

ESCROW DISBURSEMENT AGREEMENT

(Couture Public Infrastructure Project)

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This Escrow Disbursement Agreement (“Disbursement Agreement”) is made and entered into as of the 30th day of April, 2021, by and among Chicago Title Insurance Company, (“ESCROWEE”), The Couture LLC (“Couture”), The Couture Holdings Group Inc. (“CHG”) (CHG and Couture are referred to herein collectively as the “DEVELOPER”), the City of Milwaukee (“CITY”) and the Redevelopment Authority of the City of Milwaukee (“RACM”).

RECITALS:

WHEREAS, RACM and the CITY entered into an Amended and Restated Cooperation, Contribution and Development Agreement with DEVELOPER dated even herewith (the “Development Agreement”); and

WHEREAS, all capitalized terms not defined herein shall be defined as they are in the Development Agreement; and

WHEREAS, this Disbursement Agreement is the Disbursement Agreement described and defined in the Development Agreement.

WHEREAS, the Development Agreement addresses the implementation and funding of the Public Infrastructure Project utilizing the Grant from CITY’s Tax Increment Financing District No. 82 to be provided by the CITY to RACM for certain project costs related to the Public Infrastructure Project, which funds in the amount of \$17,500,000 shall be deposited with ESCROWEE by RACM (the “Grant Funds”); and

WHEREAS, approximately \$16,292,699.00 of the Grant Funds will be used to pay Common Costs, as that term is defined in the Construction Loan Disbursement Agreement (the “Master Disbursement Agreement”) entered into on a date even herewith by CITY, RACM, DEVELOPER, ESCROWEE and others providing equity funds into the Project, as that term is defined in the Development Agreement; and

WHEREAS, the Grant Funds used for Common Costs will be disbursed under the terms of the Master Disbursement Agreement and all other Grant Funds will be disbursed by the ESCROWEE pursuant to the terms of this Disbursement Agreement; and

WHEREAS, the Grant Funds deposited with ESCROWEE shall, upon disbursement, be regarded as paid to Couture Holdings Group, Inc., which has contributed such amounts to (i) Transit Hub MKE LLC (“Transit Hub”), with respect to amounts disbursed hereunder, and (ii) The Couture LLC and Couture Parking LLC, with respect to amounts disbursed under the Master Disbursement Agreement; and

WHEREAS, this Disbursement Agreement shall not constitute a promise by ESCROWEE to protect any party against claims on any title insurance policy issued by

ESCROWEE and the parties acknowledge that the only responsibility of ESCROWEE created by this Disbursement Agreement shall be the faithful performance of the express obligations assumed hereunder; and

NOW, THEREFORE, 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, the parties mutually agree as follows:

1. **Deposit of Funds.** Following execution this Disbursement Agreement at the time of Closing, RACM shall deposit to the custody of the ESCROWEE, the Grant Funds in a total amount of Seventeen Million, Five Hundred Thousand and 00/100 Dollars (\$17,500,000), to be used for making disbursements under this Disbursement Agreement. The \$17,500,000 is the same as and not in addition to the TIF Grant described in the Master Disbursement Agreement.
2. **Disbursements.** The process for disbursing the Grant Funds not used for Common Costs (the "Unit 3 Funds") shall be as follows:
 - A. After work commences on the Public Infrastructure Project, DEVELOPER shall provide to RACM and the DPW Commissioner on a monthly basis a sworn statement (which will be supplemented in connection with subsequent monthly draw requests) setting forth in detail the contractors, material suppliers and other third parties with whom DEVELOPER, or its general contractor, has contracted including their address, work, materials and/or services to be furnished, amounts of the contracts, amount 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 Public Infrastructure Project (with supporting documentation) and copies of all change orders (collectively the "Public Infrastructure Project Documentation");
 - B. 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 Public Infrastructure Project Documentation;
 - C. With each monthly disbursement request, DEVELOPER shall provide to RACM and the DPW Commissioner written certification from the DEVELOPER's architect that the work and materials included in the disbursement request as described in the Public Infrastructure Project Documentation are consistent with the requirements of the Final Plans and the Development Agreement;

- D. By way of clarification, a request for disbursement under this Disbursement Agreement that is set out in the same format as a request for disbursement of Common Costs under the Master Disbursement Agreement, and which contains all of the substantiation that would be required for a request for disbursement of Common Costs under the Master Disbursement Agreement, shall satisfy the requirements of subsection A through C.
 - E. The CITY, through its DPW Commissioner, shall approve or reject DEVELOPER's request for disbursement of funds within fifteen (15) business days of receipt of all of the items in subsections A through C, 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 Grant Document is a legitimate reason to reject a disbursement request;
 - F. Upon approval by the DPW Commissioner of the requested disbursement, RACM shall verify that DEVELOPER is not in default under the terms of the Development Agreement and, if no default is found, RACM shall then notify the ESCROWEE in writing that the disbursement request has been approved. ESCROWEE shall, within 5 business days, disburse sufficient funds to cover the requested disbursement, as indicated in the draw request, to the general contractor of Transit Hub;
 - G. At the initial deposit of funds, ESCROWEE shall withhold 10% of the total Unit 3 Funds from disbursement. The 10% withholding shall not be released until (a) DEVELOPER provides to the ESCROWEE final lien waivers or releases of lien executed by all parties who provided work or materials as named on the Public Infrastructure Project Documentation; and upon receipt of same, ESCROWEE shall release the withheld funds; and
 - H. In the event DEVELOPER's actual cost of the Public Infrastructure Project is less than the amount of the Grant Funds, any excess Grant Funds shall be repaid by the ESCROWEE to RACM on behalf of the CITY, within 10 business days after receiving a request for such disbursement signed by RACM and DEVELOPER.
3. **Limits of Escrowee's Duties.** The functions and duties assumed by ESCROWEE include only those described in this Disbursement Agreement and the Master Disbursement Agreement and the ESCROWEE is not obligated to act except in accordance with the terms and conditions of this Disbursement Agreement and the Master Disbursement Agreement. ESCROWEE does not certify or insure that (a) the Project will be completed, (b) that the Project, when


completed, will be in accordance with the Final Plans, (c) that sufficient funds will be available for completion, or (d) that the certifications of the DEVELOPER are correct. ESCROWEE shall not be responsible for any loss of documents or funds while such documents or funds are not in its custody. Documents or funds deposited in the United States mail shall not be construed as being in custody of ESCROWEE.

4. **Inspections.** Inspections shall be in accordance with Article IV of the Development Agreement. Neither RACM nor ESCROWEE shall be required to conduct any inspections of the Public Infrastructure Project but shall have the right to inspect the Public Infrastructure Project from time to time upon reasonable advance notice to DEVELOPER.
5. **Escrow Fee.** An escrow fee of \$6,000 is to be paid by DEVELOPER to the ESCROWEE and shall be deducted from the first disbursement of Sewer Grant Funds under this Disbursement Agreement. That fee shall cover the first ten disbursements. Each disbursement after the tenth shall have an escrow fee of \$450 that shall be deducted from each such disbursement.
6. **Escrow Termination.** This Disbursement Agreement shall terminate, and ESCROWEE shall have no further liability hereunder 30 days following the final disbursement or 30 days after prior written notice from ESCROWEE to DEVELOPER and RACM of ESCROWEE's intent to resign (whichever occurs earlier). If this Disbursement Agreement terminates due to ESCROWEE's resignation, ESCROWEE shall return all undisbursed funds to RACM and RACM shall engage another entity to serve as escrowee upon the mutual agreement of RACM, DEVELOPER and such replacement escrowee.


SIGNATURES ARE ON THE FOLLOWING 2 PAGES

Executed as of the date first written above.

THE COUTURE LLC

By: 
Richard J. Barrett, Manager

THE COUTURE HOLDINGS GROUP INC.

By: 
Richard J. Barrett, President

CHICAGO TITLE INSURANCE COMPANY

By: 
Title: Construction Specialist

**REDEVELOPMENT AUTHORITY OF
THE CITY OF MILWAUKEE:**

By Francis Hardwick
Francis Hardwick, Chairperson

By David P. Misky
David P. Misky, Assistant Executive Director/
Secretary

CITY OF MILWAUKEE

Tom Barrett, Mayor

James R. Owczarski, City Clerk

COUNTERSIGNED:


Aycha Sawa, Comptroller

**REDEVELOPMENT AUTHORITY OF
THE CITY OF MILWAUKEE:**

By _____
Francis Hardwick, Chairperson

By _____
David P. Misky, Assistant Executive Director/
Secretary

CITY OF MILWAUKEE



Tom Barrett, Mayor



James R. Owczarski, City Clerk

COUNTERSIGNED:

for 

Aycha Sawa, Comptroller