

| Document Number | Document Title |
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| | BEERLINE TRAIL LEASE (BREMEN TO CAPITOL) |

BEERLINE TRAIL LEASE
(BREMEN TO CITY LIMITS)

Recording Area
Name and Return Address

City of Milwaukee
Department of Public Works
841 N. Broadway
Milwaukee, WI 53202

Tax Key Number:
See Exhibit A

Drafted By:
Jeremy R. McKenzie
Assistant City Attorney
City of Milwaukee

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EXHIBIT A: Map and Legal Description of Premises
EXHIBIT B: Insurance Requirements

BEERLINE TRAIL LEASE

THIS LEASE, is made and entered into as of this ___ day of _____, 2022, (the “Effective Date”) and is by and between **THE CITY OF MILWAUKEE** (hereinafter “City”) and **RIVERWORKS DEVELOPMENT CORPORATION** (hereinafter “RDC”). City and RDC are each a “Party”; together, they are the “Parties.”

RECITALS

- A. RDC is a nonprofit community economic development corporation that promotes a vibrant and diverse community of residents, businesses, and stakeholders who jointly create and maintain a prosperous neighborhood and quality of life for the Harambee, Riverwest and surrounding communities
- B. The City and RDC have both served as partners on the Beerline Trail Project Leadership Team to promote the development, programming, and maintenance of the Beerline Trail, including the development of the Beerline Trail Equitable Implementation Plan and the Lifeways Plan.
- C. Public involvement in the development of the Equitable Implementation Plan, Lifeways Plan, and various events held along the Beerline Trail have supported continued growth and development of the Trail, better integration of the Trail with surrounding neighbors, and positive activation of the Trail.
- D. City owns certain real estate and improvements located in Milwaukee, Wisconsin (the “Premises”), more particularly described in **Exhibit A** attached hereto, and more commonly referred to as “Beerline Trail-Bremen to Capitol.”
- E. RDC wants to lease the Premises from City per the terms hereof, so RDC can put the Premises to use for the purposes set forth in this Lease which, RDC believes, will, among other things, promote and enhance bicycle and pedestrian transportation consistent with promoting the general welfare of the City and its citizens.
- F. RDC commits to, at its cost, install and maintain various new improvements at the Premises substantially consistent with the Lifeways Plan.
- G. City is willing to lease the Premises to RDC on the terms and conditions set forth herein.
- H. The City authorized City entry into this Lease by City Common Council Resolution File No. 220649, passed _____.

NOW THEREFORE, for and in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Recitals.** The recitals above are hereby agreed to.
2. **Leased Premises.** Subject to the terms hereof, the City does hereby lease the Premises, which is legally described on **Exhibit A**, to RDC .
 - A. **Recording of Lease.** In its discretion, City may record this Lease (or evidence thereof) in the Milwaukee County Register of Deeds Office; and RDC agrees to cooperate with City in that regard.
 - B. **City Leases to Riverworks.** Subject to all the terms and conditions in this Lease, City hereby leases to RDC , and RDC hereby leases from City, on an **AS-IS, WHERE-IS BASIS**, and with all faults and defects, known or unknown, discovered or to be discovered, the real property, improvements and appurtenances located in Milwaukee and herein called the Premises.
 - C. **Exclusivity/Nonexclusivity.** The Premises are being leased to RDC on a non-exclusive basis subject to RDC 's limited rights as specified in ¶¶ 7 and 8 of this Lease.
3. **Term.** The term of this Lease (the "Term") shall be ___ years, commencing on _____, 2022 (the "Commencement Date") and terminating on _____, 20___, unless sooner terminated as herein provided.
4. **Termination of Lease.** Upon the expiration or earlier termination of this Lease, RDC shall peaceably and quietly deliver, yield up, and surrender possession of the Premises to City. RDC shall remove from the Premises upon expiration or termination, and be responsible for, all personal property situated thereon, and leave the Premises in a broom-clean condition. Any property not so removed shall, at City's option, either become the sole property of City or be stored on-site or off-site RDC's expense.
5. **Termination for Convenience.** Notwithstanding anything to the contrary contained herein (including, but not limited to, any provision in the "condemnation" section below), City or RDC may, in their sole discretion, and without cause, and for any reason, including no reason, terminate this Lease at any time upon one year's advance written notice to the other party. This ¶5 is a material provision without which, City would not have entered into this Lease.
6. **Rent/Additional Consideration.** RDC shall pay an annual rental of One Dollar (\$1), payable on the first day of the Term, without demand therefor and without setoff or deduction. Rent shall be payable to the City of Milwaukee, and shall be tendered to the Commissioner of the Department of Public Works ("Commissioner") at the notice address for the Commissioner set forth below. As additional consideration for the City's lease of the Premises to RDC, RDC further agrees it shall assume responsibility for routine maintenance of the Park as more fully set forth in Section 16 of this Lease.

7. **Use; Including Provisions Relating to Recreational Activities Under §895.52.** Subject to shared use with the general public for the use of public property open to the public, RDC shall have the right to use and occupy the Premises solely for the operation of:

- (1) “recreational activities:” (a) as defined in Wis. Stat. §895.52(1)(g) (as the same may be amended from time to time); and (b) that are consistent with activities generally associated with other public property in Milwaukee County and other open green space in the City; and (c) that are in compliance with federal, state, and local law, regulations, and ordinances (herein called “Recreational Activities”).
- (2) activities that are controlled and supervised by RDC (herein called “Riverworks-Controlled Activities”). Riverworks-Controlled Activities may include activities that are not “recreational activities” as defined in Wis. Stat. §895.52(1)(g) and may include exclusive use of a portion of the Premises by RDC for a temporary period (not to exceed 12 hours).
- (3) use of the Premises shall be limited to pedestrian and bicycle users and to emergency, maintenance and utility related transportation vehicles.

RDC uses of the Premises (including Riverworks-Controlled Activities) must, in any event, be lawful and in compliance with all applicable federal, state, and local laws, regulations, and ordinances (including laws, regulations or ordinances requiring permits and/or licenses), and must be conducted so as not to unreasonably interfere with neighbors. No other uses may be permitted without City’s prior written consent.

8. **Riverworks Permitting Rights for the Premises.** To promote the orderly use and enjoyment of the Premises by the general public, RDC may, in its discretion, adopt a permit system whereby members of the general public apply to RDC for a permit to exclusively use a designated area of the Premises, for a temporary, specified period, for a lawful “Recreational Activity” or “Riverworks-Controlled Activity” as allowed in section 7 above. Any use for which RDC issues a permit (while temporarily exclusive) must otherwise be in compliance with this Lease, including the provisions in section 7 above. If RDC does elect to engage in such permitting, then:

- A. RDC shall not charge for the issuance of permits any amount beyond an amount sufficient to cover RDC’s reasonable expenses associated with RDC’s permitting process and with the issuance of the particular permit;
- B. the permit shall only allow the permittee the right to exclusively use a designated portion (in all cases, less than the entire premises such that the public may still traverse the portion of the trail located on the Premises) of the Premises for a temporary period (in all cases, less than 12 hours, and RDC shall notify the Commissioner of the Department of Public Works of said events in advance), and RDC may not allow anything that is unlawful or concerning which RDC has no authority;

- C. the permit may only allow use for a “Recreational Activity” or a “Riverworks-Controlled Activity” as defined in Section 7 above;
- D. RDC’s permit process shall provide written notice to applicants advising applicants and permittees: (i) that use is limited to “Recreational Activities” and “Riverworks-Controlled Activities” as defined in Section 7; (ii) that they must comply with all federal, state, and local laws, regulations, and ordinances; (iii) that RDC may not authorize applicants or permittees to possess or consume alcoholic beverages on the Premises, without the prior written consent of the City; and (iv) that they may not store, use, discharge, or dispose of any hazardous or toxic substances, pollutants, or contaminants on any part of the Premises; and
- E. RDC may require permit applicants and/or recipients: (i) to sign waivers and releases; (ii) to assume financial and legal responsibility for their and their guests’ acts, omissions, damages, etc.; and/or (iii) to provide evidence of insurance that RDC may specify – in which case any waiver or release or acceptance of responsibility or insurance that RDC requires shall also expressly run to the City’s benefit and protect and cover City to the same extent as RDC .

9. Compliance with Laws and Regulations; Environmental; Nondiscrimination.

- A. RDC shall, at its sole cost and expense, comply with any and all laws, statutes, ordinances and regulations, federal, state, county, or municipal, now or hereafter enforced, or applicable to its respective existence at, or use, occupancy, or improvement (including repair or maintenance) of, any part of the Premises.
- B. RDC shall not store, use, discharge or dispose of any hazardous or toxic substances, pollutants or contaminants (“Contaminants”) on any part of the Premises other than conventional household items such as cleaning materials which must nonetheless be stored, used, discharged, and disposed of in strict compliance with all applicable federal, state, and local laws, rules, and regulations.
- C. RDC is leasing the Premises on an “**AS IS, WHERE IS**” basis.
- D. RDC shall be responsible (i) for remediating any Contaminants or environmental pollution on any part of the Premises caused by RDC or its permittees, and (ii) for repairing any damage (environmental, physical, structural, or otherwise) to the Premises caused by RDC or its permittees.
- E. RDC must obtain City’s prior written approval before conducting any environmental testing or investigation on or at any part of the Premises.
- F. RDC shall not, with respect to its use and occupancy of the Premises, and Riverworks-Controlled Activities thereat, and with respect to its issuance of permits for the Premises to members of the public, discriminate against any person

on the basis of race, sex, sexual orientation, creed, national origin or identity, color, religion, marital status, age, or handicap.

10. Recreational Immunity Under §895.52.

- A. City and RDC intend on each of City and RDC being protected by Wis. Stat. §895.52 (and any successor statute thereto) to the greatest extent possible.
- B. RDC may not charge any admission fee for spectators at any event on the Premises unless the event is a Riverworks-Controlled Activity.
- C. RDC agrees to comply with any duty it may have under Wis. Stat. §101.11.

11. Insurance. RDC shall obtain and maintain in place during the entire Term, at its expense (as additional rent hereunder), insurance as described in strict compliance herewith:

- A. **General Liability, Property, and Other Coverage.** General liability insurance that protects exposures associated with the operations of RDC and its use and maintenance of the Premises pursuant to ¶ 16 of this Lease - including, but not limited to: liability for Riverworks-Controlled Activities at the Premises; contractual liability protection for the risks assumed by RDC in this Lease; and property insurance for Riverworks-owned property. RDC shall also obtain and maintain in place during the entire Term: workers compensation insurance, employers liability insurance, and other insurance coverage in the types and amounts set forth in **Exhibit B** attached hereto.
- B. **Policies.** All policies shall be endorsed to protect City and RDC as their interests may appear. All policies shall be obtained by RDC under valid and enforceable standard form policies issued by responsible insurance companies licensed to do business in the State of Wisconsin. Certificates and actual policies evidencing insurance coverage shall be provided to City. The insurance company shall be required to provide City with 60-day written notice of any cancellation, non-renewal, or material change in the coverage required or provided hereunder.
- C. **City Must Be Named As Additional Insured On All Contractor and Subcontractor Policies.** RDC shall require, and any contractor or subcontractor providing work or materials to the Premises shall provide, the minimum types and limits of insurance set forth on **Exhibit B** and shall name the City of Milwaukee as additional insured on said policies.

12. Indemnification; Waiver of Subrogation. In addition to any liability RDC may have to City as a result of RDC breach of any of its duties hereunder, notwithstanding anything to the contrary contained herein, RDC also agrees to indemnify and save City harmless from and against any and all loss or claims, or damage or injury to persons (including death), property, or business, sustained in or about, or to, the Premises, and resulting from or attributable to:

- A. the intentional or negligent acts or omissions of RDC, its officers, directors, employees, agents, or contractors. Providing, however, that – subject to subparagraph B below - the City is not hereby imposing any contractual liability on RDC to indemnify City for any loss, claim, damage, or injury caused or suffered by members of the public engaged in public use of the Premises, or by persons who are members of the public at events for which RDC has issued a permit under section 7 of this Agreement; and/or
- B. a Riverworks-Controlled Activity (including, but not limited to, activities that only involve RDC, its officers, directors, employees, agents or contractors).

City hereby waives, however, any and all rights of recovery against RDC for any loss or damage to the extent, and only to the extent, City actually receives payment from RDC's insurer toward the particular loss or damage. If the amount City collects from RDC's insurer is less than the total loss or damage to City, then City's waiver shall only be a partial one.

- 13. **RDC's Annual Report to Commissioner.** On or before each July 31 during the Term of this Lease, RDC shall provide a written report to the Commissioner concerning RDC's use and activities at the Premises during the preceding 12-month period ending on the March 31 prior to that July 31 deadline. That Report shall identify and explain Riverworks-Controlled Activities during the preceding year, and also, with respect to section 7 above, identify all permits issued, to whom, for what area, and for what purpose, and permit fee (if any) charged. The Report shall also contain a report as to revenues and expenses associated with the Premises for the Report Year.
- 14. **Public Records.** Both Parties understand that the City is bound by the Wisconsin Public Records Law, and as such, all of the terms of this Lease are subject to and conditioned on the provisions of Wis. Stat. sec. 19.21 *et. sec.* RDC acknowledges that it is obligated to assist the City in retaining and producing records that are subject to the Wisconsin Public Records Law, including but not limited to those records produced or collected by RDC under this Lease pursuant to Wis. Stat. sec. 19.36(3) and that the failure to do so shall constitute a material breach of this Lease, and that RDC must defend and hold the City harmless from liability due to its fault under that law. Except as otherwise authorized, those records shall be maintained for a period of seven years after the termination of this Lease.
- 15. **Possible Restrictions/Encumbrances.**
 - A. **No Title Report.** City is, as indicated, leasing the Premises to RDC on an “**AS IS, WHERE IS**” basis (except as otherwise provided herein). City has not obtained or provided to RDC any title insurance commitment or title insurance policy with respect to the Premises. If RDC wants such, it can acquire such on its own at its expense.

- B. **Other.** City retains the right to devote portions of the Premises to uses for utilities and other easements necessary for public welfare and convenience, as determined by the Commissioner.

16. Maintenance of Premises.

- A. **Maintenance of Premises by RDC.** RDC shall be responsible, at its expense, for all routine or non-routine, non-capital, repair, husbandry and maintenance of the Premises and all existing improvements and improvements installed during the term of this Lease. The foregoing includes, but is not limited to, RDC being responsible for, at its expense:

- (1) Regular cleaning and maintenance of all improvements made by RDC on the Premises to insure that all improvements are safe for use by the public.
- (2) Promptly removing graffiti from all improvements made by RDC to the Premises.
- (3) Repair and restoration of all damage to the Premises and improvements made by RDC to the Premises as soon as practicable.
- (4) Upon approval by the City, removal of City owned improvements that are inconsistent with the Lifeways Plan design concept.
- (5) Installation and maintenance of garbage/recycling containers that meet City requirements.
- (6) Mowing all grass four times a sesason to a distance of at least four feet on either side of the paved trail on the Premises.
- (7) Removal of weeds, pruning of trees, bushes, shrubs, and other vegetation. Removal of small trees as necessary.
- (8) Removal of all trash, recyclables, and other waste after any event permitted under Section 8 above, or held by RDC .
- (9) Picking up and removing litter, trash, and rubbish at the Premises on a routine basis so as to keep the same clean and litter-free.
- (10) Electrical and plumbing repairs and maintenance associated with or required by Improvements made by RDC to the Premises.
- (11) Properly preparing all improvements made by RDC for winterization, weather and change of seasons.
- (12) Keeping the Premises, structures and fixtures in good and clean condition.

- B. **Maintenance of Premises by City.** The City shall be responsible at its expense for the following:

- 1) Routine trash and recyclable collection on a schedule consistent with the collection frequency of the area's residential collection routes. This excludes RDC's obligation under Section 16(A)(8)
- 2) Removal of snow and ice from the entire width of the trail and entrances thereto.
- 3) Upon request by RDC, removal of larger trees that RDC is unable to remove.
- 4) Fertilizing as necessary.

- 5) Repair and replacement of the asphalt trail and trail entrances.
- 6) Maintenance of the Capitol Drive bridge.
- 7) Repair and maintenance of only those electrical and plumbing systems existing on the Premises as of the date of this Lease.
- 8) Rectify any drainage issues on the Premises existing on the date of this Lease using environmentally sound methods. However, the City shall not be responsible for any drainage issues caused by RDC, including by not limited to RDC's installation of any improvements on the Premises. RDC shall be responsible to rectify any drainage issues it caused.
- 9) Prompt removal of graffiti from the asphalt surface of the path on the Premises.

C. **Notice of Damage/Repair to City.** RDC shall provide prior written notice to City of any repair or maintenance work required of RDC above that is estimated to cost over \$10,000 or that may materially affect the structure or appearance of any structure at the Premises and obtain City's prior written approval before undertaking any such repair or maintenance work.

17. **Special Trash Pick-Up Provisions.** RDC shall be solely responsible for all special trash and litter pick-up and removal requests from the Premises. City shall bear no additional expense or obligation associated with trash removal from the Premises.
18. **Improvements by RDC.** With the exception of maintenance and repair work required of RDC under the "maintenance" section above, RDC shall not make any alterations or additions to the Premises without City's prior written consent and without first having obtained all other necessary approvals and permits. (See ¶ 32 regarding approval by City).
19. **Leasehold Mortgages; Construction Liens.** RDC has no right to mortgage, pledge as collateral, or hypothecate its interest in this Lease, or in any part of the Premises, or in any buildings, improvements, or fixtures at the Premises. RDC shall take all actions and precautions required to ensure that the Premises do not become attached by, or with, any lien, including, but not limited to, any construction lien, or lien of or by any laborer, contractor, subcontractor, materialman, or supplier (including any lien under Subch. I of Wis. Stat. Ch. 779) relating directly or indirectly to any work that RDC (or anyone claiming by, through, or under RDC) may perform or have done at the Premises. RDC shall indemnify, defend, and hold harmless City and the Premises of, from, and against, any such lien which may attach, or be asserted against, the Premises, together with all costs in connection therewith.
20. **Utilities; Police and Fire Protection.** City is responsible for all utilities necessary to serve the Premises as it exists as of the beginning of this Lease, as well as any additional costs incurred to provide standard trail lighting (installation and operating). RDC is responsible for all utility costs associated with use of the Premises during the Term of this Lease including sewer, water, and electricity for all improvements RDC makes on the Premises. City shall provide police and fire protection to the Premises to the same extent and on the same basis it provides same to other citizens of the City.

21. Property Taxes, Assessments, Fees and Charges.

- A. In that the Premises are owned by City, the Premises are property-tax exempt under Wis. Stat. §70.11(2). See, especially, last sentence of §70.11(2), “[l]easing the property exempt under this subsection, regardless of the lessee and the use of the leasehold income, does not render that property taxable.” If the Premises subsequently become, under state law, in the City Assessor’s opinion, subject to general property taxes during the Term hereof, however, RDC shall be responsible for, and timely pay, such taxes, with the understanding that RDC may dispute such by following the procedure set forth in Wis. Stat. § 74.35(2m).
- B. Unless otherwise entitled to lawful exemption, RDC shall pay all taxes, assessments, charges, and fees levied or assessed upon the Premises or its own personal property and its own trade fixtures on, or at, the Premises.
- C. RDC shall pay any special charge, special assessment, special tax, or fee that may be levied against the Premises at any time during the Term. Said charges, assessments, taxes and fees expressly include those both known and unknown as of the effective date of this Lease.

22. City Entry Rights. City has the right, without notice, to enter the Premises at any time. And, notwithstanding the foregoing, City (and its contractors) shall have the right to be on the Premises at any time without notice to inspect, maintain, repair, replace or reconstruct any City utilities or improvements now or hereafter at the Premises. City’s entry, in any event, shall be conducted in such a way so as to minimize interference or disruption of RDC (or anyone claiming by, through, or under RDC) lawful use and occupancy of the Premises. In addition to the foregoing, City also expressly retains (and does not waive) all rights available to it at law to enter and inspect the Premises (or any part thereof) (including, but not limited to, all legal rights of City’s building inspectors, health inspectors, fire inspectors, electrical inspectors, assessors, fire and police personnel, etc. to enter and inspect).

23. City Audit Rights. RDC shall keep accurate and complete books, records, and accounts with respect: (i) to RDC finances; (ii) to the Premises (and the parts thereof), and the Lease (iii) to use and occupancy of and events at the Premises; and (iv) to maintenance and repair undertaken by RDC with respect to the Premises. Those books, records and accounts shall be made available to City for its review and inspection upon City’s request. RDC shall provide to City, at RDC expense, and upon City’s demand, copies of any:

- (a) of the aforereferenced books, records and accounts;
- (b) agreement, permit, or license with respect to special events at or use of the Premises (or any part thereof);
- (c) invoices or contracts relating to RDC repair or maintenance work;
- (d) articles of incorporation or bylaws of RDC (or any amendment to the same);
- (e) Insurance policy RDC has or had in place hereunder.

City has the right to have an auditor (whether an employee of City's Comptroller Office or an independent auditor) review and audit any of the above.

24. Defaults and Remedies. RDC shall be in default hereunder:

- A. if RDC fails to perform any of its covenants or duties under this Lease and such failure is not cured by RDC (i) with all due dispatch after written notice from City to RDC if the failure jeopardizes health, safety or welfare and poses a substantial immediate threat of danger or injury; and (ii) in all other cases, within 30 days after written notice from City to RDC (or if such failure is not of a type that can reasonably be corrected within 30 days, then if RDC fails to commence promptly and proceed with due diligence to correct such failure);
- B. if RDC is adjudged bankrupt, or if RDC files a petition or answer seeking bankruptcy, insolvency status, or reorganization of RDC under federal or state bankruptcy or insolvency law, or if RDC consents to the appointment of a receiver to administer RDC or its affairs, or if RDC dissolves or institutes any proceeding for dissolution or termination;
- C. if RDC makes any sublease, assignment, transfer, hypothecation, conveyance, or other disposition of its interest in the Premises (or any part thereof) without City's prior written consent;

In the event of any default by RDC hereunder, RDC hereby authorizes and empowers City to exercise any right or remedy available to City under Wisconsin law, or in equity, or hereunder, including, without limitation, (i) the right to terminate this Lease or take possession of the Premises (or any part of it) without terminating this Lease, (ii) the right to have a receiver appointed by the Court to manage the Premises (or parts of it), (iii) the right to evict RDC and anyone claiming by, through, or under RDC, from the Premises (or parts of it), (iv) the right, if City evicts or removes RDC (or anyone claiming by, through, or under RDC) from the Premises (or any part of it), to store personal property of RDC (or anyone claiming by, through, or under RDC) in a storage facility or public warehouse at the sole cost of RDC.

25. Condemnation or Damage of Premises.

- A. **Condemnation or Damage That Terminates Lease.** If the Premises (or a significant part thereof) are at any time during the Term condemned by any public authority with the power of eminent domain (or are voluntarily transferred in lieu of, or under threat of, condemnation), or if the Premises are damaged by fire or some other cause so as to render - in City's reasonable opinion (which shall be reached by City within 100 days of the condemnation, transfer, or damage, and after consultation with RDC) - all or any significant portion of the Premises untenable or unfit for the continued use and purpose of RDC, and for the carrying out of RDC operations and use at the Premises, this Lease shall be deemed terminated as of the date of the condemnation or transfer or loss. In such event, the

proceeds from any condemnation award or insurance shall be payable to City, providing, however, that RDC shall be entitled to any award or insurance directly relating to RDC personal property (including RDC trade fixtures and moveable equipment), to RDC leasehold interest, and/or to any tenant-relocation award or benefit that the condemning authority or insurer may award or pay to RDC .

- C. **Waiver; Participation.** In the event of any condemnation or damage pursuant to subparagraph A. above, RDC waives any claim for damage or compensation from City. RDC shall have the right, to the extent of its tenant-interest, or insurable interest, as the case may be, to participate in any condemnation proceedings or the settlement of any insurance claim.
26. **No Beneficial Interest.** No provision herein calling for sharing in insurance or condemnation proceeds, and no other provision of this Lease, shall constitute, or be deemed to be evidence of: RDC having any beneficial ownership of the Premises (or any part thereof, or in any land, fixtures, improvements, or buildings thereat); or any partnership or agency relationship between RDC and City. The sole relationship hereunder between RDC and City is merely that of tenant (RDC) and landlord (City).
27. **Right to Assign and Sublet.** RDC may NOT assign this Lease or sublet any portion of the Premises without City's prior written consent, providing, however, that, subject to the terms and conditions of this Lease, RDC may use the Premises for Riverworks-Controlled Activities and RDC, under ¶7, may issue permits.
28. **Fixtures and Personal Property on Premises.** RDC shall not install or affix to the premises any trade fixtures without the approval of the City. Subject to the terms hereof, RDC may place moveable equipment and personal property at the Premises as RDC may deem desirable, which shall remain RDC sole property. RDC shall have the right at any time during the Term of this Lease, to remove or change, at RDC sole expense, any of its moveable equipment and personal property at the Premises, providing, however, that (with the exception of temporary repairs, maintenance, upgrades and replacements) RDC shall not remove any such item that would compromise any structure or utility at, constituting, or serving any structure on the Premises (including, but not limited to, any HVAC, plumbing or electrical system), and providing further that, in all cases, RDC shall, at its expense, promptly repair any damage caused by or attributable to any removal or change by RDC of its trade fixtures, equipment or personal property.
29. **Waiver.** No delay, waiver, omission or forbearance on the part of either party to exercise any right, option, duty or power arising out of any breach or default by the other party of any of the terms, provisions or covenants contained herein, shall be deemed a waiver by that party of such right, option, or power, as against the other party for any subsequent breach or default by that party.
30. **Governing Law.** This Lease shall be construed according to the laws of the State of Wisconsin. Venue for any action arising out of or in any way related to a dispute arising between the Parties related to this Lease shall be exclusively in Milwaukee County circuit

court for matters arising under state law and in the Eastern District of Wisconsin from matters arising under federal jurisdiction.

31. **Notices.** Any notice required or permitted under this Lease may be personally served or given and shall be deemed sufficiently given or served if sent by United States mail, with postage prepaid thereon, to the respective addresses set forth below. Either party may by like notice at any time, and from time to time, designate a different address to which notices shall be sent. Notices given in accordance with these provisions shall be deemed given and received when personally served, or if mailed, three days after the postmark on such notice, in accordance with this section.

To City:

Commissioner of Dept. of Public Works
City of Milwaukee
841 North Broadway, Room 501
Milwaukee, WI 53202
Phone: (414) 286-3301

Copy to:

Jordan M. Schettle
City Attorney's Office
800 City Hall
200 East Wells Street
Milwaukee, WI 53202
Phone: (414) 286-2615
Email: jschet@milwaukee.gov

To RIVERWORKS:

Phone: _____

32. **Commissioner.** Unless otherwise provided for herein, all submissions to City, and all approvals or consents required to be obtained from City, hereunder, as landlord, shall, respectively, be submitted to, or obtained from, as the case may be, City's Commissioner of Public Works or his or her designee.
33. **Severability of Provisions.** If any of the terms or provisions contained herein shall be declared to be invalid or unenforceable by a court of competent jurisdiction, the remaining

provisions and conditions of this Lease, or the application of such to persons or circumstances other than those to which it is declared invalid or unenforceable, shall not be affected thereby, and shall remain in full force and effect and shall be valid and enforceable to the fullest extent permitted by law.

34. **Captions.** The captions in this Lease are for convenience and reference, and in no way define or limit the scope or intent of the various provisions, terms, or conditions hereof.
35. **Entire Agreement.** This Lease constitutes the entire agreement between the parties hereto and may not be amended or altered in any manner except in writing signed by both parties.
36. **Signage.** Any signage at the Premises must first be approved by the City.
37. **City Cooperation.** City agrees to provide a City representative to the Beerline Trail Leadership Committee during the design and implementation process for the project. City agrees to pursue opportunities to receive grant funds to support the Beerline Trail for which the City, but not RDC is eligible to receive. Except as set forth in this Section 37, City shall not participate on any fundraising committees or raise private funds for the Beerline Trail.

[Signature Page Follows]

EXHIBIT A

Description of the Premises

Exhibit B

Insurance Requirements

Insurance certificates must be sent for inspection and approval prior to the tenant's occupancy of the Premises and prior to any work being performed at the Premises by contractors or subcontractors of the tenant. Certificates should be sent to: Department of Public Works, City of Milwaukee, 841 North Broadway, Milwaukee, WI 53202-3617, Attention: Commissioner.

(1) Workers' Compensation and Employer's Liability

| | |
|---------------------------|-------------------------|
| Workers' Compensation | Statutory Coverage |
| Bodily Injury by Accident | \$100,000 each accident |
| Bodily Injury by Disease | \$500,000 policy limit |
| Bodily Injury by Disease | \$100,000 each employee |

(2) Commercial General Liability

| | |
|---------------------------------|-----------------------------|
| Commercial General Liability | \$1,000,000 each occurrence |
| General Aggregate | \$2,000,000 aggregate |
| Personal & Advertising | |
| Injury Limit | \$1,000,000 each occurrence |
| Products - Completed Operations | |
| Aggregate | \$2,000,000 aggregate |
| Medical Expense | \$5,000 each person |

(3) Auto Liability

| | |
|-----------------------|---------------------------|
| Combined Single Limit | \$1,000,000 each accident |
| Medical Expense | \$10,000 each person |

(4) Umbrella (Excess) Liability

| | |
|-----------------------------|----------------------------|
| Umbrella (excess) Liability | \$5,000,000 per occurrence |
| | \$5,000,000 aggregate |

**THE CITY OF MILWAUKEE MUST BE NAMED AS ADDITIONAL INSURED PARTY
ON RIVERWORKS POLICY AND ANY CONTRACTOR OR SUBCONTRACTOR
POLICIES OF INSURANCE.**