OSBD, on the form attached as **Exhibit I "Form D – SBE Monthly Report."**

- D. Submit an SBE/RPP Report to CITY's Common Council on a quarterly basis regarding achievement of SBE and RPP standards for the duration of construction of the PROJECT. The forms attached as **Exhibit H** and **Exhibit I** shall also be used for said quarterly reports.
- E. Upon request from the OSBD, make a quarterly presentation to the Zoning, Neighborhoods and Development Committee of the CITY's Common Council regarding achievement of SBE and RPP standards for the duration of construction of the PROJECT. Said presentation shall be coordinated through the OSBD.
- F. Complete and submit a final **Exhibit I** and **Exhibit J "SBE Subcontractor Payment Form"** to the OSBD upon completion of all construction of the PROJECT.

**V. LABOR STANDARDS AND WAGES.**

DEVELOPER shall comply with all applicable state and municipal labor standards provisions on the PROJECT. DEVELOPER shall provide and cause its contractors and subcontractors to provide the OSBD any necessary documentation relative to compliance with applicable labor standards provisions on forms specified by the OSBD.

**VI. CITY ADMINISTRATION.**

The OSBD shall have primary responsibility for the administration of this Agreement as well as primary monitoring and enforcement authority for the programs and activities encompassed by this Agreement. In exercising its responsibilities under the Agreement, the OSBD shall use good faith and act in a reasonable manner. Notwithstanding the foregoing, the OSBD shall make all information and data collected pursuant to this Agreement available to CITY's Department of City Development and Comptroller in order to allow fulfillment of their respective responsibilities with respect to the programs and activities encompassed by this Agreement. CITY's Department of City Development, and Comptroller shall cooperate with and assist the OSBD in the administration of this Agreement.

**VII. DEVELOPER ADMINISTRATION.**

DEVELOPER may retain a person or firm reasonably acceptable to the OSBD, to act as DEVELOPER's consultant and to assist in record keeping, collection of information and the filing of all reports necessary to demonstrate compliance with the requirements of this Agreement. DEVELOPER shall also comply with the reporting requirements set forth in Section IV of this Agreement.

**VIII. AUDIT RIGHTS.**

DEVELOPER shall keep or cause others under its control, including its contractors and subcontractors to keep accurate, full and complete books and accounts with respect to costs of developing, constructing, and completing the PROJECT, including personnel records, and carrying out the duties and obligations of DEVELOPER hereunder. All the books and accounts required to be kept hereunder shall be maintained in accordance with generally accepted accounting principles consistently applied, and shall be kept for a period of seven years.

**IX. PUBLIC RECORDS.**

Records shall be maintained in accordance with requirements prescribed by the CITY with respect to all matters covered by this Agreement. Both parties understand that the CITY is bound by Wisconsin Public Records Law, and as such, all of the terms of this Agreement are subject to and conditioned on the provisions of Wis. Stat. Section 19.21, et seq. DEVELOPER acknowledges that it is obligated to assist the CITY in retaining and producing records that are subject to Wisconsin Public Records Law, and DEVELOPER must defend and hold the City harmless from liability under that law. Except as otherwise authorized, these records shall be maintained for a period of seven years from the date of this Agreement.

**X. NOTICES.**

All notices under this Agreement shall be made in writing and deemed served upon depositing the same in the United States Postal Service as “Certified Mail, Return Receipt Requested,” addressed as follows:

A. To the CITY: Office of Small Business Development  
City of Milwaukee  
200 East Wells Street  
Milwaukee, WI 53202  
Attn: Director

With a copy to: Department of City Development  
City of Milwaukee  
809 North Broadway  
Milwaukee, WI 53202  
Attn: Commissioner

B. To DEVELOPER: The Couture LLC  
260 East Highland Avenue, Suite 401  
Milwaukee, WI 53202  
Attn: Rick Barrett

With a copy to: Meissner Tierney Fisher & Nichols, S.C.  
111 East Kilbourn Avenue, 19<sup>th</sup> Floor  
Milwaukee, WI 53202  
Attn: Adam J. Tutaj, Esq.

## **XI. SANCTIONS.**

In the event that any document submitted to CITY by DEVELOPER or a contractor or subcontractor of DEVELOPER contains false, misleading or fraudulent information or demonstrates non-compliance with the requirements of this Agreement, the OSBD may seek prosecution under sec. 355-19 of the MCO or the imposition of any of the following sanctions:

- A. Imposition of a requirement that remedial efforts be undertaken by DEVELOPER for the remaining portion of the PROJECT where initial reports demonstrate non-compliance with the RPP hours required for the PROJECT.
- B. Specific performance or specified remedies under this Agreement.
- C. Remedies available under the Development Agreement for such non-compliance.

- D. Withholding of payments due to DEVELOPER under the Development Agreement or any related documents.
- E. Termination, suspension or cancellation of the Development Agreement or any contract or agreement related to the PROJECT in whole or in part.
- F. After a due process hearing, denial of DEVELOPER's right to enter into agreements with the CITY for 2 years.

IN WITNESS WHEREOF, the parties have executed this Human Resources Agreement as of the 28<sup>th</sup> day of April, 2017.

**THE COUTURE LLC**

By:   
Richard J. Barrett, Manager

**CITY OF MILWAUKEE**

By: \_\_\_\_\_  
Tom Barrett, Mayor

By: \_\_\_\_\_  
James R. Owczarski, City Clerk

**THE COUTURE HOLDINGS GROUP INC.**

By:   
Richard J. Barrett, President

By: \_\_\_\_\_  
Martin Matson, City Comptroller

Approved as to form and execution and content this 28<sup>th</sup> day of April, 2017.

\_\_\_\_\_  
Mary L. Schanning  
Deputy City Attorney

1050-2012-1849:232090v2

D. Withholding of payments due to DEVELOPER under the Development Agreement or any related documents.

E. Termination, suspension or cancellation of the Development Agreement or any contract or agreement related to the PROJECT in whole or in part.

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**THE COUTURE LLC**

By: \_\_\_\_\_  
Richard J. Barrett, Manager

**CITY OF MILWAUKEE**

By: Tom Barrett  
Tom Barrett, Mayor

**THE COUTURE HOLDINGS GROUP INC.**

By: \_\_\_\_\_  
Richard J. Barrett, President

By: James R. Owczarski  
James R. Owczarski, City Clerk

By: Martin Matson  
Martin Matson, City Comptroller

Approved as to form and execution and content  
this 28<sup>th</sup> day of April, 2017.

Mary L. Schanning  
Mary L. Schanning  
Deputy City Attorney

1050-2012-1849:232090v2

**EXHIBIT A**  
**CATEGORIES OF WORK**

**CATEGORIES OF WORK**  
**CONSTRUCTION BUDGET FOR THE COUTURE**  
**PROJECT**

<u>WORK DESCRIPTION</u>	<u>GENERAL</u>	<u>SUPPLIER ITEMS</u>
<b>SITE PREPARATION:</b>		
DEMOLITION	\$0.00	
EXCAVATION	\$0.00	
SOIL HAULING & DISPOSAL	\$0.00	
STORMWATER MANAGEMENT SYSTEM	\$0.00	
OTHER SITE:	\$0.00	
 <b>BUILDING CONSTRUCTION:</b>		
FOOTINGS & FOUNDATION	\$0.00	
FLOOR SLAB	\$0.00	
STRUCTURAL STEEL**	**	\$0.00
GLAZING	\$0.00	
MASONARY	\$0.00	
ROOFING	\$0.00	
ROUGH CARPENTRY	\$0.00	
FINISH CARPENTRY	\$0.00	
DOORS, FRAMES & MILLWORK	\$0.00	
HVAC EQUIPMENT**	**	\$0.00
PLUMBING	\$0.00	
FIRE PROTECTION	\$0.00	
ELECTRICAL	\$0.00	
DRYWALL	\$0.00	
CEILINGS	\$0.00	
FLOORING	\$0.00	
CERAMIC TILE	\$0.00	
LIGHTING	\$0.00	
PAINTING/INTERIOR FINISH	\$0.00	
OTHER:	\$0.00	
OTHER:	\$0.00	
OTHER:	\$0.00	
 <b>SITE IMPROVEMENTS:</b>		
PAVING	\$0.00	
LATERALS/CATCH BASIN	\$0.00	
LANDSCAPING	\$0.00	
FENCING	\$0.00	
OTHER:	\$0.00	

<b>TOTAL HARD COSTS</b>	----- \$0.00	----- \$0.00
-------------------------	-----------------	-----------------

**PROFESSIONAL SERVICES**

ARCHITECTUAL	\$0.00
ENGINEERING	\$0.00
LEGAL SERVICES	\$0.00
SURVEY	\$0.00
ENVIRONMENTAL	\$0.00
GENERAL CONTRACTOR	\$0.00
CONSTRUCTION MANAGER	\$0.00
OTHER:	\$0.00

<b>TOTAL PROFESSIONAL SERVICES</b>	----- \$0.00
------------------------------------	-----------------

**COST SUMMARY & SBE CALCULATIONS**

CONSTRUCTION EXCLUDING SUPPLIER  
ITEMS  
SUPPLIER AMOUNT \*\*  
PROFESSIONAL SERVICES

CATEGORY	RATE	SBE REQUIREMENT
	\$0.00 25%	\$0.00
	\$0.00 25%	\$0.00
	\$0.00 18%	\$0.00

<b>TOTAL SBE REQUIREMENTS</b>	----- \$0.00
-------------------------------	-----------------

**EXHIBIT B**

**SBE MARKETING PLAN – PUBLICATIONS/ADVERTISING CONTACTS**

**Milwaukee Times**

(Published weekly)  
1936 North King Drive, Milwaukee, WI 53212  
Tele. No: (414) 263-5088  
Contacted \_\_\_\_\_yes \_\_\_\_\_no  
Contact Person \_\_\_\_\_  
Date and Time \_\_\_\_\_

**The Milwaukee Courier**

(Published weekly)  
2003 W. Capitol Drive, Milwaukee, WI 53206  
Tele No: (414) 449-4860  
Fax: (414) 906-5383  
Contacted \_\_\_\_\_yes \_\_\_\_\_no  
Contact Person \_\_\_\_\_  
Date and Time \_\_\_\_\_

**Milwaukee Community Journal, Inc.**

(Published twice weekly)  
3612 North King Drive, Milwaukee, WI 53212  
Tele No: (414) 265-5300  
Contacted \_\_\_\_\_yes \_\_\_\_\_no  
Contact Person \_\_\_\_\_  
Date and Time \_\_\_\_\_

**Daily Reporter**

(Published daily M-F)  
225 E. Michigan St., Suite 540, Milwaukee, WI 53202  
Tele No: (414) 276-0273  
Fax: (414) 276-8057  
Contacted \_\_\_\_\_yes \_\_\_\_\_no  
Contact Person \_\_\_\_\_  
Date and Time \_\_\_\_\_

**Spanish Journal**

(Published weekly)  
611 West National Avenue, Suite 316, Milwaukee, WI 53204  
Tele No: (414) 643-5683  
Fax: (414) 643-8025  
Contacted \_\_\_\_\_yes \_\_\_\_\_no  
Contact Person \_\_\_\_\_  
Date and Time \_\_\_\_\_

**EXHIBIT C**  
**SBE MARKETING PLAN – COMMUNITY AGENCY CONTACTS**

**National Association of Minority Contractors**

6122 North 76th Street  
Milwaukee, WI 53218  
(414) 454-9475  
<http://www.namcwi.com>

**African American Chamber-Commerce**

633 W Wisconsin Ave., Suite 603  
Milwaukee, WI 53203  
(414) 462-9450  
<http://www.aaccwisconsin.org/>

**Hispanic Chamber of Commerce of Wisconsin**

1021 W National Ave.  
Milwaukee, WI 53204  
(414) 643-6963  
<https://hccw.org/>

**Hmong Wisconsin Chamber of Commerce**

6815 W. Capitol Drive, Suite 204  
Milwaukee, WI 53216  
(414) 645-8828  
<http://www.hmongchamber.org/>





Exhibit D

CITY OF MILWAUKEE
OFFICE OF SMALL BUSINESS DEVELOPMENT
FORM A - CONTRACTOR COMPLIANCE PLAN

Please list all proposed subcontractor(s) and/or material suppliers for this project.

I. GENERAL INFORMATION (REQUIRED)

Project Name: \_\_\_\_\_ SBE Participation: \_\_\_\_\_ % Total Dollar Amount: \$ \_\_\_\_\_

Project Description: \_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

II. PRIME CONTRACTOR INFORMATION (REQUIRED)

Contractor Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

City of Milwaukee SBE Certification: \_\_\_\_\_ Yes \_\_\_\_\_ No

III. ACKNOWLEDGEMENT (REQUIRED)

I certify that the information included in this Compliance Plan is true and complete to the best of my knowledge.

Name of Authorized Representative: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

FOR STAFF USE ONLY

Reviewed by OSBD Staff: \_\_\_\_\_ Date: \_\_\_\_\_



**CITY OF MILWAUKEE  
OFFICE OF SMALL BUSINESS DEVELOPMENT  
FORM A - CONTRACTOR COMPLIANCE PLAN**

List all subcontractor information in its entirety. Only SBE firms certified through the City Of Milwaukee Office of Small Business Development will be counted towards specified SBE requirements. Individual subcontractor SBE percentages should equal the overall participation as listed on Page 1. Please visit the OSBD website [www.milwaukee.gov/osbd](http://www.milwaukee.gov/osbd) for a complete list of certified firms.

**IV. SUBCONTRACTOR INFORMATION**

Subcontractor Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

City of Milwaukee SBE Certification: \_\_\_\_\_ Yes \_\_\_\_\_ No

Work performed / Materials supplied: \_\_\_\_\_

Please identify the proposed award amount and percentage of the contract the subcontractor will fulfill (if applicable).

Proposed Award: \$ \_\_\_\_\_ Percentage of contract: \_\_\_\_\_ %

Owner/Representative Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Subcontractor Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

City of Milwaukee SBE Certification: \_\_\_\_\_ Yes \_\_\_\_\_ No

Work performed / Materials supplied: \_\_\_\_\_

Please identify the proposed award amount and percentage of the contract the subcontractor will fulfill (if applicable).

Proposed Award: \$ \_\_\_\_\_ Percentage of contract: \_\_\_\_\_ %

Owner/Representative Signature: \_\_\_\_\_ Date: \_\_\_\_\_

\*PLEASE DUPLICATE AS NEEDED TO PROVIDE ADDITIONAL SUBCONTRACTOR INFORMATION\*

Department of Administration  
Office of Small Business Development  
City Hall, Room 606  
200 East Wells Street  
Milwaukee, WI 53202  
Information Line: 414-286-5553 Fax: 286-8752  
[osbd@milwaukee.gov](mailto:osbd@milwaukee.gov)  
[www.milwaukee.gov/osbd](http://www.milwaukee.gov/osbd)

**Exhibit E**  
**SMALL BUSINESS ENTERPRISE (SBE)**  
**SOLICITATION FORM**

Name & Address of SBE Firm \_\_\_\_\_

Name of Individual Contacted \_\_\_\_\_ Phone Number \_\_\_\_\_

Type of Work \_\_\_\_\_ Date and Time of Contact \_\_\_\_\_

Quotation or Proposal Received \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

REMARKS: THESE SHOULD INCLUDE ANY FOLLOW UP ACTIONS. IN THE EVENT THAT THE SMALL BUSINESS ENTERPRISE WILL NOT BE UTILIZED, INCLUDE AN EXPLANATION OF THE REASON (s) WHY THE FIRM WILL NOT BE USED. FOR EXAMPLE: IF THE ONLY REASON FOR NON-UTILIZATION WAS PRICE, THE EXPLANATION SHOULD REFLECT WHAT STEPS WERE TAKEN TO REACH A COMPETITIVE PRICE LEVEL.

REMARKS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT F**  
**SMALL BUSINESS ENTERPRISE (SBE)**  
**Rejection of Bid or Proposal Form**

Name and Address of SBE firm	Type of Work	Bid or Proposal Submitted by SBE	Actual Award	Reasons for bid rejection	Approved By
1					
2					
3					
4					
5					
6					
7					
8					

**EXHIBIT G**

**FORM RPP (Rev.2009)**

Contractor Name: \_\_\_\_\_

Development Project Name \_\_\_\_\_

**Employee Affidavit**  
Residents Preference Program

I certify that I maintain my permanent residence in the City of Milwaukee and that I vote, pay personal income tax, obtain my driver's license, etc. at

\_\_\_\_\_, Milwaukee, WI \_\_\_\_\_

(Address)

(Zip Code)

**Residency status:**

To verify my resident status, attached please find the following (check one)

- \_\_\_\_\_ Copy of my voter's certification form.
- \_\_\_\_\_ Copy of my last year's Form 1040.
- \_\_\_\_\_ Copy of my current Wisconsin Driver's License or State ID.
- \_\_\_\_\_ Copy of Other (i.e., Utility bill, Lease, etc.)

**AND**

**Unemployment status:**

I certify that I have been unemployed as follows: (Check those that apply)

- \_\_\_\_\_ I have worked less than 1,200 hours in the preceding 12 months.
- \_\_\_\_\_ I have not worked in the preceding 30 days.

**OR**

**Underemployed status:**

\_\_\_\_\_ I certify that based on the attached chart (Income Eligibility Guidelines), I am underemployed.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Sign Name

\_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
Home Telephone Number

Subscribed and sworn to me this \_\_\_\_\_ day

Of \_\_\_\_\_, \_\_\_\_\_ A.D.

My Commission Expires \_\_\_\_\_.

\_\_\_\_\_  
Notary Public Milwaukee County

## RPP Chart

### Income Eligibility Guidelines July 1, 2016 to June 30, 2017

Eligibility determination is based on household size and income.  
Total income must be at or below the amounts in this table.

Household Size	Yearly	Monthly	Twice per month	Every 2 weeks	Weekly
1	21,978	1,832	916	846	423
2	29,637	2,470	1,235	1,140	570
3	37,296	3,108	1,554	1,435	718
4	44,955	3,747	1,874	1,730	865
5	52,614	4,385	2,193	2,024	1,012
6	60,273	5,023	2,512	2,319	1,160
7	67,951	5,663	2,832	2,614	1,307
8	75,647	6,304	3,152	2,910	1,455
For Each Additional Household Member, Add	7,696	642	321	296	148

Source: Wisconsin Department of Public Instruction

**EXHIBIT H**

Couture Project  
Construction RPP Hours Calculation  
Phase \_\_\_\_\_

RPP Goal

Total Construction Hours Worked Pursuant to § 355-7.1a. "Worker Hours" includes work performed by persons filling apprenticeship and on-the-job training programs and excludes the number of hours of work performed by all non-Wisconsin residents.	
Multiplied by 40%	
Applicable RPP Goal	
Total RPP Construction Hours	
RPP Hour Surplus/Shortfall	
RPP Percentage (Total RPP Construction Hours/Total Construction Hours Worked)	

# EXHIBIT I



CITY OF MILWAUKEE  
DEPARTMENT OF ADMINISTRATION  
OFFICE OF SMALL BUSINESS DEVELOPMENT

**FORM D**

## SBE MONTHLY REPORT

The monthly report should be completed in its entirety and submitted no later than the 20th of every month to DOA-Office of Small Business Development. If this represents the final report, Form E - SBE Payment Certification should be attached for each subcontractor.

### SECTION I. GENERAL INFORMATION (REQUIRED)

Month: \_\_\_\_\_ Final Report:  Yes  No  
 City of Milwaukee  
 Prime Contractor: \_\_\_\_\_ SBE Certification:  Yes  No  
 Address: \_\_\_\_\_ City/State/Zip: \_\_\_\_\_  
 Purchase Order / Contract #: \_\_\_\_\_ Project Name/Number: \_\_\_\_\_  
 Description of service performed and/or materials supplied: \_\_\_\_\_  
 Prime Contractor's Total: \$ \_\_\_\_\_ Prime Contractor's JTD: \$ \_\_\_\_\_  
 Start Date: \_\_\_\_\_ Completion Date: \_\_\_\_\_  
 SBE Participation Requirement: \$ \_\_\_\_\_ / \_\_\_\_\_ %

### SECTION II. SUBCONTRACTOR INFORMATION (REQUIRED)

List all SBE subcontractor firm(s) utilized in connection with the above contract, either as service performed and/or supplier for the month. Only SBE firms certified through the City Of Milwaukee Office of Small Business Development will be counted towards specified SBE requirements. Please visit the OSBD website [www.milwaukee.gov/osbd](http://www.milwaukee.gov/osbd) for a complete list of certified firms.

Name of SBE Firm	Service Performed / Material Supplied	Amount Paid for the Month	Total Amount Paid JTD
<b>Total Payments to SBE</b>			

### SECTION III. ACKNOWLEDGEMENT (REQUIRED)

I/we hereby certify that I/we have ready the above and approved this information to be precise and confirmed. I further understand that failure to return this form by the specified time may cause a delay in payments (if applicable).

Report Prepared By: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_  
 Authorized Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Department of Administration  
Office of Small Business Development  
City Hall, Room 606  
200 East Wells Street  
Milwaukee, WI 53202  
Information Line: 414-286-5553 Fax: 414-286-8752  
[www.milwaukee.gov/osbd](http://www.milwaukee.gov/osbd)

## **DIRECTIONS FOR COMPLETING FORM D - MONTHLY REPORT**

### **SECTION I. GENERAL INFORMATION**

Please provide all contractual information as indicated in Section I.

If the purchase order/ contract or project requires Small Business Enterprise (SBE) requirements, please indicate the percentage in the designated area.

### **SECTION II. SUBCONTRACTOR INFORMATION**

Monthly reports are due by the 20th of each month via fax at 414-286-8752 or US Postal Service.

The data should indicate payments for the previous month. If there are zero payments for a reporting period, a monthly report indicating such should still be submitted.

Only report payments to City of Milwaukee SBE firms. Non-SBE firms will not be counted towards participation requirements.

Please duplicate the form if you need to add additional payment information.

### **SECTION III. ACKNOWLEDGEMENT**

Sign and date Form D signifying that all information is precise and confirmed. Unsigned forms will not be accepted.

*Updated: December 23, 2015*

EXHIBIT J



CITY OF MILWAUKEE  
DEPARTMENT OF ADMINISTRATION  
OFFICE OF SMALL BUSINESS DEVELOPMENT  
FORM E

SBE SUBCONTRACTOR FINAL PAYMENT CERTIFICATION

This form is to be completed and signed by the Prime Contractor and SBE subcontractor firms that were utilized in connection with contract listed below, either for service performed and/or as a supplier.

Prime Contractor Name: \_\_\_\_\_

Prime Contractor's Bid or RFP#: \_\_\_\_\_ Purchase Order or Contract # \_\_\_\_\_

Project Name: \_\_\_\_\_

I hereby certify that our firm has paid the listed amount to the SBE Subcontractor as indicated below for work performed and/or material supplied on the above contract.

Authorized Signer: \_\_\_\_\_ Date: \_\_\_\_\_

Subcontractor Name: \_\_\_\_\_

Total payment received \$ \_\_\_\_\_

I hereby certify that our firm has received the listed amount from the Prime Contractor as indicated above for subcontract work performed and/or material supplied on the above contract.

Owner/Representative Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Submit this form with the Prime Contractor's final FORM D (SBE Monthly Report) to:

Department of Administration  
Office of Small Business Development  
City Hall – Room 606  
200 East Wells St  
Milwaukee, WI 53202  
(or fax to 414-286-8752)

## EXHIBIT F

### Minimum Assessed Value Agreement

# **MINIMUM ASSESSED VALUE AGREEMENT**

**(Couture Project)**

**MINIMUM ASSESSED VALUE AGREEMENT  
(Couture Project)**

This Minimum Assessed Value Agreement (“Agreement”) is made as of the \_\_\_\_ day of April, 2021, by and between The Couture LLC, a Wisconsin limited liability company (“OBLIGOR”) and the City of Milwaukee, a Wisconsin municipal corporation, (“CITY”) in connection with the obligations of OBLIGOR under that certain Amended and Restated Cooperation, Contribution and Redevelopment Agreement for the Couture Project (“Development Agreement”) of even date herewith between OBLIGOR, CITY, The Couture Holdings Group Inc. and the Redevelopment Authority of the City of Milwaukee (“RACM”). OBLIGOR, in order to induce CITY and RACM to enter into the Development Agreement, voluntarily and knowingly enters into this Agreement pursuant to the terms defined herein.

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

WHEREAS, OBLIGOR contemplates implementation of the Project pursuant to the terms of the Development Agreement and has authorized the execution of this Agreement; and

WHEREAS, the Common Council of the CITY adopted File No. 141263 on February 10, 2015, and File No. 201062 on December 15, 2020, which approved and amended the Project Plan, created and amended Tax Incremental District No. 82 (East Michigan Street) (“TID No. 82”), and authorized execution of this Agreement; and

WHEREAS, on April 28, 2017, OBLIGOR and CITY entered into a Minimum Assessed Value Agreement which is hereby terminated and replaced with this Agreement for the Project; and

WHEREAS, in order to assist CITY in paying debt service on the general obligation bonds, notes or other obligations issued to fund the Grant and to provide for other matters set forth herein, the parties are entering into this Agreement.

NOW, THEREFORE, OBLIGOR and CITY, in consideration of the mutual promises and covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, mutually agree as follows:

**I.**

**Minimum Valuations**

OBLIGOR agrees that, for so long as TID No. 82 is in effect, the aggregate assessed value of the parcels of real estate owned by OBLIGOR and/or its Affiliates for real estate tax purposes and comprising the Project (each a “Project Lot”) shall be the greater of (1) the aggregate assessed value of each Project Lot determined by the CITY’s Assessor’s Office on January 1 of each calendar year (the “Actual Assessed Value” or, collectively, the “Actual Assessed Values”), or (2) the minimum assessed value for such calendar year provided in

EXHIBIT A attached hereto (the “Minimum Assessed Value”). The Minimum Assessed Value shall be prorated among the Project Lots each year in accordance with the relative values of such lots as determined by the CITY’s Assessor’s Office for such year. The Minimum Assessed Value shall be subject to the following terms and conditions:

(a) Assessment Challenges. While this Agreement is in effect, OBLIGOR or its Affiliates may challenge the Actual Assessed Value for their respective Project Lots, provided that (i) OBLIGOR or its Affiliates shall not challenge any Actual Assessed Value that is less than or equal to one hundred ten percent (110%) of the Minimum Assessed Value allocable to the Project Lot for the year in question, and (ii) in no case shall the resulting real estate assessment for a Project Lot be reduced below the Minimum Assessed Value allocable to such Project Lot.

(b) Minimum Valuation Shortfall Obligations. If, for any reason prior to the termination of TID No. 82 by its terms, the Actual Assessed Value for a Project Lot is less than the Minimum Assessed Value for such Project Lot, then the OBLIGOR shall nonetheless pay to CITY within thirty (30) days of written notification from the CITY, in addition to any real estate taxes that would otherwise be due and payable for that year, an amount equal to the Shortfall Obligation (defined below) with respect to such Project Lot. As used herein, the term “Shortfall Obligation” shall be an amount equal to the difference between (i) the real estate taxes that would have been due and payable had real estate taxes for a Project Lot been determined using the Minimum Assessed Value for such Project Lot, and (ii) the actual real estate taxes for a Project Lot that are otherwise due and payable. If any Shortfall Obligation is not promptly satisfied, then the CITY may levy a special assessment or special charge against the Project Lot in question in the amount of such Shortfall Obligation, and OBLIGOR, by execution of this Agreement, shall be deemed to have waived any right to a notice of hearing relating to such special assessment and/or special charge.

(c) Effect of Additional Legal Parcels. In the event OBLIGOR divides the Property into additional lots or condominium units, OBLIGOR may allocate the Minimum Assessed Value among the newly created lots or units, with the exception of any newly created lots or units that are conveyed by OBLIGOR or an Affiliate to CITY or RACM, and require the future owners of such newly created lots or units to reimburse OBLIGOR for any Shortfall Obligations during the life of TID No. 82. However, the legal division of Project into additional separate tax parcels shall not terminate or limit OBLIGOR’s obligations to pay the Shortfall Obligation to CITY as provided in subsection (b) above.

## II.

### Notices

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

**If to CITY:**

City of Milwaukee  
809 North Broadway  
Milwaukee, WI 53202

With a copy to:

City of Milwaukee  
City Attorney’s Office  
200 East Wells Street, Suite 800

Attn: Commissioner of City Development

Milwaukee, WI 53202

Attn: Real Estate Deputy City Attorney

**If to OBLIGOR:**

With a copy to:

The Couture LLC  
260 East Highland Avenue  
Suite 401  
Milwaukee, WI 53202  
Attn: Rick Barrett

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

**III.**

**Term**

The term of this Agreement shall commence on the date of the first disbursement of the Grant pursuant to the Development Agreement and terminate upon the earlier of (a) the closure of TID No. 82 or (b) receipt by CITY of sufficient Tax Increments from the Property to pay in full the entire amount of any bonds, notes or other obligations incurred to finance the Grant. Upon termination of this Agreement, CITY shall provide OBLIGOR with a document certifying such termination which OBLIGOR shall record, at its cost, at the Milwaukee County Register of Deeds Office.

**IV.**

**Rules of Construction**

Unless the context clearly indicates to the contrary, the following rules shall apply to the construction of this Agreement:

- (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 Agreement 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.

**V.**

**Binding Effect**

This Agreement shall be binding upon OBLIGOR and OBLIGOR's heirs, representatives and assigns for the benefit of CITY and its successors and assigns.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement 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

**THE COUTURE LLC**

By: \_\_\_\_\_  
Richard J. Barrett, Manager

1050-2012-1849:232167

**EXHIBIT A: Minimum Assessed Value**

<u>Year</u>	<u>Minimum Assessed Value</u>
2021	\$1,109,700
2022	\$1,109,700
2023	\$18,531,093
2024	\$38,306,916
2025	\$42,504,949
2026	\$51,058,057
2027	\$58,425,187
2028	\$59,125,388
2029	\$59,716,642
2030	\$60,313,808
2031	\$60,916,946
2032	\$61,526,116
2033	\$62,141,377
2034	\$62,762,791
2035	\$63,390,419
2036	\$64,024,323
2037	\$64,664,566
2038	\$65,311,212
2039	\$65,964,324
2040	\$66,623,967
2041	\$67,290,207

## EXHIBIT G

### Diagram of Natural Spaces

KEY:  
TOTAL AREA LEVEL 1: 21,138 SQ FT  
TOTAL AREA ALL LEVELS: 42,942 SQ FT



LEVEL 1 'NATURAL SPACE' DIAGRAM

KEY:  
TOTAL AREA LEVEL 2: 3,531 SQ FT  
TOTAL AREA ALL LEVELS: 42,942 SQ FT



LEVEL 2 'NATURAL SPACE' DIAGRAM

KEY:  
TOTAL AREA LEVEL 3: 18,273 SQ FT  
TOTAL AREA ALL LEVELS: 42,942 SQ FT



LEVEL 3 'NATURAL SPACE' DIAGRAM

EXHIBIT H  
PILOT Agreement

EXHIBIT H

Document Number	PILOT AGREEMENT
Document Title	
<p><b>PAYMENT IN LIEU OF TAXES AGREEMENT</b></p> <p><b>(Couture Project)</b></p>	
<p>Recording Area</p> <hr/> <p>Name and Return Address</p> <p>Mary L. Schanning Deputy City Attorney Office of the City Attorney 200 East Wells Street, Suite 800 Milwaukee, WI 53202</p>	

Parcel Identification Number (PIN) 392-1678-121

This PILOT AGREEMENT for payments in lieu of taxes (“PILOT Payments”) is made by and between The Couture LLC, a Wisconsin limited liability company, (“OWNER”) and the City of Milwaukee, a Wisconsin municipal corporation (“CITY”), as of the 28th day of April, 2017.

**RECITALS**

**WHEREAS**, OWNER is the owner of the real property legally described on **Exhibit A** (the “PROPERTY”); and

**WHEREAS**, OWNER recognizes that, notwithstanding the fact that portions of the PROPERTY may in the future qualify for tax exempt status, valuable government services and benefits will be provided to it and the PROPERTY, which services and benefits directly or

indirectly relate to the public health, safety, and welfare, and which include, but are not limited to: fire and police protection; paved streets and streetlights; snow removal; benefits associated with living in an organized community; and

**WHEREAS**, The PROPERTY includes all of the land included in the Couture Project (the "PROJECT") which is subject to that Cooperation, Contribution and Redevelopment Agreement for the Couture Project, dated even herewith, (the "DEVELOPMENT AGREEMENT"); and

**WHEREAS**, In Common Council Resolution File No. 141263, adopted January 21, 2015, the Common Council approved the Project Plan for Tax Incremental District No. 82 ("TID 82") in order to provide for certain costs with respect to the PROJECT, which costs directly benefit OWNER and the PROPERTY; and

**WHEREAS**, OWNER agrees for itself and its successors and assigns, in the event that the PROPERTY is or becomes exempt from payment of property taxes, to make PILOT Payments to CITY in recognition of the services and benefits referred to herein and the provision of financial assistance to the PROJECT pursuant to the DEVELOPMENT AGREEMENT; and

**WHEREAS**, It is the intent of this PILOT AGREEMENT to have OWNER and all future owners and tenants of the PROPERTY, any parcel or building which is within the PROPERTY or any portion thereof, make payments in lieu of taxes, in the event that the PROPERTY is or becomes exempt from payment of property taxes, in order to assure the financial viability of TID 82; and

**NOW, THEREFORE**, For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

**1. INCORPORATION OF RECITALS.**

The parties hereby acknowledge that the above Recitals are part of this PILOT AGREEMENT.

**2. CITY SERVICES.**

**A. Services Typically Covered by Property Tax.**

CITY agrees to continue to furnish governmental services and benefits to the PROJECT and the PROPERTY of the same type, and to the extent, as are furnished from time to time, without cost or charge (except by means of property tax and authorized fees and charges), to other similarly situated commercial buildings and projects in CITY. Nothing in this PILOT AGREEMENT shall be construed to give OWNER or its successors and assigns a contractual right to specific governmental services, or to impose upon CITY any additional duties, it being the parties' intent that CITY provide public services to the PROJECT and the PROPERTY subject to the same terms and conditions as apply to properties owned by citizens or the public generally. Such services and benefits include, but are not limited by specific enumeration herein, those typically covered by the property tax such as fire and police protection, and on public streets, snow removal, and street lighting. CITY shall not have breached its obligations hereunder if it is prevented from providing benefits and/or services to the PROJECT or the PROPERTY because of typical *force majeure* reasons (e.g. war, flood, fire, labor dispute, supply shortage, act of God, natural disaster, etc.), because of budgetary constraints, or because any person or entity shall assert a right which prevents delivery of such benefits and/or services.

**B. BID Assessments, Special Assessments, Special Charges and Fees.**

Notwithstanding paragraph 2.A., or any future property tax exempt status of the PROPERTY, OWNER understands that the PROJECT and the PROPERTY will be subject to

applicable business and/or neighborhood improvement district assessments, special assessments, special charges, and special taxes as defined in §74.01, Wis. Stats. (and as also referred to in Ch. 66, Wis. Stats.) and fees charged by CITY in the same manner that such special assessments, special charges, special taxes, and fees are charged for similar services and/or undertakings to commercial buildings within CITY. This provision shall not affect CITY's powers, consistent with the law, to determine the services and benefits (other than those typically covered by the property tax) that shall be provided to the PROJECT and the PROPERTY and/or similarly situated property pursuant to this paragraph 2.B. Nothing contained herein shall preclude OWNER or its successors and assigns from appealing, as provided by law, the imposition of such special assessments, special charges, special taxes, or fees by CITY.

**3. PILOT PAYMENTS.**

**A. Calculations.**

In recognition of those services and benefits covered by paragraph 2.A. of this PILOT AGREEMENT, beginning in the year the PROPERTY or any portion thereof becomes exempt from property tax, and so long as the PROPERTY or any portion thereof continues to be exempt, in whole or in part, under § 70.11, Wis. Stats., OWNER or its successors and assigns shall pay CITY an annual PILOT Payment for the PROPERTY or the portion thereof which is exempt for each calendar year; *provided, however*, that the foregoing shall not apply with respect to any portion of the PROPERTY that becomes exempt by virtue of a conveyance to the CITY. The method to be used in determining the PILOT, through the year during which TID 82 is

terminated, shall be the Value<sup>1</sup> for that tax year determined by CITY's Assessor times the Total Property Tax Rate<sup>2</sup> for the tax year.

**B. Payment Due Date.**

PILOT Payments for the year in which the PROPERTY or a portion thereof becomes exempt and subsequent years shall be due and payable (i) in full on or before January 31 of the year following the calendar year for which the PILOT Payment was calculated, or (ii) if OWNER or its successor or assign elects to pay in installments, according to the following schedule: one-tenth of the PILOT Payment by the last day of each month for the first 10 months in the year following the calendar year for which the particular PILOT Payment was calculated. OWNER or its successor or assign shall be deemed to have elected to pay the PILOT Payment in installments by making the first full installment payment on or before January 31 in the respective year in which the PILOT Payment is due.

**C. Use.**

CITY may use and expend PILOT Payments hereunder in such manner and for such purposes as CITY desires.

**D. Mandatory Payment for Services to Offset PILOT Payment.**

Notwithstanding anything herein to the contrary, if the State of Wisconsin enacts a mandatory payment for municipal services to be paid by owners of property exempt from general property tax or similarly situated owners of exempt property, PILOT Payments shall be reduced dollar for dollar by any such mandatory payment paid by OWNER or its successors or assigns to CITY.

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<sup>1</sup> "Value" herein means CITY Assessor's determination of the fair market value of the tax exempt portion(s) of the PROPERTY on January 1 of each tax year.

<sup>2</sup> "Total Property Tax Rate" means the net rate for all taxes calculated to include all taxing bodies reflected on City of Milwaukee tax bills from time to time (in 2015, the applicable Total Property Tax Rate was \$29.35 per \$1,000 of assessed value).

4. **EXEMPT STATUS.**

NOTHING IN THIS PILOT AGREEMENT SHALL BE CONSTRUED AS GRANTING TAX-EXEMPT STATUS ON THE OWNER OR THE PROPERTY. IF OWNER QUALIFIES FOR TAX EXEMPT STATUS UNDER WISCONSIN LAW, IT IS THE OWNER'S OBLIGATION TO APPLY FOR TAX EXEMPT STATUS. At such time that OWNER is granted tax exempt status pursuant to §70.11, Wis. Stats., OWNER shall then make PILOT PAYMENTS pursuant to this PILOT AGREEMENT. No PILOT PAYMENT under this PILOT AGREEMENT is due from OWNER until such time that the PROPERTY is deemed to be exempt from payment of property taxes pursuant to §70.11, Wis. Stats.

CITY Assessor's Office may review the PROPERTY's exempt status under §70.11, Wis. Stats. from time to time with the respective January 1 dates being the reference dates for those exemption reviews. If CITY, as a result of those reviews or otherwise, determines that all or any portion of the PROPERTY no longer qualifies (or does not qualify) for exemption from property tax, (i) CITY will provide notice of such determination to OWNER or its successor or assign, (ii) this PILOT AGREEMENT shall be suspended with respect to any years and, if applicable, with respect to any portions of the PROPERTY for which exemption no longer applies, (iii) if PILOT Payments have been erroneously made for such tax years, CITY shall promptly refund such PILOT Payments, or, at the option of CITY, offset such PILOT Payments against any property taxes due, or to become due, from OWNER or its successors or assigns, in which case CITY will treat such offset as having been made under protest, and (iv) the PROPERTY, or any portion thereof which does not qualify for exemption, shall be placed on the property tax rolls for all years for which whole or partial exemption has been determined not to apply. If OWNER or its successors or assigns disagree with CITY's determination that the PROPERTY or any part

thereof no longer qualifies for tax exemption, OWNER or its successors or assigns may challenge such determination by following the procedure set forth in §74.35, Wis. Stats. or as otherwise provided by law.

Notwithstanding anything to the contrary contained herein, OWNER acknowledges that it is or may be bound by the reporting requirement, in §70.11, Wis. Stats., preamble, and that under §70.109, Wis. Stats.: exemptions are strictly construed; it is presumed that property is taxable; and the burden is on the person claiming exemption.

OWNER, on its behalf and that of its successors and assigns, also acknowledges that if it leases, or otherwise allows another person to use and/or occupy, all or a portion of the PROPERTY, such use may affect the PROPERTY's exempt status. See, e.g. the preamble of §70.11, Wis. Stats., §70.1105, and Deutsches Land v. City of Glendale, (WI S.Ct. April 16, 1999). For example, if OWNER is exempt but only uses and occupies 90% of the PROPERTY for exempt purposes and leases the other 10% of the PROPERTY to a for-profit, nonexempt entity, and if the assessor applies a square footage, taxed in part analysis, the PROPERTY is to be taxed on a 10% basis and exempt on a 90% basis and the PILOT Payment would have to be paid on the 90% portion.

**5. TERM.**

This PILOT AGREEMENT shall terminate upon the termination of TID 82, but until then, shall run with the land and be binding on all successors and assigns of OWNER having an interest in any portion of the PROPERTY.

**6. APPEAL OF ASSESSED VALUE.**

OWNER and its successors and assigns shall have the same rights to contest the assessed valuation of the PROPERTY as a taxpaying owner under Wisconsin law. CITY acknowledges

OWNER's right to contest the assessed valuation of the PROPERTY under the procedures provided in §§70.07 and 70.47, Wis. Stats., and CITY expressly agrees not to dispute OWNER's right to contest the assessed valuation of the PROPERTY under said statutes.

**7. DOCUMENTS, INSPECTION, COOPERATION.**

OWNER and its successors and assigns shall cooperate with CITY (including, but not limited to, the City Assessor's Office, the City Attorney's Office, and the City Comptroller's Office) with respect to this PILOT AGREEMENT by allowing inspections of the PROPERTY upon reasonable written request of CITY and by allowing inspection of any leases applicable to the PROPERTY and such other documents that CITY may, from time to time, request concerning exemption and assessment determinations. Notwithstanding the foregoing, CITY expressly reserves all its rights in law and equity to inspect and to obtain disclosure, documents, inspection, and information.

**8. AMENDMENT.**

This PILOT AGREEMENT may be modified and amended from time to time as CITY and OWNER shall mutually agree in writing. However, if an amendment or modification applies to only a portion of the PROPERTY, it is only the CITY and the current owner(s) of that portion of the PROPERTY that must agree in writing to the amendment or modification rather than all parties defined as OWNER in this PILOT AGREEMENT.

**9. SEVERABILITY; GOVERNING LAW.**

If any provision hereof is duly held by a court of competent jurisdiction to be invalid with respect to any circumstance or otherwise, the remainder of this PILOT AGREEMENT and/or the application of the PILOT AGREEMENT to any other circumstance, shall not be affected thereby. The parties intend that the laws of the State of Wisconsin and ordinances and

regulations of the City of Milwaukee shall be the governing law with respect to this PILOT AGREEMENT.

**10. BINDING EFFECT/NOTICE.**

This PILOT AGREEMENT shall be binding upon and inure to the benefit of that parties hereto and their successors and assigns. Successors and assigns referred to in this PILOT AGREEMENT include any owner or tenant of any portion of the PROPERTY or improvements thereon. OWNER and its successors and assigns shall include a reference to this PILOT AGREEMENT in each future conveyance of all or any portion of the PROPERTY in order to give express notice of this PILOT AGREEMENT. Neither OWNER nor its successors or assigns shall have any liability for obligations accruing under this PILOT AGREEMENT with respect to any portions of the PROPERTY for any period of time other than during their ownership and/or occupancy. OWNER AND ITS SUCCESSORS AND ASSIGNS MAY WISH TO GIVE NOTICE OF THE TERMS OF THIS PILOT AGREEMENT TO FUTURE TENANTS UNDER LEASES FOR PORTIONS OF THE PROPERTY AND ALLOCATE RESPONSIBILITY FOR PAYMENTS UNDER THIS PILOT AGREEMENT IN ANY LEASES FOR PORTIONS OF THE PROPERTY.

**11. AUTHORITY.**

OWNER represents and warrants to CITY that its agents executing this PILOT AGREEMENT have been duly authorized to so execute and to cause OWNER to enter this PILOT AGREEMENT, and that OWNER has obtained all requisite consents and approvals concerning the same.

**12. RECORDING.**

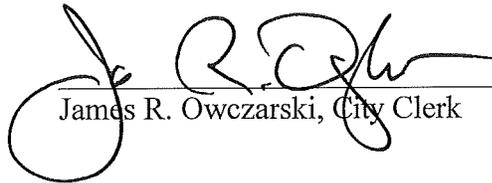
CITY shall cause this PILOT AGREEMENT or a memorandum of this PILOT AGREEMENT to be recorded with the Milwaukee County Register of Deeds and deliver a copy of the recorded PILOT AGREEMENT to OWNER.

**IN WITNESS WHEREOF**, the parties hereto have caused this PILOT AGREEMENT to be executed by duly authorized representatives as of the date and year first written above.

**CITY OF MILWAUKEE**

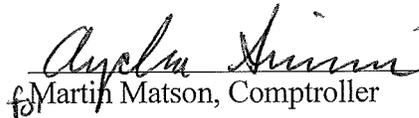


\_\_\_\_\_  
Tom Barrett, Mayor



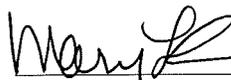
\_\_\_\_\_  
James R. Owczarski, City Clerk

COUNTERSIGNED:



for \_\_\_\_\_  
Martin Matson, Comptroller

Signatures of Tom Barrett, Mayor and James R. Owczarski, City Clerk and Martin Matson, Comptroller authenticated this 28th day of April, 2017.



\_\_\_\_\_  
Mary L. Schanning, Deputy City Attorney  
State Bar No. 1029016

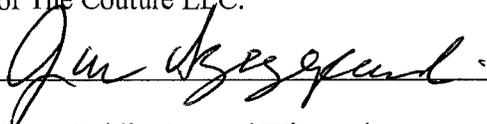
**THE COUTURE LLC**

By:   
Richard J. Barrett, Manager

STATE OF WISCONSIN     )  
  ) ss:  
MILWAUKEE COUNTY     )

Personally came before me this 1<sup>st</sup> day of May, 2017, Richard J. Barrett, Manager of The Couture LLC, to me known to be the person who executed the foregoing instrument, and acknowledged that he executed the foregoing instrument as such officer of The Couture LLC.

(SEAL)

  
Notary Public, State of Wisconsin  
My Commission 11-21-2017

**JAN SZCZEPANSKI**  
**NOTARY PUBLIC, STATE OF WISCONSIN**

Prepared by:  
Mary L. Schanning, Deputy City Attorney  
Milwaukee, Wisconsin

1050-2012-1849:232171v2

**EXHIBIT A**

Legal Description of the Property

## EXHIBIT A

### Legal Description of the Property

#### **LOT 1 EXHIBIT**

LOTS 1, 2, 3, 4 AND PART OF LOT 9, BLOCK 99, PLAT OF THE DIVISION OF 13.30 ACRES BEING LANDS OF PART OF THE NORTHWEST 1/4 OF SOUTHEAST FRACTIONAL 1/4, SECTION 28, TOWNSHIP 7 NORTH, RANGE 22 EAST, IN THE CITY OF MILWAUKEE, MILWAUKEE COUNTY, WISCONSIN.

- 1) THE PROPERTY DESCRIBED IN THIS EXHIBIT WILL BE A LOT 1 IN A FUTURE CERTIFIED SURVEY MAP TO BE RECORDED.
- 2) MICHIGAN STREET AND N. LINCOLN MEMORIAL DRIVE WILL BE DEDICATED WITH THE ABOVE REFERENCED CERTIFIED SURVEY MAP.

LOTS 1, 2, 3, 4 AND PART OF LOT 9, BLOCK 99, PLAT OF THE DIVISION OF 13.30 ACRES, AND LANDS, BEING PART OF THE NORTHEAST 1/4 OF SOUTHWEST 1/4 OF SECTION 28, TOWNSHIP 7 NORTH, RANGE 22 EAST, IN THE CITY OF MILWAUKEE, MILWAUKEE COUNTY, WISCONSIN, BOUNDED AND DESCRIBED AS FOLLOWS.

COMMENCING AT THE SOUTH CORNER OF SAID SECTION 28; THENCE N01°02'02"W ALONG THE WEST LINE OF THE SOUTHEAST FRACTIONAL 1/4 OF SECTION 28, 2327.41 FEET, SAID POINT BEING S01°02'02"E 309.45 FEET FROM THE CENTER OF SAID SECTION 28; THENCE S37°30'43"E 6.08 FEET; THENCE S77°45'59"E 76.99 FEET; THENCE S74°43'04"E 70.09 FEET; THENCE SOUTHERLY ALONG THE ARC OF A CURVE, WHOSE CENTER LIES TO THE NORTHWEST, WHOSE RADIUS IS 1469.39 FEET, WHOSE CHORD BEARS S19°37'20"W 84.58 FEET, A DISTANCE OF 84.59 FEET; THENCE N81°47'09"W 62.75 FEET; THENCE N77°45'59"W 61.46 FEET; THENCE S63°41'32"W 84.08 FEET; THENCE S21°19'19"W 79.72 FEET TO A POINT OF CURVATURE; THENCE SOUTHERLY ALONG THE ARC OF A CURVE, WHOSE CENTER LIES TO THE EAST, WHOSE RADIUS IS 328.00 FEET, WHOSE CHORD BEARS S14°25'47"W 78.72 FEET, A DISTANCE OF 78.91 FEET TO A POINT OF TANGENCY; THENCE S07°32'15"W 8.10 FEET; THENCE S84°23'18"W 177.16 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING S84°23'18"W 283.73 FEET; THENCE N09°17'29"E 223.51 FEET; THENCE N08°23'11"W 143.00 FEET; THENCE N84°24'26"E 1.31 FEET; THENCE S70°51'45"E 116.90 FEET; THENCE S77°45'59"E 187.76 FEET TO A POINT OF CURVATURE; THENCE SOUTHEASTERLY ALONG A ARC OF A CURVE, WHOSE CENTER LIES TO THE SOUTH, WHOSE RADIUS IS 58.00 FEET; WHOSE CHORD BEARS S27°33'13.5"E 89.14 FEET, A DISTANCE OF 101.66 FEET TO A POINT OF TANGENCY; THENCE S22°39'32"W 192.82 FEET TO THE POINT OF BEGINNING.

CONTAINING 92,477 SQUARE FEET / 2.123 ACRES

CURVE TABLE					
NO.	ARC LENGTH	RADIUS	CHORD BEARING	CHORD LENGTH	DELTA ANGLE
C1	84.59'	1469.39'	S19°37'20"W	84.58'	3°17'54"
C2	78.91'	328.00'	S14°25'47"W	78.72'	13°47'04"
C3	101.66'	58.00'	S27°33'13.5"E	89.14'	100°25'31"

THIS INSTRUMENT WAS DRAFTED BY MARK L. WERTZ.

[Note: The above legal description will be modified pursuant to that certain Certified Survey Map approved by the Milwaukee Common Council on April 18, 2017, which has not yet been recorded. This Exhibit A shall be amended and restated to conform to the recorded CSM.]

EXHIBIT I

Transit Plans



DPD-5

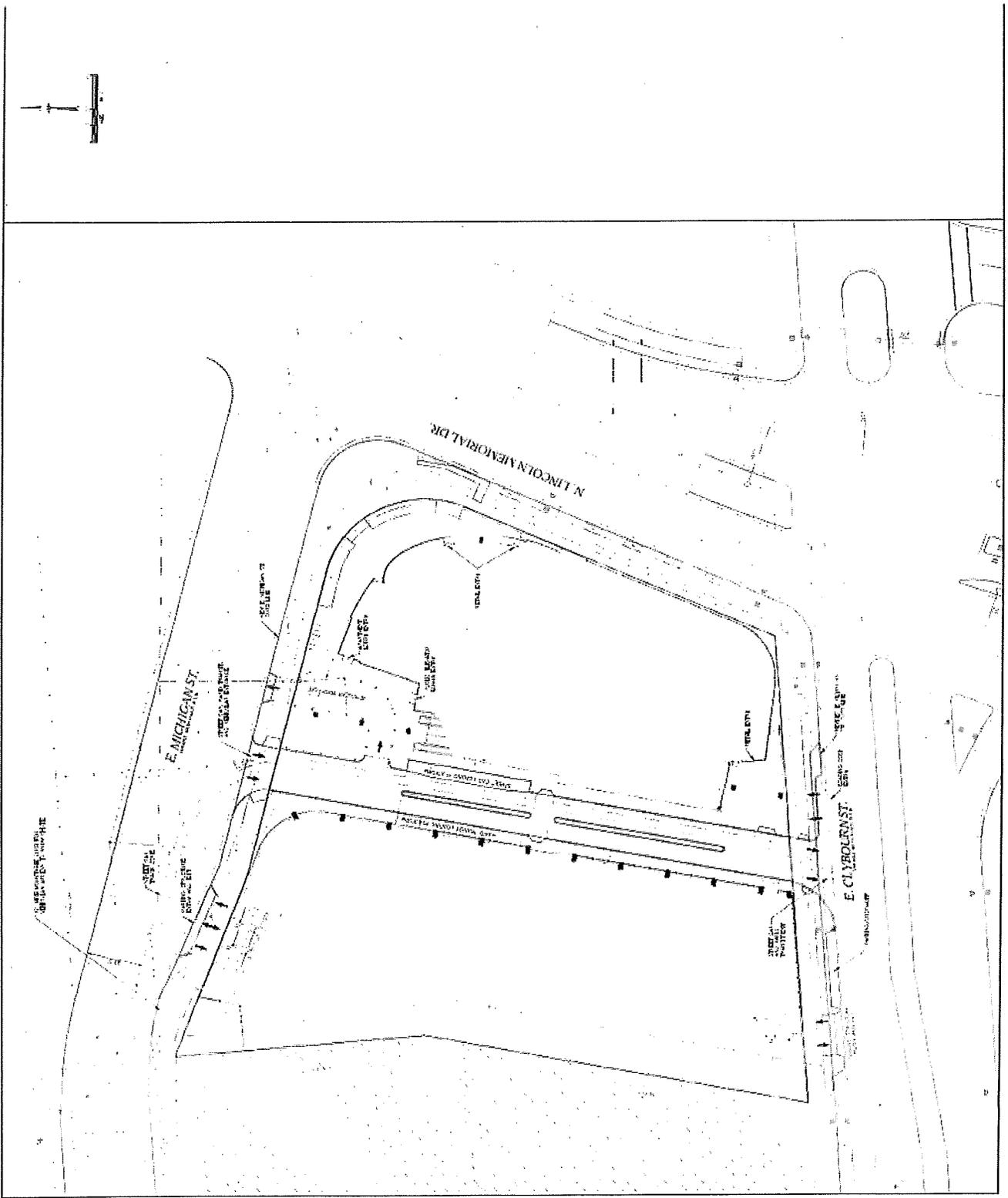
PROPOSED  
FACILITIES SITE PLAN

THE COURSE

DEVELOPMENT PLAN SUBPENS 3 SET

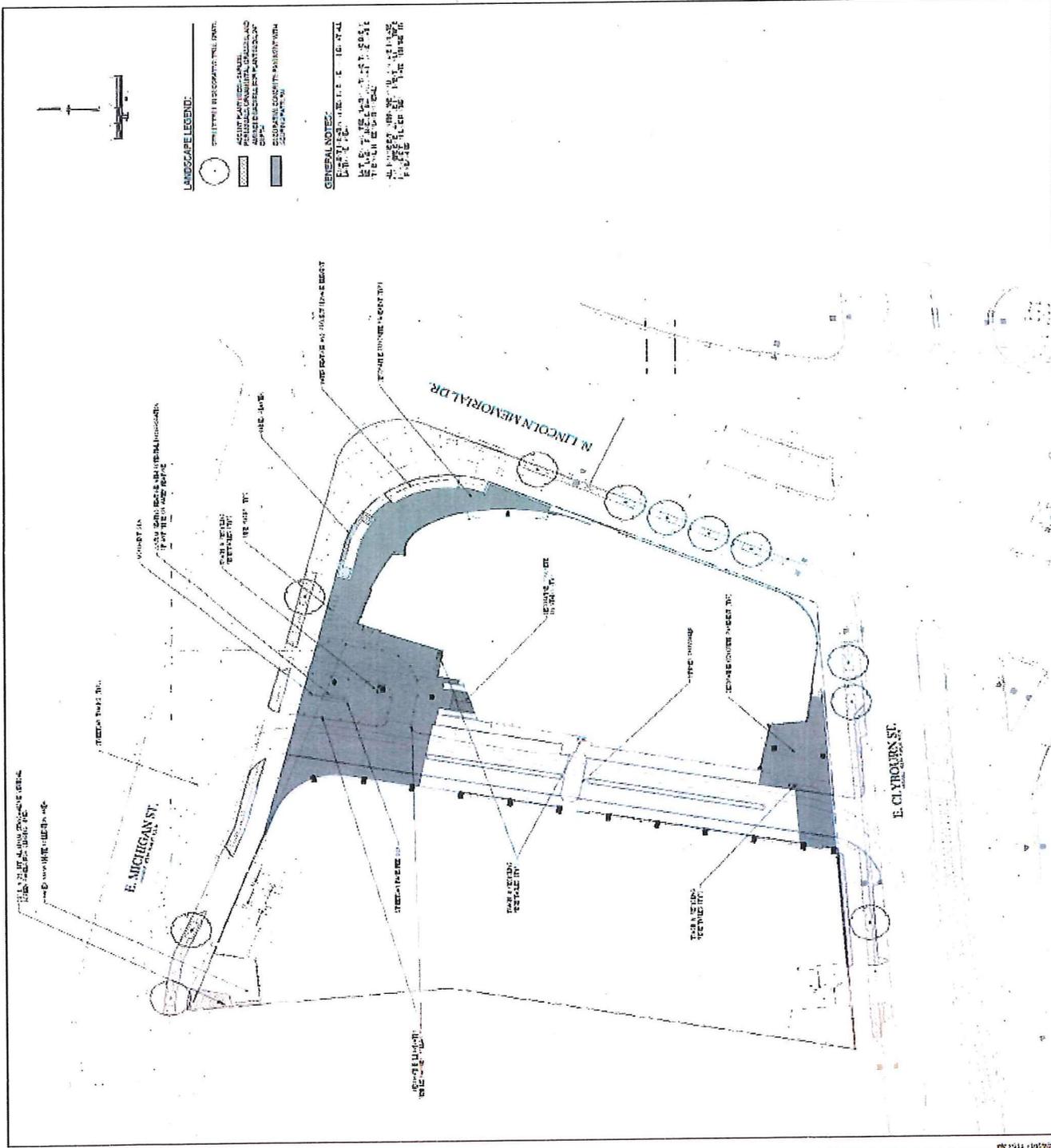
RINKA/CHUNG  
10000/10000-20000

DEVELOPMENT PLAN DOCUMENTS - NOT FOR CONSTRUCTION





DEVELOPMENT PLAN DOCUMENTS - NOT FOR CONSTRUCTION



**LANDSCAPE LEGEND:**

- (Symbol: Circle with dot) TREE
- (Symbol: Circle with horizontal lines) PLANTING
- (Symbol: Circle with vertical lines) PLANTING
- (Symbol: Circle with diagonal lines) PLANTING
- (Symbol: Circle with cross-hatch) PLANTING
- (Symbol: Circle with wavy lines) PLANTING
- (Symbol: Circle with dots) PLANTING
- (Symbol: Circle with concentric circles) PLANTING
- (Symbol: Circle with solid fill) PLANTING

**GENERAL NOTES:**

1. ALL PLANTING SHALL BE INSTALLED AND MAINTAINED IN ACCORDANCE WITH THE CITY OF CHICAGO PLANTING SPECIFICATIONS.
2. PLANTING SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF CHICAGO PLANTING SPECIFICATIONS.
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9. PLANTING SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF CHICAGO PLANTING SPECIFICATIONS.
10. PLANTING SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF CHICAGO PLANTING SPECIFICATIONS.

DATE: 11/15/10  
DRAWN BY: [Name]  
CHECKED BY: [Name]  
SCALE: AS SHOWN

EXHIBIT I

Transit Plans

# THE COUTURE

909 EAST MICHIGAN STREET, MILWAUKEE, WI

## DEVELOPMENT PLAN DOCUMENT SUBMITTAL - NOT FOR CONSTRUCTION

FEBRUARY 24, 2017

### SHEET INDEX

#### GENERAL

T-01 THE SHEET LIST (GENERAL)

#### CIVILLANDSCAPE

C-01 ROYAL AND TOWNHOMES  
 C-02 CIVIL LANDSCAPE (GENERAL)  
 C-03 CIVIL LANDSCAPE (GENERAL)  
 C-04 CIVIL LANDSCAPE (GENERAL)  
 C-05 CIVIL LANDSCAPE (GENERAL)  
 C-06 CIVIL LANDSCAPE (GENERAL)  
 C-07 CIVIL LANDSCAPE (GENERAL)

#### ARCHITECTURAL

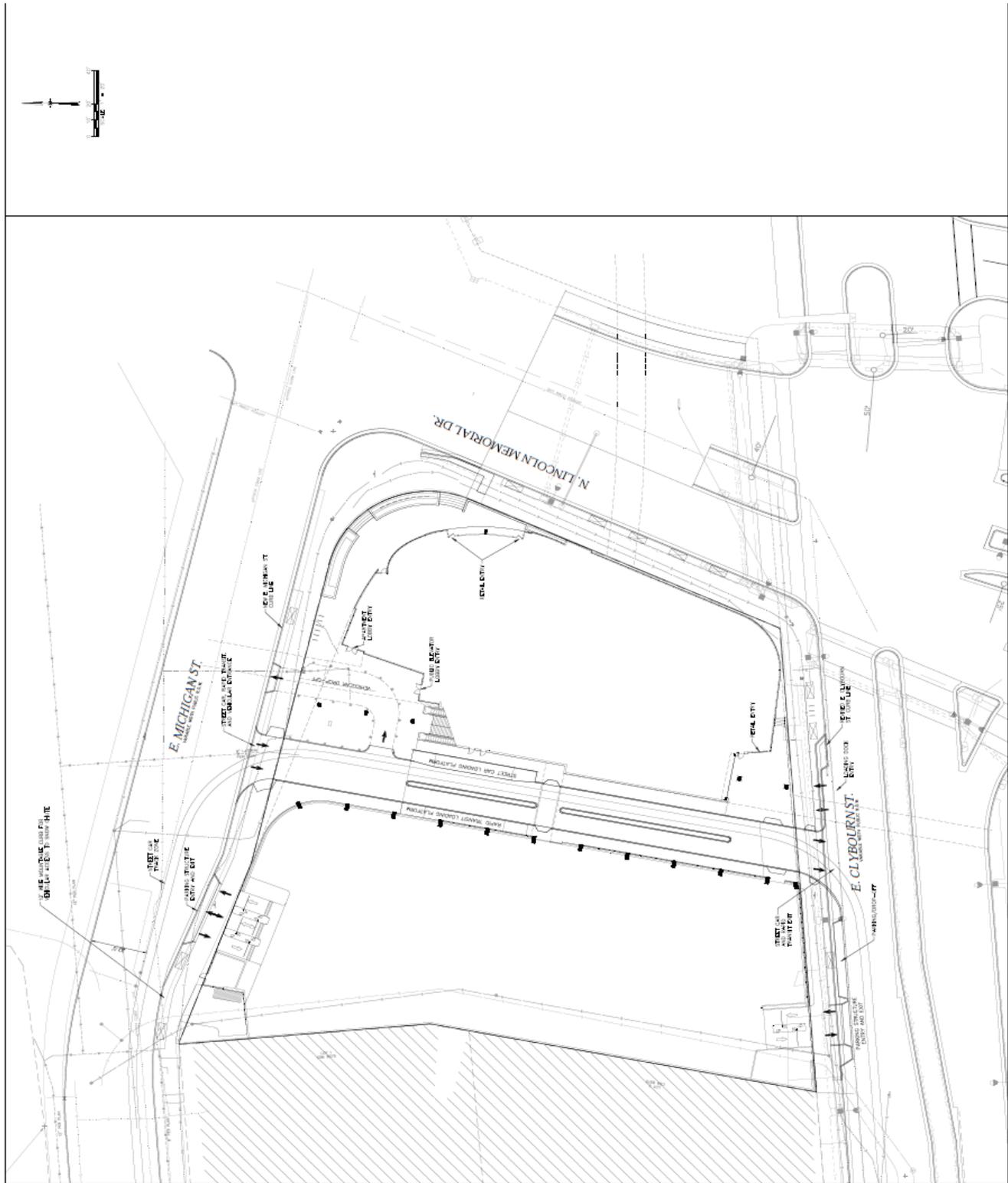
A-01 ARCHITECTURAL (GENERAL)  
 A-02 ARCHITECTURAL (GENERAL)  
 A-03 ARCHITECTURAL (GENERAL)  
 A-04 ARCHITECTURAL (GENERAL)  
 A-05 ARCHITECTURAL (GENERAL)  
 A-06 ARCHITECTURAL (GENERAL)  
 A-07 ARCHITECTURAL (GENERAL)  
 A-08 ARCHITECTURAL (GENERAL)  
 A-09 ARCHITECTURAL (GENERAL)  
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 A-27 ARCHITECTURAL (GENERAL)  
 A-28 ARCHITECTURAL (GENERAL)  
 A-29 ARCHITECTURAL (GENERAL)  
 A-30 ARCHITECTURAL (GENERAL)

<b>T-01 SHEET LIST</b> 11/14/17 11:52 AM 11/14/17 11:52 AM 11/14/17 11:52 AM	<b>T-02 CIVIL LANDSCAPE</b> 11/14/17 11:52 AM 11/14/17 11:52 AM 11/14/17 11:52 AM
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<p>THE COUTURE                  DEVELOPMENT PLAN DOCUMENT SET                  DATE: FEBRUARY 24, 2017                  PROJECT: THE COUTURE</p>	<p>THE COUTURE                  DEVELOPMENT PLAN DOCUMENT SET                  DATE: FEBRUARY 24, 2017                  PROJECT: THE COUTURE</p>	<p>INDEX &amp; PROJECT                  TITLE SHEET                  11/14/17                  11/14/17 11:52 AM                  11/14/17 11:52 AM</p>	<p>101                  11/14/17 11:52 AM</p>
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DEVELOPMENT PLAN DOCUMENTS - NOT FOR CONSTRUCTION



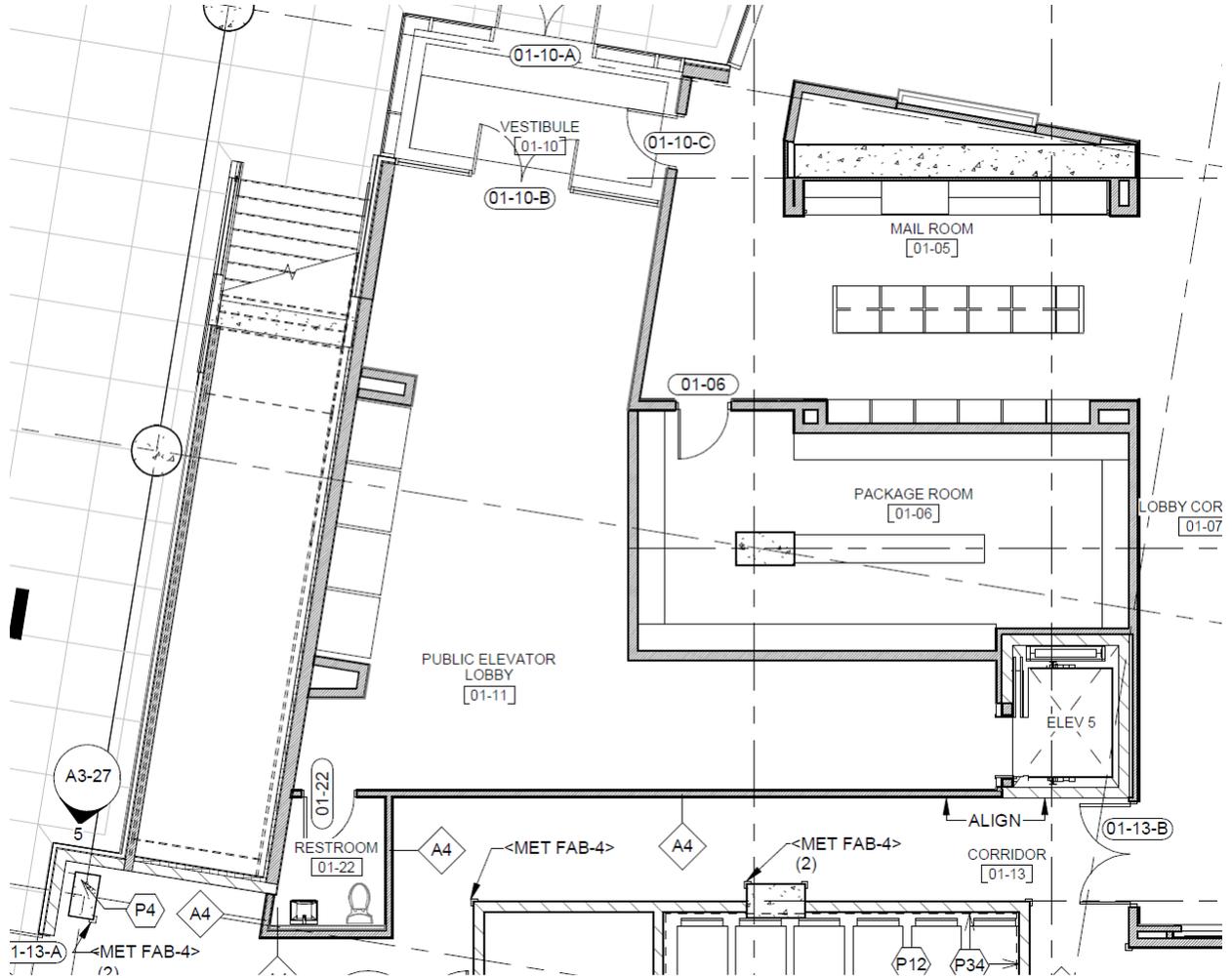
SCALE: 1" = 100'-0"

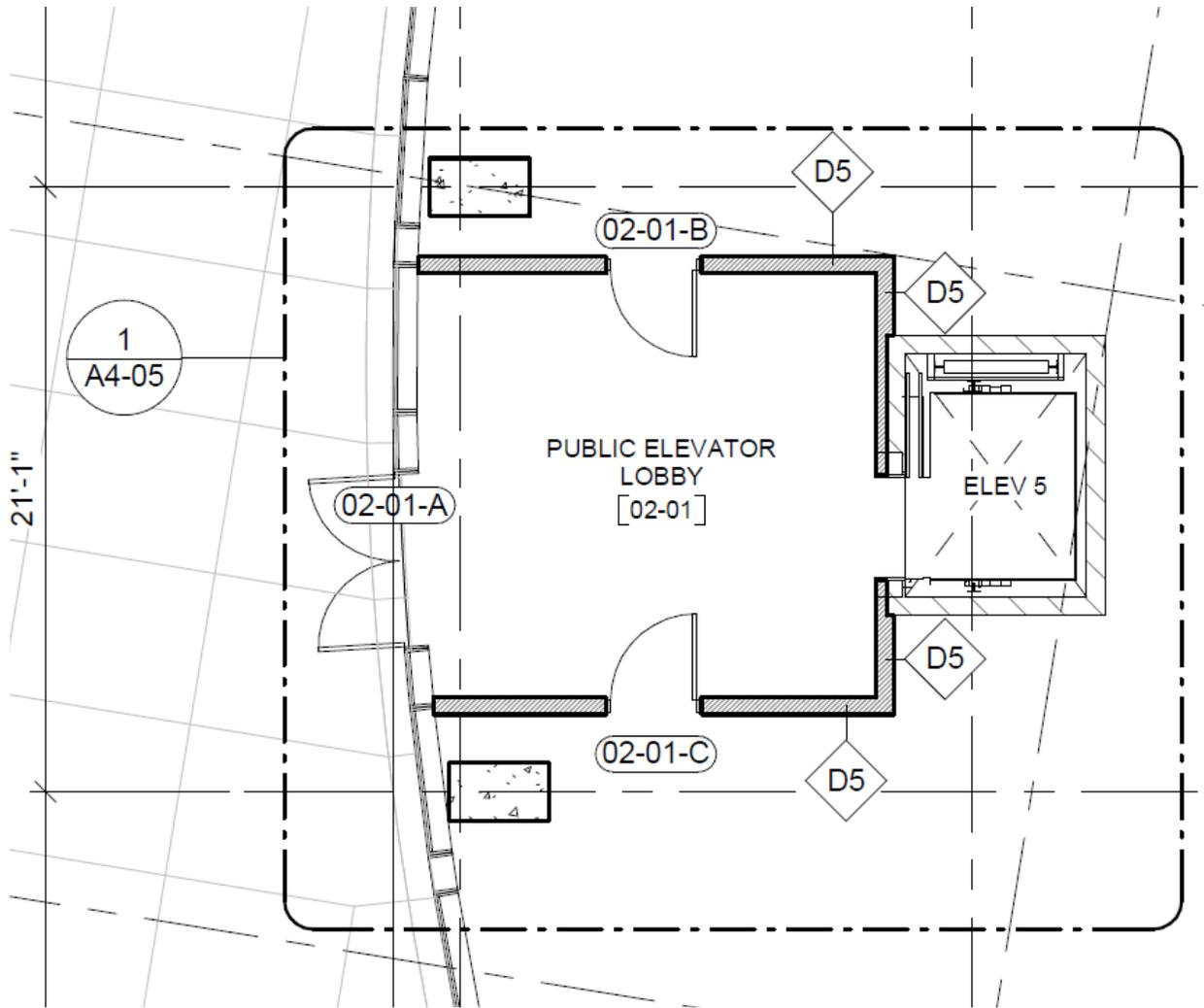


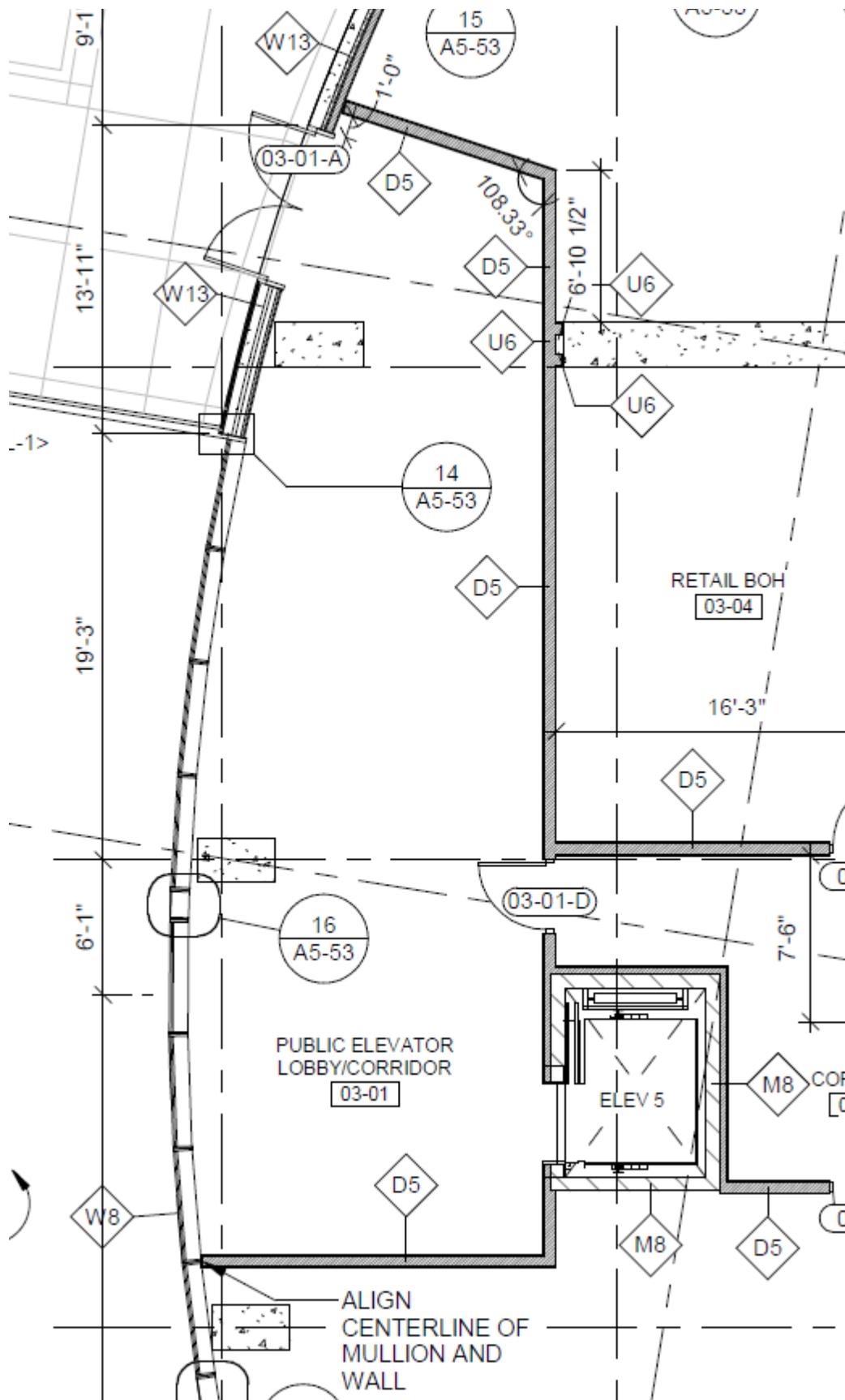
EXHIBIT J

Diagram of the Transportation Concourse

EXHIBIT J







## EXHIBIT K

### Transportation Concourse Responsibilities & Cost Allocation

Feature	Design Responsibility[1]	Design Approval[2]	Construction Responsibility[3]	Construction Approval[4]
Streetcar Guideway Track Slab & Rails	City	Developer	City	Developer
Transportation Concourse Pavement (including ped ramps, drainage)	Developer	City	Developer[6]	City
Streetcar Structural Support	Developer	City	Developer	City
Loading Platform (including ramps, railings, tactical warning, shelter / bench if pursued)[5]	City	Developer	City	Developer
Ticket Vending Machines/ Smart Kiosks [5]	City	Developer	City	Developer
Transportation Concourse Plaza Custom Seating (if pursued)	Developer	City	Developer	City
Monument Sign (if pursued)	Developer	City	Developer	City
Transit and Traffic Control Equipment, Signage and Pavement Markings [5]	City	Developer	City	Developer
Electric Service to Transit Ticket Vending Machine / Smart Kiosk Service Panel	Developer	City	Developer	City
Bike Share Station	City	Developer	City	Developer
Safety Bollards	Developer	City	Developer	City

[1] “Design Responsibility” means that the designated party is responsible for the design of the element in question, and the costs associated with such design.

[2] “Design Approval” means that the designated party has the right to approve the designs prepared by the designated responsible party in order to confirm that they are consistent with all other elements of the Final Plans and the Development Agreement. In the event of a discrepancy, the City and Developer shall work in good faith to resolve such discrepancy as soon as possible. Such approval rights shall not render the designated party a co-designer or otherwise diminish the obligations of the party designated as having Design Responsibility.

[3] “Construction Responsibility” means that the designated party is responsible for the construction of the element in question, and the costs associated with such construction.

[4] “Construction Approval” means that the designated party has the right to inspect and confirm that construction of the element in question is being conducted in accordance with the Final Plans and the Development Agreement. In the event of a discrepancy, the City and Developer shall work in good faith to resolve such discrepancy as soon as possible. Such rights shall not diminish the obligations of the party designated as having Construction Responsibility. Additionally, the exercise of such rights shall be subject to such other terms and conditions as are customarily imposed by the General Contractor in charge of the site.

[5] These features relate only to the City’s Streetcar. Similar features for the County’s BRT shall be addressed in a separate lease agreement with Milwaukee County.

[6] Limited portions of concourse payment to be constructed by City as defined in plans.

## EXHIBIT L

### Insurance Requirements

DEVELOPER agrees, prior to commencement of construction work on the Project, to procure and maintain, or cause its contractors, subcontractors and suppliers to procure and maintain, worker's compensation insurance, employer's liability insurance, business automobile liability insurance, and commercial general liability (CGL) insurance, and to cause its architects, engineers and design/build contractors or subcontractors to procure and maintain these same insurances together with professional liability insurance. Each CGL policy shall include coverage for liability arising from premises, onsite storage of tools and equipment, operations, independent contractors, products-completed operations, personal injury, and advertising injury, contractual liability, and broad form property damage. Certificates of insurance shall be provided to CITY within 30 days prior to commencement of construction of the Project. All policies shall state that CITY shall be afforded a 30 day written notice of cancellation, non-renewal or material change by any insurers providing the coverage required by CITY for the duration of the construction of the Project. These policies shall be written by insurers lawfully authorized to do business in the State of Wisconsin and reasonably acceptable to CITY, and must have a current A.M. Best rating of A-VIII or better, with at least the following limits of liability:

1. Worker's Compensation at statutory rates
2. Employer's Liability Insurance – including bodily injury by accident and by disease,  
\$1,000,000 per occurrence  
\$1,000,000 aggregate
3. Business Automobile Liability Insurance – including rented, leased and owned vehicles  
\$1,000,000 per occurrence  
\$2,000,000 aggregate  
\$10,000 medical expense (per person)
4. Commercial General Liability Insurance  
\$2,000,000 per occurrence  
\$2,000,000 general aggregate  
\$2,000,000 products/completed operations aggregate  
\$1,000,000 personal & advertising injury limit  
\$5,000 medical expense (per person)
5. Professional Liability Insurance (architects/engineers/design-build contractors or subcontractors only)– project-specific coverage, including prior acts coverage sufficient to cover all services performed for the PROJECT with a two year tail coverage following final payment to insured for this PROJECT services.  
\$3,000,000 per claim  
\$3,000,000 aggregate

6. Excess/Umbrella Insurance – form following CGL and Business Automobile Liability Insurance  
\$ 5,000,000 per occurrence/aggregate

CITY and RACM shall be named as additional insureds for the Commercial General Liability Insurance coverage. DEVELOPER shall assemble and furnish to CITY Certificates of Insurance evidencing coverage as provided above from insurers licensed in the State of Wisconsin and reasonably acceptable to CITY. DEVELOPER shall provide updated Certificates of Insurance annually through completion of the Project and during products/completed operations, and the tail coverage periods.

**EXHIBIT M**

Sewer Easement

SEWER EASEMENT

Document Number

Document Title

SEWER EASEMENT  
SE-2874

**Drafted by:**

City of Milwaukee  
Department of Public Works

Recording Area

Name and Return Address

City of Milwaukee  
Department of Public Works  
Infrastructure Services Division  
Environmental Engineering Section  
841 North Broadway – Room 820  
Milwaukee, WI 53202

Part of 396-0511-000

Parcel Identification Number (PIN)

**THIS SEWER EASEMENT** (the “**EASEMENT**”), made as of April \_\_\_\_\_, 2021, is from COUTURE PARKING LLC, a Wisconsin limited liability company (“**Grantor**”) to the CITY OF MILWAUKEE (“**City**”), a municipal corporation, and is for good and valuable consideration, the receipt and sufficiency of which are acknowledged.

1. **Grantor Parcel; Easement Area.** Grantor owns property in the City of Milwaukee, Wisconsin, more particularly described on **EXHIBIT A** (the “**Parcel**”), and Grantor is willing to grant to City a permanent easement in and to a part of that Parcel – which part is herein called the “**Easement Area.**” The Easement Area is legally described on **EXHIBIT B** attached and is depicted on **EXHIBIT C** attached (Plan File No. 198-7-62).
2. **Easement Grant.** Grantor grants to City, and City accepts, a permanent easement in and to the Easement Area, together with the right of ingress and egress to the Easement Area, so City may enter the Parcel to use the Easement Area. Within the Easement Area, City may construct, operate, maintain, inspect, repair, enlarge, reconstruct, replace, and relocate, as City deems necessary, one 12-inch diameter sanitary sewer, one 48-inch x 76-inch horizontal elliptical combined sewer, and related facilities and appurtenances (collectively, the “**Facilities**”).
3. **City Facilities Maintenance.** City is responsible for maintaining the Facilities.
4. **Easement Area Restriction.** No structures or improvements may be constructed within the Easement Area by Grantor except ordinary lawns, walkways, roadways, driveways, parking

lot surfacing, and a proposed parking structure as described in Section 5, below (“**Permitted Improvements**”).

**5. Parking Structure.** Grantor’s plans to redevelop the Parcel as described in the Amended and Restated Cooperation, Contribution and Redevelopment Agreement for the Couture Project for Tax Incremental District No. 82 (East Michigan Street) dated April \_\_, 2021 (the “Development Agreement”) include constructing a parking structure in and over a portion of the Easement Area (the “Parking Structure”). City hereby grants Grantor permission to construct the Parking Structure within the Easement Area subject to the terms contained in the Development Agreement and herein, and as outlined below:

- A.** That Grantor shall submit footing and foundation plans, sewer encasement details and calculations for review by City and for approval by the City’s Commissioner of Public Works (“**DPW Commissioner**”) before any construction is commenced in the Easement Area.
- B.** That Grantor hereby assumes all liability for any damage to the Facilities located within the Easement Area or injuries to a person or persons resulting from construction, maintenance and use of the Permitted Improvements on, over and abutting the Facilities and Easement Area.
- C.** That the Facilities shall be constructed per the approved City of Milwaukee plan file nos. 246-24 and 246-25 dated March 22, 2017. That any footings or foundation elements required for the Permitted Improvements over the Facilities shall be so designed and at such elevation that no loads will bear on the facilities, such footings or foundation elements shall not be closer than 5 feet from the outside edge of the Facilities.
- D.** If, in exercising City’s rights contained herein, City causes damage to, or removes, any Permitted Improvements other than the Parking Structure, City shall replace or repair same, at City’s own expense, to substantially the same condition as existed previously. In no case shall the City be responsible for replacing aesthetic plantings. The parties acknowledge that the Facilities are designed to allow City to access, maintain and repair the Facilities with minimal disturbance of the operation of the Parking Structure by use of 2 access points located outside of the Parcel and 1 manhole on the first level of the Parking Structure.
- E.** In the event City needs to repair, replace, relay or otherwise have access to the Facilities, City shall provide a 24-hour written notice to Grantor of such activities unless the DPW Commissioner determines that there is the potential for imminent damage to the Facilities, in which case the notice may be verbal and immediate. In the event City needs to access the Facilities through the manhole in the Parking Structure, such notice shall specify that need. Upon receiving such notice, Grantor shall block off the parking space in which the manhole is located as well as the adjacent parking spaces as necessary to provide City access to the Facilities. If Grantor fails to block the necessary parking spaces in the Parking Structure, City may tow or otherwise remove vehicles or other items located in the parking spaces at Grantor’s expense. Grantor shall be responsible for

using barricades or other measures to block the parking spaces at Grantor's expense. Grantor also agrees that the effected parking spaces shall be utilized as general public parking spaces and not leased to anyone for regular use in order to minimize disruptions in operation of the Parking Structure under this subsection.

6. **Hold Harmless.** City will hold Grantor harmless from loss or injury resulting from City's willful or negligent acts or omissions under this Easement. Grantor will hold City harmless from loss or injury resulting from Grantor's willful or negligent acts or omissions under this Easement. If there is joint negligence or culpability on the part of City and Grantor, liability shall be borne by them, respectively, in proportion to their respective negligence or culpability. The foregoing provisions are subject to legal defenses and statutory limitations on liability and immunities available, respectively, to City and to Grantor.

7. **Grantor Construction.** If Grantor constructs any structure, building, or improvement adjacent to the Easement Area, or any Permitted Improvement within the Easement Area, or if Grantor undertakes any other work within the Easement Area, Grantor assumes liability for any damage to the Facilities in the Easement Area including, but not limited to, the cost to repair or replace the Facilities as necessitated by such damage.

8. **Charge.** No charge will be made against the Parcel or Grantor for the cost of operation, maintenance, non-construction related inspections, repair, enlargement, reconstruction or relocation of the Facilities in the Easement Area, except **(a)** when Grantor applies for a permit or approval to connect to the Facilities, the regular and customary connection permit fee in effect at the time of application shall be paid, and Grantor shall connect per City requirements, and **(b)** the sewer maintenance, user fees, and other sewer fees in effect for all City of Milwaukee serviced properties that are chargeable to or against real property or owners, shall be paid.

9. **Access.** The Facilities and Easement Area shall be accessible to City as further described above.

10. **Prior Approval of Certain Work.** Prior to undertaking any work below the surface within the Easement Area, and prior to any underground installation within the Easement Area, and prior to any surface-grade alteration within the Easement Area that would raise or lower the surface elevation by 1 foot or more, then, in any such event, Grantor shall first submit plans therefore to the City for approval by the DPW Commissioner and any such work, installation or alteration, requires prior approval of the DPW Commissioner.

11. **Recording; Miscellaneous.** This Easement **(a)** shall be recorded with the Milwaukee County Register of Deeds by City, **(b)** is governed by Wisconsin law, **(c)** may only be amended by written instrument signed by all parties, and **(d)** is binding on successors, assigns, and heirs. Grantor has full right and authority to enter, and grant, this Easement.

12. **Public Right-of-Way.** If the Easement Area, or any part thereof, becomes public right-of-way, Grantor's rights hereunder as to such shall terminate but the Easement shall not.



**EXHIBIT A**

LEGAL DESCRIPTION OF PARCEL

**PARCEL A:**

Unit Two (2), together with said unit's undivided appurtenant interest in the common elements, and the use of the limited common elements appurtenant to said unit, all in THE COUTURE LAKEFRONT, A CONDOMINIUM, being a condominium created and existing under and by virtue of the Condominium Ownership Act of the State of Wisconsin and by Declaration of Condominium of The Couture Lakefront, a Condominium, and recorded April 6, 2021 as Document No. 11099452 (the "Declaration"); and Condominium Plat recorded April 6, 2021, as Document No. 11099453, said condominium being located in the City of Milwaukee, Municipal Grantor of Milwaukee, State of Wisconsin on the real estate described in and made subject to said Declaration and incorporated herein by this reference thereto.

Tax Key No. 396-0511-000 (pt)  
Address: 909 E. Michigan Street, Milwaukee, WI

**PARCEL B:**

Easements benefitting the above-described Unit as set forth in Section 14.8 of the Declaration and/or otherwise under Article XIV of the Declaration

**EXHIBIT B**

LEGAL DESCRIPTION OF "EASEMENT AREA"

Easement located in the Southwest ¼ of Section 28, Township 7 North, Range 22 East in the City of Milwaukee, County of Milwaukee, State of Wisconsin, bounded and described as follows, to wit:

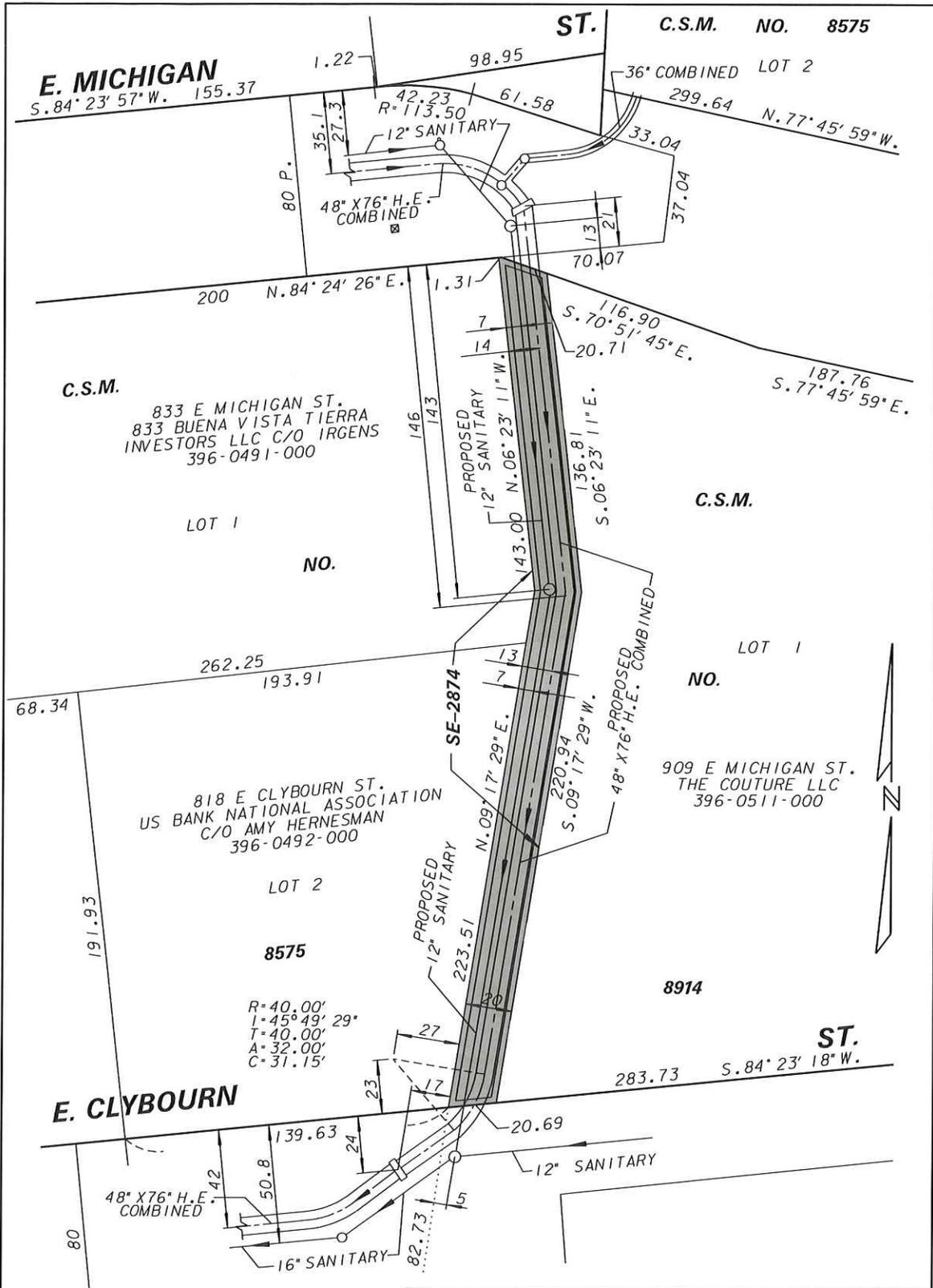
SE-2874

Commencing at the Southwest corner of Lot 1 of Certified Survey Map (CSM) No. 8914, a recorded CSM in said ¼ section; said point also being the point of beginning of the land to be described;

Thence, North 9° 17' 29" East 223.51 feet to a point;  
Thence, North 6° 23' 11" West 143.00 feet to a point;  
Thence, North 84° 24' 26" East 1.31 feet to a point;  
Thence, South 70° 51' 45" East 20.71 feet to a point;  
Thence, South 6° 23' 11" East 136.81 feet to a point;  
Thence, South 9° 17' 29" West 220.94 feet to a point;  
Thence, South 84° 23' 18" West 20.69 feet to the point of beginning.

The above described land is shown on the drawing attached hereto as Exhibit "C".

**EXHIBIT C**  
DEPICTION OF "EASEMENT AREA"  
PLAN FILE NOS. 198-7-62



<b>ENVIRONMENTAL ENGINEERING SECTION</b>			
INFRASTRUCTURE SERVICES DIVISION			
DEPARTMENT OF PUBLIC WORKS			
MILWAUKEE, WISCONSIN			
<b>PLAN OF SEWER EASEMENT</b>			
AREA IN	S.W.1/4 SEC.28, T.7 N., R.22 E.		
	VACATED R.O.W. 495' E. OF N. VAN BUREN STREET		
	FROM E. CLYBOURN STREET TO E. MICHIGAN STREET		
SCALE 1"=	50'	ATLAS PAGE NO. 396	EASE NO. SE 2874
DRAWN BY	F. PATTILLO	CH'KD. BY R. SELEEN	W.O. NO.
APPROVED	<i>[Signature]</i>	DATE	12-28-2020
APPROVED	<i>[Signature]</i>	FILE NO.	198-7-62

**EXHIBIT N**

Sewer Project Human Resources Agreement

***HUMAN RESOURCES AGREEMENT***

***(Couture – Sewer Project)***

**HUMAN RESOURCES AGREEMENT  
(COUTURE - SEWER PROJECT)**

This Human Resources Agreement (“Agreement”) is entered into as of April \_\_\_\_\_, 2021, by and between the City of Milwaukee (“CITY”); THE COUTURE LLC, a Wisconsin limited liability company (“COUTURE”); and THE COUTURE HOLDINGS GROUP INC., a Wisconsin business corporation (“CHG”) (COUTURE and CHG collectively, the “DEVELOPER”).

**WHEREAS**, the parties to this Agreement acknowledge and understand that this Agreement is executed in conjunction with the Amended and Restated Cooperation, Contribution and Redevelopment Agreement for the Couture Project for Tax Incremental District No. 82 (East Michigan Street) dated April, \_\_\_\_\_, 2021, (the “Development Agreement”) executed by the parties in connection with the implementation of a development project and specifically with regard to the Sewer Project (as defined below) located at 909 E. Michigan Street;

**WHEREAS**, DEVELOPER acknowledges that CITY has established policies regarding the utilization of SBEs (defined below), in Chapters 355 and 370 of the Milwaukee Code of Ordinances (“MCO”); and,

**WHEREAS**, DEVELOPER acknowledges that CITY has established policies regarding the utilization of unemployed and underemployed CITY residents in development project pursuant to sec. 355-7 of the MCO; and,

**WHEREAS**, DEVELOPER acknowledges that approval and execution of the Development Agreement was conditioned upon the DEVELOPER, its affiliates and their agents, agreeing to meet the requirements of this Agreement with respect to the development of the PROJECT, as defined below.

**NOW, THEREFORE**, the parties agree as follows:

**I. DEFINITIONS**

1. SBE is a business that has been certified by the City of Milwaukee Office of Equity & Inclusion (“OEI”) as a Small Business Enterprise based on the requirements of sec. 370-25 of the MCO.

2. FIRST-SOURCE EMPLOYMENT PROGRAM means an employment program operated by CITY or its designee which is to be utilized as contractors’ first source for recruiting applicants for both new and replacement employment.

3. JOINT VENTURE is an association of two or more persons or businesses to carry out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills and/or knowledge.

4. PROJECT, as used in this Agreement, means the Sewer Project, as more particularly described in Section 20.1 of the Development Agreement, to include the relocation of a sewer main on property located at 909 East Michigan Street, Milwaukee, Wisconsin.

5. PROJECT COSTS means all costs of the PROJECT, but less and excluding all costs associated with the purchase, lease or right to use any land; permit fees paid to CITY or any other governmental entity or quasi-governmental entity; utility company fees; financing and interest expenses; insurance premiums; other work not contracted through DEVELOPER and over which DEVELOPER does not have direction or control in the selection of contractors or material providers for the same; and other costs approved by DEVELOPER and the OEI, with such approval not being unreasonably withheld. DEVELOPER or its representatives and the OEI shall meet and confer to determine the eligible PROJECT COSTS for such phase or portion of the PROJECT.

6. RPP means CITY's Resident Preference Program as described in sec. 355-7 of the MCO.

## **II. SMALL BUSINESS ENTERPRISE PROGRAM**

In accordance with sec. 355-13-4 of the MCO, DEVELOPER shall, in developing and constructing the PROJECT, utilize SBEs for no less than 25% of the total PROJECT construction costs including the amounts expended for the purchase of non-professional services and supplies and 18% of the amounts expended for the purchase of professional services for the PROJECT deemed eligible pursuant to SBE guidelines, as summarized in **Exhibit A "Categories of Work."** Prior to the commencement of the PROJECT, DEVELOPER or its representatives and the OEI shall meet and confer to determine the eligible PROJECT COSTS subject to the SBE requirements.

A. DEVELOPER from and after the date of this Agreement and in conjunction with the implementation of the PROJECT, shall undertake the following activities:

1. Advertise in general circulation and trade association media, as well as in community newspapers regarding contracting and subcontracting opportunities. Advertising in the Daily Reporter and two other publications shall be the minimum acceptable level of performance. Complete **Exhibit B "SBE Marketing Plan – Publications/Advertising Contacts"** and submit it to the OEI. Advertisements shall be submitted to OEI for review prior to publication.

2. Provide interested SBEs and the agencies listed in **Exhibit C "SBE Marketing Plan – Community Agency Contacts"** with adequate information about the PROJECT plans, specifications, and contract/subcontract requirements at least two weeks prior to the date the contract bidding process commences. DEVELOPER shall document Community Agency Contacts by completing the Contact Sheet attached as **Exhibit C1 "SBE Contact Sheet"** and submitting it to the OEI prior to commencement of the bidding process.

3. Complete and submit **Exhibit D "Form A – Contractor Compliance Plan"** to the OEI upon execution of the prime contractor's contract, if any, or upon commencement of construction.

4. Conduct pre-bid or selection conferences and a walk-through at least two weeks in advance of the date bids are due.

5. Provide written notice of the PROJECT to all pertinent construction trade and professional service SBEs listed in the current City of Milwaukee Directory soliciting their services in sufficient time (at least two weeks) to allow those businesses to participate effectively in the contract bidding or selection process. To identify SBEs for the PROJECT, utilize the current *Official City of Milwaukee SBE Directory* published by the OEI. The directory can be accessed on-line at:

<https://milwaukee.diversitycompliance.com/FrontEnd/VendorSearchPublic.asp?TN=milwaukee&XID=2276>

6. Follow-up with SBEs who show an interest in the PROJECT during the initial solicitation process and document contact with SBE firms using **Exhibit E “SBE Solicitation Form.”**

7. Select trade and professional service areas for SBE awards wherein the greatest number of SBEs exist to perform the work, thereby increasing the likelihood of contracts or subcontracts being awarded to SBEs. Where appropriate, split contracts or subcontracts into smaller, economically feasible units to facilitate SBE participation.

8. Negotiate in good faith with interested SBEs, not reject SBE bids or proposals as unqualified or too high without sound reasons based on a thorough review of the bid or proposal submitted and maintain documentation to support the rejection of any SBE bid or proposal. Bids that are not cost effective and/or are not consistent with the PROJECT schedule will be considered “rejectable.” Rejected bids or proposals shall be documented on **Exhibit F “SBE Rejection of Bid or Proposal Form.”**

9. Utilize the services available from public or private agencies and other organizations for identifying SBEs available to perform the work.

10. Include in the PROJECT bid, requests for proposals or selection documents and advertisements an explanation of PROJECT requirements for SBE participation to prospective contractors and subcontractors.

11. As necessary and whenever possible, facilitate the following:

(a) Joint ventures, limited partnerships or other business relationships intended to increase SBE areas of expertise, bonding capacity, credit limits, etc.

(b) Training relationships

(c) Mentor/protégé agreements

B. If the DEVELOPER meets or exceeds the 25% requirement for SBE participation for the construction, including supplies and non-professional services, for the entire PROJECT

and the 18% requirement for SBE participation for the purchase of professional services for the entire PROJECT, whether commenced before or after the date hereof, it shall be deemed that DEVELOPER has achieved or exceeded CITY's SBE requirement with respect to that aspect of the PROJECT, for the purposes of fulfilling the terms of this Agreement.

C. Contract or subcontract amounts awarded to SBE suppliers, that do not manufacture products they supply, may only be counted for up to one-fifth of the entire SBE participation requirement for construction supplies described in subsection B, above.

### **III. RESIDENT PREFERENCE PROGRAM**

A. DEVELOPER shall, in developing and constructing the PROJECT, utilize unemployed or underemployed residents, as defined in sec. 355-1-3 of the MCO, for no less than 40% of the total "worker hours" expended on "Construction," as those terms are defined in sec. 309.41 of the MCO,<sup>1</sup> included in PROJECT COSTS but less and excluding all non-Construction PROJECT COSTS.

1. In accordance with sec. 355-7-2-a of the MCO, DEVELOPER shall provide to the OEI a city resident utilization plan and gap analysis detailing how the 40% resident utilization requirement will be achieved.

2. In accordance with sec. 355-7-2-a-1 of the MCO, at least one-quarter of the 40% resident utilization requirement shall be performed by unemployed or underemployed residents who maintain their permanent residence in zip codes established as high-poverty. Every worker hour exceeding this requirement shall count for 1.5 hours toward the overall 40% resident utilization requirement for the PROJECT.

3. In accordance with sec. 355-7-2-a of the MCO, up to one-third of the 40% resident utilization requirement may be achieved by documenting the use of unemployed and underemployed residents on projects undertaken by the DEVELOPER where such compliance is not required or by hiring unemployed or underemployed residents on a full-time permanent basis for non-construction job categories connected to the PROJECT. Such adjustments must be proposed in an affidavit on a form provided by the OEI setting forth the facts upon which the request for adjustment is based.

4. In accordance with sec. 355-7-2-a-2 of the MCO, if DEVELOPER cannot meet the 40% resident utilization requirement, the appropriate level of participation may, at the discretion of the OEI, be met by utilizing unemployed or underemployed residents to work on concurrent projects in any Wisconsin county, provided those residents began their employment on projects in the City of Milwaukee.

B. DEVELOPER from and after the date of this Agreement and in conjunction with the PROJECT, shall undertake the following activities:

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<sup>1</sup> The definition of "Construction" shall mean "Construction" as defined in sec. 309.41 of the MCO, but as modified to reflect the private nature of the PROJECT.

1. Listing and causing contractors and sub-contractors to list open positions with any first source hiring agency specified by the OEI.
2. Disseminating information provided by the OEI to all contractors and sub-contractors on how to recruit unemployed and underemployed residents.
3. Listing and causing contractors and sub-contractors to list job openings with Wisconsin Job Service, W-2 agencies and other agencies as specified by the OEI.
4. Working in cooperation with CITY, identify and implement any other activities and steps to maximize utilization of unemployed and underemployed residents on the PROJECT.
5. Disseminating the Employee Affidavit form, attached as **Exhibit G**, to all contractors and sub-contractors for their use in documenting RPP compliance.
6. Causing contractors and sub-contractors to participate in training on the CITY's LCP Tracker Labor Compliance Software.
7. Throughout the construction of the PROJECT, causing contractors and sub-contractors to provide timely payroll information, on at least a monthly basis, via LCP Tracker, including data on the race, gender, zip code, trade and hourly wage of unemployed and underemployed residents utilized in the PROJECT.

C. Prior to the commencement of the PROJECT, DEVELOPER or its representatives and the OEI shall meet and confer to determine the eligible PROJECT COSTS, which are Construction costs subject to the mandatory RPP requirement.

D. DEVELOPER shall file the reports attached as **Exhibit H "Construction RPP Hours Calculation"** to evidence compliance with RPP requirements with the OEI. All RPP reports shall be accompanied by supporting Employee Affidavits, in the form attached as **Exhibit G**.

E. Apprenticeship and On-The-Job Training Requirements. In accordance with sec. 355-9-1 of the MCO, DEVELOPER shall require its contractors and subcontractors on the PROJECT to employ apprentices and on-the-job trainees in the performance of all construction contracts and subcontracts for the PROJECT in accordance with the maximum ratio of apprentices to journeymen established by the Wisconsin Department of Workforce Development and in accordance with the following requirements:

1. One-quarter of the apprentices and on-the-job trainees required for the PROJECT as measured in worker hours, shall be unemployed or underemployed residents of the CITY. For every worker hour exceeding the requirements of this subsection, 1.5 hours shall be credited toward the 40% resident utilization requirement for the PROJECT.
2. Of the apprentice and on-the-job trainee worker hours required for the PROJECT under this section, at least 40% shall be attributable to unemployed or

underemployed residents residing in zip codes established as high-poverty pursuant to sec. 355-9-1-a-2 of the MCO.

The requirements of this Section E are subject to sec. 355-9-1-b of the MCO. In the event that the OEI finds that the apprenticeship or on-the-job training are not appropriate for the PROJECT, the requirements of this section E may be waived or adjusted administratively by the OEI without the need for an amendment to this Agreement.

#### **IV. SBE AND RPP REPORTING**

DEVELOPER agrees to report to the OEI, CITY's Common Council and the Zoning, Neighborhoods and Development Committee of the CITY's Common Council on DEVELOPER's utilization of SBEs and unemployed or underemployed residents in its contracting activities for the PROJECT, pursuant to Chapters 355 and 370 of the MCO and in accordance with the requirements of this Agreement. In order to monitor the PROJECT's SBE and RPP worker participation, CITY requires, and DEVELOPER agrees to take the following steps:

A. Provide a list of all categories of work for each phase or portion of the PROJECT, with budget allowances, for which bids will be solicited and highlight those categories, based upon DEVELOPER's knowledge and experience, which are conducive to SBE participation.

B. Provide the OEI with documentation supporting efforts extended to solicit bids from SBEs. Upon request, DEVELOPER shall make information related to SBE bids available to the OEI.

C. Submit an SBE Monthly Report to the OEI on or before the 20th of each month, or a quarterly report with the approval of the OEI, on the form attached as **Exhibit I "Form D – SBE Monthly Report."**

D. Submit an SBE/RPP Report to CITY's Common Council on a quarterly basis regarding achievement of SBE and RPP standards for the duration of construction of the PROJECT. The forms attached as **Exhibit H** and **Exhibit I** shall also be used for said quarterly reports. DEVELOPER shall include with these forms a status report on RPP participation for the intermediate phases of the PROJECT already completed and compliance with the PROJECT benchmarks established as required by Section XI.B., below.

E. Upon request from the OEI, make a quarterly presentation to the Zoning, Neighborhoods and Development Committee of the CITY's Common Council regarding achievement of SBE and RPP standards for the duration of construction of the PROJECT. Said presentation shall be coordinated through the OEI.

F. Complete and submit a final **Exhibit I** and **Exhibit J "SBE Subcontractor Payment Form"** to the OEI upon completion of all construction of the PROJECT.

#### **V. LABOR STANDARDS.**

DEVELOPER shall comply with all applicable state and municipal labor standards provisions on the PROJECT, including the payment of living wages as required by Sec. 355-13-3 of the MCO. DEVELOPER shall provide and cause its contractors and subcontractors to provide the OEI any necessary documentation relative to compliance with applicable labor standards provisions on forms specified by the OEI.

**VI. CITY ADMINISTRATION.**

The OEI shall have primary responsibility for the administration of this Agreement as well as primary monitoring and enforcement authority for the programs and activities encompassed by this Agreement. In exercising its responsibilities under the Agreement, the OEI shall use good faith and act in a reasonable manner. Notwithstanding the foregoing, the OEI shall make all information and data collected pursuant to this Agreement available to CITY's Department of City Development and Comptroller in order to allow fulfillment of their respective responsibilities with respect to the programs and activities encompassed by this Agreement. CITY's Department of City Development and Comptroller shall cooperate with and assist the OEI in the administration of this Agreement.

**VII. DEVELOPER ADMINISTRATION.**

DEVELOPER may retain a person or firm reasonably acceptable to the OEI to act as DEVELOPER's consultant and to assist in record keeping, collection of information and the filing of all reports necessary to demonstrate compliance with the requirements of this Agreement. DEVELOPER shall also comply with the reporting requirements set forth in Section IV of this Agreement.

**VIII. AUDIT RIGHTS.**

CITY shall have the right to conduct audits to confirm DEVELOPER's compliance with this Agreement. DEVELOPER shall keep or cause others under its control, including its contractors and subcontractors to keep accurate, full and complete books and accounts with respect to costs of developing, constructing, and completing the PROJECT, including personnel records, and carrying out the duties and obligations of DEVELOPER hereunder. All the books and accounts required to be kept hereunder shall be maintained in accordance with generally accepted accounting principles consistently applied, and shall be kept for a period of seven years. Any documents required to be retained under this Section shall be made available upon request of CITY's Comptroller for the purpose of conducting an audit permitted by this Section.

**IX. PUBLIC RECORDS.**

Records shall be maintained in accordance with requirements prescribed by the CITY with respect to all matters covered by this Agreement. Both parties understand that the CITY is bound by Wisconsin Public Records Law, and as such, all of the terms of this Agreement are subject to and conditioned on the provisions of Wis. Stat. Section 19.21, et seq. DEVELOPER acknowledges that it is obligated to assist the CITY in retaining and producing records that are subject to Wisconsin Public Records Law. Except as otherwise authorized, these records shall be maintained for a period of seven years from the date of this Agreement.

**X. NOTICES.**

All notices under this Agreement shall be made in writing and deemed served upon depositing the same in the United States Postal Service as “Certified Mail, Return Receipt Requested,” addressed as follows:

A. To the CITY: Office of Small Business Development  
City of Milwaukee  
200 East Wells Street  
Milwaukee, WI 53202  
Attn: Director

With a copy to: Department of City Development  
City of Milwaukee  
809 North Broadway  
Milwaukee, WI 53202  
Attn: Commissioner

B. To DEVELOPER: The Couture LLC  
260 East Highland Avenue, Suite 401  
Milwaukee, WI 53202  
Attn: Rick Barrett

With a copy to: Meissner Tierney Fisher & Nichols, S.C.  
111 East Kilbourn Avenue, 19<sup>th</sup> Floor  
Milwaukee, WI 53202  
Attn: Adam J. Tutaj, Esq.

**XI. ENFORCEMENT.**

In order to assist OEI in monitoring and enforcing the RPP requirements in this Agreement (as further defined in secs. 355-7 to 377-9 of the MCO), DEVELOPER shall meet with OEI prior to commencement of construction of the PROJECT to develop a plan, acceptable to OEI which acceptance shall not be unreasonably withheld or delayed, to meet the RPP requirements of this Agreement. Such plan shall include the following:

A. A schedule of intermediate phases of the Project to be used for reporting on compliance with the RPP provisions of this Agreement;

B. Benchmarks for the actual participation by city residents in compliance with the RPP requirements in this Agreement following the completion of each intermediate phase of the Project, including any credit for worker hours achieved on other projects under sec. 355-7-2-a of the MCO; and

C. A formula setting forth the amount of funds to be withheld from DEVELOPER if the actual participation by city residents is less than the requirements of this Agreement. No withholding of funds shall be required if the total participation by city residents at the completion of the PROJECT exceeds the requirements of this Agreement.

No funding required under the Development Agreement shall be provided by CITY to DEVELOPER prior to OEI's acceptance of DEVELOPER's plan as required in this Section. Because the PROJECT is part of a larger, overall development project, as described in the Development Agreement, that is subject to that certain "Human Resources Agreement (Couture Project) dated April 28, 2017, (the "Original HR Agreement"), the requirements contained in the Original HR Agreement and this Agreement can be considered together as different phases of the same project and their overall SBE and RPP requirements as combined total requirements. In the reasonable discretion of OEI, when preparing the plan required by subsections A through C above, the PROJECT under this Agreement may be considered to be an intermediate phase of the project described in the Original HR Agreement.

## **XII. SANCTIONS.**

In the event that DEVELOPER is not in compliance with the requirements of this Agreement or if any document submitted to CITY by DEVELOPER or a contractor or subcontractor of DEVELOPER contains false, misleading or fraudulent information, the OEI may seek prosecution under sec. 355-19 of the MCO or the imposition of any of the following sanctions:

- A. Imposition of a requirement that remedial efforts be undertaken by DEVELOPER for the remaining portion of the PROJECT where initial reports demonstrate non-compliance with the RPP hours required for the PROJECT.
- B. Specific performance or specified remedies under this Agreement.
- C. Remedies available under the Development Agreement for such non-compliance.
- D. Withholding of payments due to DEVELOPER under the Development Agreement or any related documents or reimbursement by DEVELOPER to CITY of any payments already made to DEVELOPER under the Development Agreement.
- E. Termination, suspension or cancellation of the Development Agreement or any contract or agreement related to the PROJECT in whole or in part.
- F. After a due process hearing, denial of DEVELOPER's right to enter into agreements with the CITY for 2 years.

IN WITNESS WHEREOF, the parties have executed this Human Resources Agreement as of the \_\_\_\_ day of \_\_\_\_\_, 2021.

**THE COUTURE LLC**

**CITY OF MILWAUKEE**

By: \_\_\_\_\_  
Richard J. Barrett, Manager

By: \_\_\_\_\_  
Tom Barrett, Mayor

**THE COUTURE HOLDINGS GROUP, INC.**

By: \_\_\_\_\_  
James R. Owczarski, City Clerk

By: \_\_\_\_\_  
Richard J. Barrett, President

By: \_\_\_\_\_  
Aycha Sawa, City Comptroller

Common Council Resolution #201062

**EXHIBIT A**  
**CATEGORIES OF WORK**

**CATEGORIES OF WORK**  
**CONSTRUCTION BUDGET FOR**  
**COUTURE PROJECT**

<u>WORK DESCRIPTION</u>	<u>GENERAL</u>	<u>SUPPLIER ITEMS</u>
<b>SITE PREPARATION:</b>		
DEMOLITION	\$0.00	
EXCAVATION	\$0.00	
SOIL HAULING & DISPOSAL	\$0.00	
STORMWATER MANAGEMENT SYSTEM	\$0.00	
OTHER SITE:	\$0.00	
<b>BUILDING CONSTRUCTION:</b>		
FOOTINGS & FOUNDATION	\$0.00	
FLOOR SLAB	\$0.00	
STRUCTURAL STEEL**	**	\$0.00
GLAZING	\$0.00	
MASONARY	\$0.00	
ROOFING	\$0.00	
ROUGH CARPENTRY	\$0.00	
FINISH CARPENTRY	\$0.00	
DOORS, FRAMES & MILLWORK	\$0.00	
HVAC EQUIPMENT**	**	\$0.00
PLUMBING	\$0.00	
FIRE PROTECTION	\$0.00	
ELECTRICAL	\$0.00	
DRYWALL	\$0.00	
CEILINGS	\$0.00	
FLOORING	\$0.00	
CERAMIC TILE	\$0.00	
LIGHTING	\$0.00	
PAINTING/INTERIOR FINISH	\$0.00	
OTHER:	\$0.00	
OTHER:	\$0.00	
OTHER:	\$0.00	
<b>SITE IMPROVEMENTS:</b>		
PAVING	\$0.00	
LATERALS/CATCH BASIN	\$0.00	
LANDSCAPING	\$0.00	
FENCING	\$0.00	
OTHER:	\$0.00	

<b>TOTAL HARD COSTS</b>	----- \$0.00	----- \$0.00
-------------------------	-----------------	-----------------

**PROFESSIONAL SERVICES**

ARCHITECTUAL	\$0.00
ENGINEERING	\$0.00
LEGAL SERVICES	\$0.00
SURVEY	\$0.00
ENVIRONMENTAL	\$0.00
GENERAL CONTRACTOR	\$0.00
CONSTRUCTION MANAGER	\$0.00
OTHER:	\$0.00

<b>TOTAL PROFESSIONAL SERVICES</b>	----- \$0.00
------------------------------------	-----------------

**COST SUMMARY & SBE CALCULATIONS**

CONSTRUCTION EXCLUDING SUPPLIER  
ITEMS  
SUPPLIER AMOUNT \*\*  
PROFESSIONAL SERVICES

<b>CATEGORY</b>	<b>RATE</b>	<b>SBE REQUIREMENT</b>
		-----
		\$0.00

**TOTAL SBE REQUIREMENTS**

-----  
\$0.00

## **EXHIBIT B**

### **SBE MARKETING PLAN – PUBLICATIONS/ADVERTISING CONTACTS**

Please provide copies of all publications or advertisements to the OEI. If you did not publicize with any of the organizations listed below, please provide a written explanation.

#### **Milwaukee Times**

(Published weekly)

1936 North King Drive, Milwaukee, WI 53212

Tele. No: (414) 263-5088

#### **The Milwaukee Courier**

(Published weekly)

2003 W. Capitol Drive, Milwaukee, WI 53206

Tele No: (414) 449-4860

Fax: (414) 906-5383

#### **Milwaukee Community Journal, Inc.**

(Published twice weekly)

3612 North King Drive, Milwaukee, WI 53212

Tele No: (414) 265-5300

#### **Daily Reporter**

(Published daily M-F)

225 E. Michigan St., Suite 540, Milwaukee, WI 53202

Tele No: (414) 276-0273

Fax: (414) 276-8057

#### **Spanish Journal**

(Published weekly)

611 West National Avenue, Suite 316, Milwaukee, WI 53204

Tele No: (414) 643-5683

Fax: (414) 643-8025

#### **Milwaukee Black Business**

PO Box 250307

Milwaukee, WI 53225

(414) 533-4803

info@mkeblackbusiness.com

www.mkeblackbusiness.com

**EXHIBIT C**  
**SBE MARKETING PLAN – COMMUNITY AGENCY CONTACTS**

**National Association of Minority Contractors**

6122 North 76th Street  
Milwaukee, WI 53218  
(414) 454-9475  
<http://www.namcwi.com>

**African American Chamber-Commerce**

633 W Wisconsin Ave., Suite 603  
Milwaukee, WI 53203  
(414) 462-9450  
<http://www.aaccwisconsin.org/>

**Hispanic Chamber of Commerce of Wisconsin**

1021 W National Ave.  
Milwaukee, WI 53204  
(414) 643-6963  
<https://hccw.org/>

**Hmong Wisconsin Chamber of Commerce**

6815 W. Capitol Drive, Suite 204  
Milwaukee, WI 53216  
(414) 645-8828  
<http://www.hmongchamber.org/>





**Exhibit D**  
**CITY OF MILWAUKEE**  
**OFFICE OF SMALL BUSINESS DEVELOPMENT**  
**FORM A - CONTRACTOR COMPLIANCE PLAN**

Please list **all** proposed subcontractor(s) and/or material suppliers for this project.

**I. GENERAL INFORMATION (REQUIRED)**

Project Name: \_\_\_\_\_ SBE Participation: \_\_\_\_\_ % Total Dollar Amount: \$ \_\_\_\_\_

Project Description: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**II. PRIME CONTRACTOR INFORMATION (REQUIRED)**

Contractor Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

City of Milwaukee SBE Certification: \_\_\_\_\_ Yes \_\_\_\_\_ No

**III. ACKNOWLEDGEMENT (REQUIRED)**

I certify that the information included in this Compliance Plan is true and complete to the best of my knowledge.

Name of Authorized Representative: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**FOR STAFF USE ONLY**

Reviewed by OSBD Staff: \_\_\_\_\_ Date: \_\_\_\_\_



**CITY OF MILWAUKEE  
OFFICE OF SMALL BUSINESS DEVELOPMENT  
FORM A - CONTRACTOR COMPLIANCE PLAN**

List all subcontractor information in its entirety. Only SBE firms certified through the City Of Milwaukee Office of Small Business Development will be counted towards specified SBE requirements. Individual subcontractor SBE percentages should equal the overall participation as listed on Page 1. Please visit the OSBD website [www.milwaukee.gov/osbd](http://www.milwaukee.gov/osbd) for a complete list of certified firms.

**IV. SUBCONTRACTOR INFORMATION**

Subcontractor Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

City of Milwaukee SBE Certification: \_\_\_\_\_ Yes \_\_\_\_\_ No

Work performed / Materials supplied: \_\_\_\_\_

Please identify the proposed award amount and percentage of the contract the subcontractor will fulfill (if applicable).

Proposed Award: \$ \_\_\_\_\_ Percentage of contract: \_\_\_\_\_ %

Owner/Representative Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Subcontractor Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

City of Milwaukee SBE Certification: \_\_\_\_\_ Yes \_\_\_\_\_ No

Work performed / Materials supplied: \_\_\_\_\_

Please identify the proposed award amount and percentage of the contract the subcontractor will fulfill (if applicable).

Proposed Award: \$ \_\_\_\_\_ Percentage of contract: \_\_\_\_\_ %

Owner/Representative Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**\*PLEASE DUPLICATE AS NEEDED TO PROVIDE ADDITIONAL SUBCONTRACTOR INFORMATION\***

Department of Administration  
Office of Small Business Development  
City Hall, Room 606  
200 East Wells Street  
Milwaukee, WI 53202  
Information Line: 414-286-5553 Fax: 286-8752  
[osbd@milwaukee.gov](mailto:osbd@milwaukee.gov)  
[www.milwaukee.gov/osbd](http://www.milwaukee.gov/osbd)

**Exhibit E**  
**SMALL BUSINESS ENTERPRISE (SBE)**  
**SOLICITATION FORM**

Name & Address of SBE Firm \_\_\_\_\_

Name of Individual Contacted \_\_\_\_\_ Phone Number \_\_\_\_\_

Type of Work \_\_\_\_\_ Date and Time of Contact \_\_\_\_\_

Quotation or Proposal Received \_\_\_\_\_

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REMARKS: THESE SHOULD INCLUDE ANY FOLLOW UP ACTIONS. IN THE EVENT THAT THE SMALL BUSINESS ENTERPRISE WILL NOT BE UTILIZED, INCLUDE AN EXPLANATION OF THE REASON (s) WHY THE FIRM WILL NOT BE USED. FOR EXAMPLE: IF THE ONLY REASON FOR NON-UTILIZATION WAS PRICE, THE EXPLANATION SHOULD REFLECT WHAT STEPS WERE TAKEN TO REACH A COMPETITIVE PRICE LEVEL.

REMARKS:

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**EXHIBIT F**  
**SMALL BUSINESS ENTERPRISE (SBE)**  
**Rejection of Bid or Proposal Form**

Name and Address of SBE firm	Type of Work	Bid or Proposal Submitted by SBE	Actual Award	Reasons for bid rejection	Approved By
1					
2					
3					
4					
5					
6					
7					
8					

**Exhibit G**

**FORM I**(Rev.5/2020)

\_\_\_\_\_  
Contractor Name

\_\_\_\_\_  
DPW Contract No.

**Employee Affidavit  
Residents Preference Program**

I certify that I maintain my permanent residence in the City of Milwaukee and that I vote, pay personal income tax, obtain my driver’s license, etc. at \_\_\_\_\_, Milwaukee, WI \_\_\_\_\_.  
(Address) (Zip Code)

**Residency status:**

To verify my resident status, attached please find the following (check *two*)

- \_\_\_\_\_ Copy of my voter’s certification form.
- \_\_\_\_\_ Copy of my last year’s Form 1040.
- \_\_\_\_\_ Copy of my current Wisconsin Driver’s License or State ID.
- \_\_\_\_\_ Copy of Other (i.e., Utility bill, Lease, etc.)

**AND**

**Unemployment status:**

I certify that I have been unemployed as follows: (Check those that apply)

- \_\_\_\_\_ I have worked less than 1,200 hours in the preceding 12 months.
  - \_\_\_\_\_ I have not worked in the preceding 15 days\*
- \*this selection only applies to new hires or inactive employees**

**OR**

**Underemployed status:**

\_\_\_\_\_ I certify that based on the attached chart (Income Eligibility Guidelines), I am underemployed.

**WORK HISTORY**

Construction Skills: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_,

Years of Experience: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_,

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Sign Name

\_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
Home Telephone Number

Subscribed and sworn to me this \_\_\_\_\_ day  
of \_\_\_\_\_, \_\_\_\_\_ A.D.

\_\_\_\_\_  
My Commission Expires \_\_\_\_\_.  
Notary Public Milwaukee County

## Income Eligibility Guidelines July 1, 2020 to June 30, 2021

Eligibility determination is based on household size and income.  
Total income must be at or below the amounts in this table.

<b>Household Size</b>	<b>Yearly</b>	<b>Monthly</b>	<b>Twice per month</b>	<b>Every 2 weeks</b>	<b>Weekly</b>
1	<b>23,606</b>	<b>1,968</b>	<b>984</b>	<b>908</b>	<b>454</b>
2	<b>31,894</b>	<b>2,658</b>	<b>1,329</b>	<b>1,227</b>	<b>614</b>
3	<b>40,182</b>	<b>3,349</b>	<b>1,675</b>	<b>1,546</b>	<b>773</b>
4	<b>48,470</b>	<b>4,040</b>	<b>2,020</b>	<b>1,865</b>	<b>933</b>
5	<b>56,758</b>	<b>4,730</b>	<b>2,365</b>	<b>2,183</b>	<b>1,092</b>
6	<b>65,046</b>	<b>5,421</b>	<b>2,711</b>	<b>2,502</b>	<b>1,251</b>
7	<b>73,334</b>	<b>6,112</b>	<b>3,056</b>	<b>2,821</b>	<b>1,411</b>
8	<b>81,622</b>	<b>6,802</b>	<b>3,401</b>	<b>3,140</b>	<b>1,570</b>
For Each Additional Household Member Add	<b>8,288</b>	<b>691</b>	<b>346</b>	<b>319</b>	<b>160</b>

Source: Wisconsin Department of Public Instruction

EXHIBIT H

\_\_\_\_\_ Project  
Construction RPP Hours Calculation  
Phase \_\_\_\_\_

RPP Goal

Total Construction Hours Worked Pursuant to § 355-7.1a. "Worker Hours" includes work performed by persons filling apprenticeship and on-the-job training programs and excludes the number of hours of work performed by all non-Wisconsin residents.	
Multiplied by 40%	
Applicable RPP Goal	
Total RPP Construction Hours	
RPP Hour Surplus/Shortfall	
RPP Percentage (Total RPP Construction Hours/Total Construction Hours Worked)	



# EXHIBIT I

CITY OF MILWAUKEE  
 DEPARTMENT OF ADMINISTRATION  
 OFFICE OF SMALL BUSINESS DEVELOPMENT

**FORM D**

## SBE MONTHLY REPORT

The monthly report should be completed in its entirety and submitted **no later than the 20th of every month** to DOA-Office of Small Business Development. If this represents the final report, Form E - SBE Payment Certification should be attached for each subcontractor.

### SECTION I. GENERAL INFORMATION (REQUIRED)

Month: \_\_\_\_\_ Final Report: \_\_\_\_\_ Yes \_\_\_\_\_ No

Prime Contractor: \_\_\_\_\_ City of Milwaukee SBE Certification: \_\_\_\_\_ Yes \_\_\_\_\_ No

Address: \_\_\_\_\_ City/State/Zip: \_\_\_\_\_

Purchase Order / Contract #: \_\_\_\_\_ Project Name/Number: \_\_\_\_\_

Description of service performed and/or materials supplied: \_\_\_\_\_

Prime Contractor's Total: \$ \_\_\_\_\_ Prime Contractor's JTD: \$ \_\_\_\_\_

Start Date: \_\_\_\_\_ Completion Date: \_\_\_\_\_

SBE Participation Requirement: \$ \_\_\_\_\_ / \_\_\_\_\_ %

### SECTION II. SUBCONTRACTOR INFORMATION (REQUIRED)

List all SBE subcontractor firm(s) utilized in connection with the above contract, either as service performed and/or supplier for the month. Only SBE firms certified through the City Of Milwaukee Office of Small Business Development will be counted towards specified SBE requirements. Please visit the OSBD website [www.milwaukee.gov/osbd](http://www.milwaukee.gov/osbd) for a complete list of certified firms.

Name of SBE Firm	Service Performed / Material Supplied	Amount Paid for the Month	Total Amount Paid JTD
<b>Total Payments to SBE</b>			

### SECTION III. ACKNOWLEDGEMENT (REQUIRED)

I/we hereby certify that I/we have ready the above and approved this information to be precise and confirmed. I further understand that failure to return this form by the specified time may cause a delay in payments (if applicable).

Report Prepared By: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Department of Administration  
 Office of Small Business Development  
 City Hall, Room 606  
 200 East Wells Street  
 Milwaukee, WI 53202  
 Information Line: 414-286-5553 Fax: 414-286-8752  
[www.milwaukee.gov/osbd](http://www.milwaukee.gov/osbd)

## **DIRECTIONS FOR COMPLETING FORM D - MONTHLY REPORT**

### **SECTION I. GENERAL INFORMATION**

Please provide all contractual information as indicated in Section I.

If the purchase order/ contract or project requires Small Business Enterprise (SBE) requirements, please indicate the percentage in the designated area.

### **SECTION II. SUBCONTRACTOR INFORMATION**

Monthly reports are due by the 20th of each month via fax at 414-286-8752 or US Postal Service.

The data should indicate payments for the previous month. If there are zero payments for a reporting period, a monthly report indicating such should still be submitted.

Only report payments to City of Milwaukee SBE firms. Non-SBE firms will not be counted towards participation requirements.

Please duplicate the form if you need to add additional payment information.

### **SECTION III. ACKNOWLEDGEMENT**

Sign and date Form D signifying that all information is precise and confirmed. Unsigned forms will not be accepted.

*Updated: December 23, 2015*

## EXHIBIT J



CITY OF MILWAUKEE  
DEPARTMENT OF ADMINISTRATION  
OFFICE OF SMALL BUSINESS DEVELOPMENT  
**FORM E**

### SBE SUBCONTRACTOR FINAL PAYMENT CERTIFICATION

This form is to be completed and signed by the Prime Contractor and SBE subcontractor firms that were utilized in connection with contract listed below, either for service performed and/or as a supplier.

Prime Contractor Name: \_\_\_\_\_

Prime Contractor's Bid or RFP#: \_\_\_\_\_ Purchase Order or Contract # \_\_\_\_\_

Project Name: \_\_\_\_\_

I hereby certify that our firm has paid the listed amount to the SBE Subcontractor as indicated below for work performed and/or material supplied on the above contract.

Authorized Signer: \_\_\_\_\_ Date: \_\_\_\_\_

Subcontractor Name: \_\_\_\_\_

Total payment received \$ \_\_\_\_\_

I hereby certify that our firm has received the listed amount from the Prime Contractor as indicated above for subcontract work performed and/or material supplied on the above contract.

Owner/Representative Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Submit this form with the Prime Contractor's final **FORM D** (SBE Monthly Report) to:

Department of Administration  
Office of Small Business Development  
City Hall – Room 606  
200 East Wells St  
Milwaukee, WI 53202  
(or fax to 414-286-8752)

**EXHIBIT O**

Unit 3 Warranty Deed

State Bar of Wisconsin Form 1-2003  
**WARRANTY DEED**

Document Number

Document Name

**THIS DEED**, made between \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ ("Grantor," whether one or more),  
and \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_ ("Grantee," whether one or more).  
Grantor, for a valuable consideration, conveys to Grantee the following described real  
estate, together with the rents, profits, fixtures and other appurtenant interests, in  
\_\_\_\_\_ County, State of Wisconsin ("Property") (if more space is  
needed, please attach addendum):

Recording Area

Name and Return Address

Parcel Identification Number (PIN)

This \_\_\_\_\_ homestead property.  
~~(is)~~ (is not)

Grantor warrants that the title to the Property is good, indefeasible in fee simple and free and clear of encumbrances except:

Dated \_\_\_\_\_.

\_\_\_\_\_  
\* \_\_\_\_\_ (SEAL) \* \_\_\_\_\_ (SEAL)

\_\_\_\_\_  
\* \_\_\_\_\_ (SEAL) \* \_\_\_\_\_ (SEAL)

**AUTHENTICATION**

Signature(s) \_\_\_\_\_  
\_\_\_\_\_  
authenticated on \_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF WISCONSIN )  
 ) ss.  
\_\_\_\_\_ COUNTY )

\* \_\_\_\_\_  
TITLE: MEMBER STATE BAR OF WISCONSIN  
(If not, \_\_\_\_\_  
authorized by Wis. Stat. § 706.06)

Personally came before me on \_\_\_\_\_,  
the above-named \_\_\_\_\_  
\_\_\_\_\_ to me known to be the person(s) who executed the foregoing  
instrument and acknowledged the same.

THIS INSTRUMENT DRAFTED BY:  
\_\_\_\_\_  
\_\_\_\_\_

\* \_\_\_\_\_  
Notary Public, State of Wisconsin  
My Commission (is permanent) (expires: \_\_\_\_\_)

(Signatures may be authenticated or acknowledged. Both are not necessary.)

NOTE: THIS IS A STANDARD FORM. ANY MODIFICATIONS TO THIS FORM SHOULD BE CLEARLY IDENTIFIED.

WARRANTY DEED

© 2003 STATE BAR OF WISCONSIN

FORM NO. 1-2003

\* Type name below signatures.

## **Exhibit A to Warranty Deed**

### **Legal Description of the Property**

#### **Parcel A:**

Unit Three (3), together with said unit's undivided appurtenant interest in the common elements, and the use of the limited common elements appurtenant to said unit, all in THE COUTURE LAKEFRONT, A CONDOMINIUM, being a condominium created and existing under and by virtue of the Condominium Ownership Act of the State of Wisconsin and by Declaration of Condominium of The Couture Lakefront, a Condominium, and recorded April 6, 2021 as Document No. 11099452 (the "Declaration"); and Condominium Plat recorded April 6, 2021, as Document No. 11099453, said condominium being located in the City of Milwaukee, County of Milwaukee, State of Wisconsin on the real estate described in and made subject to said Declaration and incorporated herein by this reference thereto.

Tax Key No. 396-0511-000 (pt)

Address: 909 E. Michigan Street, Milwaukee, WI

#### **Parcel B:**

Easements benefitting the above-described Unit 1 as set forth in Section 14.9 of the Declaration and/or as set forth otherwise in Article XIV of the Declaration. .

## **Exhibit B to Warranty Deed**

### **Deed Restriction**

The conveyance of the Property from Grantor to Grantee under this Warranty Deed is hereby made subject to the following covenants, limitations and restrictions: (i) the Property may only be used for public transportation purposes and for any amenities related to such public transportation purposes (the “Permitted Uses”) and (ii) no portion of the Property shall ever be used for any purpose other than the Permitted Uses.

The covenants, limitations and restrictions in this Exhibit B to Warranty Deed shall be permanent, shall run with the land and shall be binding upon (i) Grantee and Grantee’s successors and assigns, (ii) all subsequent owners of all or any portion of the Property and each of their respective successors and assigns, and/or (iii) all tenants, subtenants, licensees and/or occupants of all or any portion of the Property.

The covenants, limitations and restrictions in this Exhibit B to Warranty Deeds (i) are enforceable by the Association of the The Couture Lakefront, a Condominium (the “Condominium Association”); (ii) may not be modified or amended without the express written agreement of the Condominium Association; and (iii) may only be released by the Condominium Association. Notwithstanding the previous sentence, the covenants, limitations and restrictions in this Exhibit B to Warranty Deeds shall automatically terminate at such time as the owner of the fee simple absolute interest in the Property is the same owner of the fee simple absolute interest in either or both of Unit 1 and/or Unit 2 in The Couture Lakefront, A Condominium.

The Condominium Association shall have the right to record an instrument against Property necessary to avoid any impact of Wis. Stat. § 893.33 as hereinafter amended.

## Exhibit C to Warrant Deed

[to be updated to reflect actual exceptions at the time of conveyance]

### Exceptions to Warranty

1. Real estate taxes for the year 2021 and subsequent years, a lien, not yet due and payable.
2. Terms, conditions, limitations and restrictions upon any right in the easement(s) described in Schedule A as Parcel B, including but not limited to any obligation relating to the repair, maintenance, replacement or servicing of the easement(s).
3. Current and future obligations arising from the inclusion of the subject parcel in a Business Improvement District, including but not limited to, assessments, fees or charges, if any, levied by said district; none now due, payable or delinquent. (BID #21)
4. Memorandum of Development Agreement and other matters contained in the instrument dated August 26, 2016 and recorded August 30, 2016 as Document No. 10597891; together with Amendment of Development Agreement, dated \_\_\_\_\_, 2021 and recorded \_\_\_\_\_, 2021, as Document No. \_\_\_\_\_.
5. Rights of Milwaukee County to compel re-conveyance as set forth in paragraph 3(b)(ii) and paragraph 3(b)(v) of the Development Agreement referenced in the Memorandum of Development Agreement dated August 26, 2016 and recorded August 30, 2016 as Document No. 10597891, as amended by Estoppel-Recognition Certificate, executed on \_\_\_\_\_, 2021, by \_\_\_\_\_.
6. Development Agreement and other matters contained in the instrument dated August 26, 2016 and recorded on May 2, 2017 as Document No. 10669907.
7. Restriction as referenced on the plat of Certified Survey Map No. 8914, recorded on May 12, 2017 as Document No. 10673467, reciting as follows: "all utility lines (for) electric power and telephone services and cable television or communications systems line or cables to all lots in the Certified Survey Map shall be installed underground in easements provided therefore (sic), where feasible."
8. Rights, if any, with respect to the maintenance and use of lateral water main, storm sewer lines, round drains and gas lateral across the Land as disclosed on ALTA/NSPS Land Title Survey prepared by RASmith, John P. Casucci, P.L.S., dated July 24, 2020 as Project No. 167079-RMK.
9. Liability for special charges or assessments which are not shown as existing liens by the records of the City of Milwaukee Treasurer, but which would be disclosed by a City of

- Milwaukee Department of Neighborhood Services letter; none now due, payable or delinquent.
10. Liability for assessments, expenses, charges, fines, penalties, costs and levies asserted under the Condominium Ownership Act of the State of Wisconsin and Declaration of Condominium and By-laws adopted pursuant thereto or any amendments thereto; none now due, payable or delinquent.
  11. Reservations, conditions, easements, covenants, uses, options, agreements, limitations on title and all other provisions contained in or incorporated by reference to that certain Declaration of The Couture Lakefront, a Condominium, and exhibits thereto, dated \_\_\_\_\_ and recorded \_\_\_\_\_ as Document No. \_\_\_\_\_; and Condominium Plat recorded \_\_\_\_\_ as Document No. \_\_\_\_\_; and By-Laws of the Condominium Homeowners Association.
  12. Provisions for future assessments as contained in the Declaration of Condominium noted above; none now due, payable or delinquent.
  13. Current and future obligations arising from the inclusion of the subject parcel in a Tax Incremental District; none now due, payable or delinquent. (TID #82)
  14. Terms, provisions and conditions of an unrecorded Cooperation, Contribution and Redevelopment Agreement dated April 28, 2017, executed by and between the City of Milwaukee, a Wisconsin municipal corporation, the Redevelopment Authority of the City of Milwaukee, a public body corporate and politic, The Couture LLC, a Wisconsin limited liability company, and The Couture Holdings Group Inc., a Wisconsin business corporation, as may be amended and/or modified; as evidenced by a Memorandum of Cooperation, Contribution and Redevelopment Agreement dated April 28, 2017 and recorded July 10, 2019 as Document No. 10887022.
  15. Terms, provisions and conditions of an unrecorded Payment in Lieu of Taxes Agreement dated April 28, 2017 executed by and between the City of Milwaukee, a Wisconsin municipal corporation, and The Couture LLC, a Wisconsin limited liability company, as evidenced by a Memorandum of Payment in Lieu of Taxes Agreement dated April 28, 2017 and recorded July 10, 2019 as Document No. 10887023.
  16. Terms, conditions, provisions and easements as contained in Amended and Restated Transportation & Public Access Easement and Maintenance & Operation Agreement dated \_\_\_\_\_, 2021 and recorded \_\_\_\_\_, 2021 as Document No. \_\_\_\_\_.
  17. [COUNTY LEASE]
  18. Public or private rights, if any, in such portion of the subject Land as may be presently used, laid out or dedicated in any manner whatsoever for street, highway or alley purposes.

**EXHIBIT P**

Personal Guaranties

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

This Limited Personal Guaranty Agreement (“Guaranty”) is made as of the \_\_\_\_\_ day of April, 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 April \_\_\_\_, 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. 201573 on March 19, 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 April \_\_\_\_\_, 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:

3252 N. Lake Drive  
Milwaukee, WI 53211

With a copy to:  
Meissner Tierney Fisher & Nichols, S.C.  
111 East Kilbourn Avenue, 19<sup>th</sup> Floor  
Milwaukee, WI 53202  
Attn: Adam J. Tutaj, Esq.

TAN LO:

8100 N. Beach Drive  
Fox Point, WI 53217

With a copy to:

Meissner Tierney Fisher & Nichols, S.C.  
111 East Kilbourn Avenue, 19<sup>th</sup> 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**

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Tom Barrett, Mayor

---

James R. Owczarski, City Clerk

**COUNTERSIGNED:**

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Aycha Sawa, Comptroller

**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

\_\_\_\_\_  
Margaret Barrett  
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

\_\_\_\_\_  
Lisa Lo  
Spouse of Tan Lo