

FIRST AMENDMENT TO COOPERATION,  
LOAN, AND DEVELOPMENT  
AGREEMENT

Document Title

**FIRST AMENDMENT TO COOPERATION, LOAN,  
AND DEVELOPMENT AGREEMENT**

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**Drafted by:**

Gregg Hagopian, Asst. City Attorney, City of Milwaukee

Recording Area

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THIS FIRST AMENDMENT TO THE COOPERATION, LOAN, AND DEVELOPMENT AGREEMENT (TID 37, PLAN AMENDMENT 4) (this “**document**”) is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017, and is among the City of Milwaukee (“**City**”), the Redevelopment Authority of the City of Milwaukee (“**RACM**”), The Bon-Ton Department Stores, Inc. (“**Bon-Ton**”), Wispark, LLC (“**Wispark**”), and NWC 331 Commercial, LLC (“**Developer**” and successor to Bostco, LLC, “**Bostco**”).

RECITALS

A. The City, RACM, Bon-Ton, Wispark and Bostco entered into a “Cooperation, Loan and Development Agreement” (the “**Original Agreement**”), dated February 28, 2017 and recorded in the Milwaukee County Register of Deeds Office (“**ROD**”) on April 3, 2017 as ROD Document No. 10661426.

B. On March 30, 2017, Bostco and Bon-Ton entered into a “Memorandum of Third Amendment to Office Lease” (Unit 2) recorded with the ROD on March 31, 2017 as ROD Document No.

10661049, and into a “Memorandum of Third Amendment to Retail Lease” (Unit 1) recorded with the ROD on March 31, 2017 as ROD Document No. 10661048.

C. Bostco, on March 31, 2017, conveyed to Developer Unit 1 and Unit 2 in Bostco Condominium, legally described in **EXHIBIT A**, and Developer now owns those Units. Bostco also assigned to Developer Bostco’s landlord interest in the lease for Units 1 and 2, with the Tenant being Bon-Ton.

D. The City, RACM, Bon-Ton, Bostco and Developer entered into an Assignment and Assumption Agreement, dated March 31, 2017 and recorded with the ROD on April 3, 2017 as Document No. 10661772 confirming, among other things, that Developer is successor to Bostco under the Original Agreement, and that Developer is the landlord to Bon-Ton under the office lease (Unit 2) and under the retail lease (Unit 1).

E. Developer and Bon-Ton on September 29, 2017 entered into a 4<sup>th</sup> Amendment to the Retail Lease and into a 4<sup>th</sup> Amendment to the Office Lease.

F. In light of those 4<sup>th</sup> Amendments to the Office Lease and to the Retail Lease, the parties hereto now enter into this Amendment to the Original Agreement for the purposes stated below.

## **AGREEMENT**

1. **Recitals.** The recitals above are hereby accepted and agreed to.

2. **4<sup>th</sup> Amendments to Leases.** Per the 4<sup>th</sup> Amendment to the Office Lease and the 4<sup>th</sup> Amendment to the Retail Lease, Developer (as landlord) and Bon-Ton (as tenant) agreed to change the footprint and square footages of the respective leased premises in Unit 1 and Unit 2, and to include a mix of office and retail in Unit 1 as follows:

A. Retail leased premises occupies the following (“**Retail Premises**”):

- approximately 25,116 s.f. of retail space on floor 1 in Unit 1
- approximately 24,897 s.f. of retail space on floor 2 in Unit 1

B. Office leased premises occupies the following (“**Office Premises**”):

- approximately 41,532 s.f. of office space on floor 1 in Unit 1
- approximately 31,889 s.f. of office space on floor 2 in Unit 1
- approximately 56,786 s.f. of office space on floor 3 in Unit 2
- approximately 5,554 s.f. of office space on floor 4 in Unit 2

Those respective 4<sup>th</sup> Amendment to Lease documents, however, did not alter the respective ending terms (durations) of the retail lease or the office lease.

**3. Clarification regarding Original Agreement Section 3.A.** For purposes of Original Agreement, Section 3.A., this document clarifies that “**Retail Premises**” replaces “**Unit 1**” and that “**Office Premises**” replaces “**Unit 2.**”

**4. Clarification regarding Original Agreement Section 3.B.** For purposes of Original Agreement, Section 3.B., this document clarifies that RACM has reviewed both of the 4<sup>th</sup> Amendments to Leases and that neither amendment violates the provisions of 3.B. (i) or (ii).

**5. Amendment to Original Agreement Section 4.A.** Section 4.A. of the Original Agreement is hereby amended to change the deadline for completion of Project Work from December 31, 2017 to **December 31, 2018.**

**6. Amendment to Original Agreement Section 4.C.** Section 4.C. of the Original Agreement is hereby amended:

- to change the April 1, 2018 date to **April 1, 2019**
- to change the December 31, 2017 date to **December 31, 2018.**

**7. Clarification and amendment regarding Original Agreement and Wispark.** For purposes of Original Agreement, Section 10, Wispark, as a party to the Original Agreement, also signs this document. However, Wispark agrees that it shall no longer be required to be a signatory to any other amendment to the Original Agreement after this document.

For purposes of Original Agreement, Section 8.A., this document clarifies that Wispark shall be viewed as having no rights and no duties under the Original Agreement.

Section 13 of the Original Agreement is hereby amended by deleting references to “Wispark” and to “Wispark, LLC.”

**8. Recording memoranda of 4<sup>th</sup> Amendments to Leases.** Regarding Original Agreement Section 4.E., Developer agrees to promptly record with the ROD respective memoranda of the respective 4<sup>th</sup> Amendments to Leases.

**9. Other.** Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Original Agreement. Except as otherwise expressly amended or clarified hereby, the Original Agreement and its terms and conditions remain in full force and effect.

**10. OSBD.** Developer shall provide a copy of this document to the City’s Office of Small Business Development.

**11. Counterpart signatures.** This document may be signed in counterparts. Facsimile or email/PDF signatures shall be accepted as originals. Original signatures shall be provided if required for ROD recording purposes.

Dated and entered as of the date first written above.



<p><b>RACM AUTHENTICATION</b></p> <p>The undersigned, a member in good standing of the State Bar of Wisconsin, hereby authenticates the signatures of the RACM representatives above per Wis. Stat. 706.06 so this document may be recorded per Wis. Stat. 706.05 (2)(b).</p> <p>By: _____  Gregg Hagopian, Asst. City Attorney  State Bar No. 1007373  Date: _____</p>	<p>STATE OF _____ )  _____)s.  COUNTY OF _____ )</p> <p>Personally appeared before me the above-named Bon-Ton representative, to me known to be such person and officer, who executed this document on behalf of and with authority of Bon-Ton.</p> <p>By: _____  Name Printed: _____  Date: _____</p> <p>Notary Public  My Commission expires: _____.</p> <p>[NOTARIAL SEAL]</p>
	<p><b>Wispark: WISPARK, LLC</b></p> <p>By: _____</p> <p>Name Printed: _____</p> <p>Title: _____</p> <p><b>WISPARK NOTARY</b></p> <p>STATE OF _____ )  _____)s.  COUNTY OF _____ )</p> <p>Personally appeared before me the above-named Wispark representative, to me known to be such person and officer, who executed this document on behalf of and with authority of Wispark.</p> <p>By: _____  Name Printed: _____  Date: _____</p> <p>Notary Public  My Commission expires: _____.</p> <p>[NOTARIAL SEAL]</p>

