

**FOURTH AMENDMENT TO MARINE TERMINAL BUILDING
DEVELOPMENT AND RIVERWALK AGREEMENT**

THIS FOURTH AMENDMENT TO MARINE TERMINAL BUILDING DEVELOPMENT AND RIVERWALK AGREEMENT is made the _____ day of _____, 2017, by and between the City of Milwaukee (“City”) and Mandel Riverfront Holdings I LLC (“Developer”) and Mandel Riverfront Holdings III LLC (“Expansion Developer”).

RECITALS

The City, the Developer and the Expansion Developer acknowledge the following:

A. The City and the Developer and the Expansion Developer entered into a Development and Riverwalk Agreement for the Marine Terminal Building dated March 7, 2007 (the “Original Agreement” and as amended, the “Development and Riverwalk Agreement”).

B. The City and the Developer and the Expansion Developer entered into a First Amendment to Development and Riverwalk Agreement for the Marine Terminal Building dated August 28, 2008.

C. The City and the Developer and the Expansion Developer entered into a Second Amendment to Development and Riverwalk Agreement for the Marine Terminal Building dated December 16, 2015.

D. The City and the Developer and the Expansion Developer entered into a Third Amendment to Development and Riverwalk Agreement for the Marine Terminal Building dated December 17, 2015.

E. The City and the Developer and the Expansion Developer now desire to enter into this Fourth Amendment to the Development and Riverwalk Agreement in order to fund the design and construction of public amenities (the “Trestle Improvements”) located on the property at 501 East Erie Street owned by the City, authorize the Expansion Developer to construct the Trestle Improvements, increase the budget for the Jefferson Street Stub End, and, subject to availability of funds, to increase the overall budget for the Improvement, with such increase to be paid for by Tax Incremental District No. 56.

F. The City has, via Resolution No. _____ approved this Fourth Amendment and authorized the proper City officers to execute same on the City’s behalf.

G. The Developer and the Expansion Developer have approved this Fourth Amendment and authorized Barry Mandel, as manager of the manager of each of the Developer and the Expansion Developer, to execute same on its behalf.

AGREEMENTS

Now, therefore, in consideration of the Recitals and the mutual promises and undertakings hereinafter contained, the parties mutually agree and covenant as follows:

1. Exhibit D to the Development and Riverwalk Agreement shall be revised to reflect (1) the budget for the design and construction of the Trestle Improvements and (2) an increase in the budget for the Jefferson Street Stub End. The Revised Exhibit D shall identify the total cost of the Jefferson Street Stub End and Trestle Improvement and identify the total amount of the City's contribution. A copy of the revised Exhibit D is attached hereto.

2. The City's contribution shall not exceed \$472,000 for the Jefferson Street Stub End, and the City's contribution to the Trestle Improvements budget shall not exceed \$1,206,000. Pursuant to the City's funding policy, represents 100% of the cost of the Jefferson Street Stub end and 100% of the cost of the Trestle Improvements as both are improvements in either the right of way or on property owned by the City. The budget for the Trestle Improvement is only an estimate and the City agrees either to pay any amounts in excess of \$1,206,000,000 incurred by Expansion Developer to complete the Trestle Improvements or to allow Expansion Developer to modify the plans and specifications for the Trestle Improvements so the costs thereof do not exceed \$1,206,000.

3. The City's total contribution for the Improvement after this Fourth Amendment shall not exceed \$5,064,118, except as provided above in connection with the Trestle Improvements.

4. The City shall have no right to assess the Property, the Expansion Lands, Developer, Expansion Developer or their successors or assigns under the Development and Riverwalk Agreement or otherwise in connection with any of the costs or expenses relating to the Jefferson Street Stub or the Trestle Improvement and provided further and notwithstanding anything to the contrary contained in the Development and Riverwalk Agreement, the Developer, the Expansion Developer and their successors and assigns shall have no liability or responsibility, whatsoever, for the maintenance, repair, replacement, restoration or the insurance for either the Jefferson Street Stub or the Trestle Improvements.

5. Expansion Developer shall construct the Jefferson Street Stub End and the Trestle Improvement in accordance with plans and specifications approved by the Commissioner. No construction work may commence until the Commissioner has approved the plans and specifications and any material modifications thereto. After completion of construction of the Jefferson Street Stub End and the Trestle Improvement, Expansion Developer shall provide the City with a complete set of as-built drawings of the Jefferson Street Stub End and the Trestle Improvement.

6. Developer and Expansion Developer will enter into a Human Resources Agreement with the City covering the design and construction of the Jefferson Street Stub End and the Trestle Improvement. The Human Resources Agreement will provide for Developer and Expansion Developer to use utilization of certified Small Business Enterprises for 25% of construction costs, 25% of purchases of goods and services, and 18% of amounts expended for the purchase of professional services. The Human Resources Agreement will also provide for the utilization of unemployed and underemployed residents for no less than 40% of the total worker hours expended on construction of the Jefferson Street Stub End and the Trestle Improvements,

compliance with applicable state and municipal labor standards, utilization of apprentices and/or on the job trainees and participation in the City's First-Source Employment Program.

7. All capitalized and/or defined terms in this Fourth Amendment shall have the same meaning as set for the in the Development and Riverwalk Agreement.

8. In the event of any conflict between the terms of this Fourth Amendment and the terms of the Development and Riverwalk Agreement, First Amendment, Second Amendment, or Third Amendment, the terms of this Fourth Amendment shall control.

[Signature Page to Follow]

In witness whereof, the City, the Developer and the Expansion Developer have executed this Fourth Amendment as of this day and year first above written.

CITY OF MILWAUKEE

By: _____
Tom Barrett, Mayor

By: _____
James Owczarski, City Clerk

COUNTERSIGNED:

By: _____
Martin Matson, Comptroller

MANDEL RIVERFRONT HOLDINGS I LLC

By: _____
Barry Mandel, Manager

MANDEL RIVERFRONT HOLDINGS III LLC

By: _____
Barry Mandel, Manager

Approved as to form and content this
_____ day of _____, 2017.

Assistant City Attorney