

**Admiral's Wharf
RIVERWALK DEVELOPMENT AGREEMENT
CAO DOC #267739**

This Agreement is made this ____ day of _____, 2020, by and among the City of Milwaukee (the "City"), the Redevelopment Authority of the City of Milwaukee ("RACM") and Admiral's Wharf, LLC (the "Developer").

WITNESSETH:

Whereas, the Developer is the owner of certain property located at 234 S. Water Street Milwaukee, Wisconsin (the "Property," as more particularly described on Exhibit A); and

Whereas, the City is the owner of certain unimproved public right of way property located immediately to the south of the Property (the "City Parcel"); and

Whereas, the Property and City Parcel front on the Milwaukee River; and

Whereas, the Developer or its affiliate(s) wish to develop the Property; and

Whereas, Developer's development of the Property shall include Riverwalk Improvement (as defined further in this Agreement); and

Whereas, the Riverwalk Improvement will consist of the design and construction of (1) the Developer Riverwalk; (2) the City Riverwalk; (3) the City Stub End; (4) the Connector; (5) the Dockwall Improvement; and (6) the Public Access Improvement and (7) City Dockwall. The Riverwalk Improvement is more particularly described on Exhibit C attached hereto; and

Whereas, the design and construction of the Developer Riverwalk, the City Riverwalk, and the Connector shall comply with the Milwaukee Riverwalk Design Guidelines (attached hereto as Exhibit B); and

Whereas, Developer will maintain and operate the Developer Riverwalk and the Public Access Improvement on the Property, including making the Developer Riverwalk on the Property available for use by members of the general public; and

Whereas, pursuant to a temporary construction easement granted by City to Developer, Developer will construct the City Stub End, City Dockwall, on the City Parcel and the Connector under City right of way to the north of the Property; and

Whereas, the Riverwalk Improvement will constitute a portion of the overall riverwalk system which is intended to cover a substantial portion of the Milwaukee River extending from the harbor entrance to the former North Avenue Dam area; and because of the Developer's willingness to make the Developer Riverwalk and Public Access Improvement on the Property available to members of the public, the Riverwalk Improvement will serve the public purpose of

affording members of the public the opportunity to more fully enjoy the valuable river resource;
and

Whereas, because of the public purpose served by the construction and operation of the Developer Riverwalk and Public Access Improvement on the Property, RACM is willing to make a grant to the Developer in an amount not to exceed \$2,243,375 to be used by the Developer to fund up to 50% of the cost of construction of the Dockwall Improvement; 70% of the cost of construction of the Developer Riverwalk on the Property; 100% of the cost of constructing the Public Access Improvement on the Property; 100% of the cost of constructing the Connector; 100% of the City Dockwall cost of construction; 100% of the cost of construction of the City Stub End and City Riverwalk on the City Parcel; and

Whereas, the City, via Common Council Resolution File No. _____ adopted _____, 2020 has approved this Agreement and authorized proper officials of the City to execute this Agreement; and

Whereas, RACM, via Resolution No.____ adopted ____ has approved this Agreement and authorized proper officers of RACM to execute this Agreement on RACM’s behalf; and

Whereas, the Developer, RACM, and the City have approved this Agreement;

Now, Therefore, the City, RACM and the Developer, in consideration of the premises and the mutual promises and undertakings hereinafter contained, mutually agree and covenant as follows:

I. RACM ACTIVITIES

A. Subject to the terms and conditions hereinafter set forth, RACM grants to and shall pay to the Developer an amount not to exceed the sum of Developer to fund up to 50% of the cost of construction of the Dockwall Improvement; 70% of the cost of construction of the Developer Riverwalk on the Property; 100% of the cost of constructing the Public Access Improvement on the Property; 100% of the cost of constructing the Connector; 100% of the cost of constructing the City Dockwall; and 100% of the cost of construction of the City Stub End and City Riverwalk on the City Parcel but in no case exceeding, in the aggregate, [\$______] (the “RACM Grant”). The RACM Grant is to be disbursed to the Developer subject to satisfaction of the conditions set forth in Section B, and is to be used solely to reimburse the Developer for costs incurred in the construction of the Riverwalk Improvement. The RACM Grant is intended to be disbursed to Developer in a series of disbursements.

B. The RACM Grant shall not be disbursed to the Developer until Developer has satisfied the following requirements set forth below at numbers 1 through 4:

1. The Developer has received all federal, state and local agency approvals, including but not limited to the United States Army Corps of Engineers, Wisconsin Department of Natural Resources, and the City’s Board of Harbor Commissioners, and is in compliance with all applicable federal, state and local laws, including, but not limited to, the Americans with Disabilities Act, which are necessary to undertake construction of the Improvements.

2. The Commissioner of the Department of City Development (“Commissioner”) has approved (not to be unreasonably withheld) the final plans and specifications for the Riverwalk Improvement.

3. The Commissioner has approved (not to be unreasonably withheld) the budget for the Riverwalk Improvement, a copy of which is attached as Exhibit E.

4. The City has received a grant of an easement across the Developer Riverwalk and Public Access Improvement on the Property in a form as set forth on Exhibit D (the “Riverwalk Easement”). Prior to, or concurrently with, the first payment request, Developer agrees to deposit a fully executed Riverwalk Easement with the City for the City to hold in escrow until such time as the Riverwalk Improvement is completed. Upon completion of the Riverwalk Improvement, the City shall execute the Riverwalk Easement and cause the same to be recorded with the Milwaukee County Register of Deeds.

C. All payment requests submitted by Developer to City shall include a signed AIA Form G702 and associated lien waivers related to the payment request. In addition to the foregoing, prior to disbursement of the final payment request, Developer shall also have submitted final as-built plans of the Riverwalk Improvement and the Mural (as defined below).

D. Payments shall be disbursed to Developer within forty-five (45) days of City’s receipt of a complete payment request from Developer.

II. CITY ACTIVITIES

A. The City shall make available to RACM an amount up to [\$_____] (the “City Grant”) in order to allow RACM to supply the Developer with the RACM Grant for reimbursement of up to Developer to fund up to 50% of the cost of construction of the Dockwall Improvement; 70% of the cost of construction of the Developer Riverwalk on the Property; 100% of the cost of constructing the Public Access Improvement on the Property; 100% of the cost of constructing the Connector; 100% of the cost of construction of the City Dockwall; and 100% of the cost of construction of the City Stub End and City Riverwalk on the City Parcel. The City shall own the City Stub End and City Riverwalk on the City Parcel and the Connector and shall undertake and promptly perform at its sole cost and expense all necessary future maintenance, repairs, and replacements, including without limitation capital repairs and replacements, for all Riverwalk Improvement portions located on the City Parcel.

III. DEVELOPER ACTIVITIES

A. The Developer shall:

1. Prepare, or have prepared, final plans and specifications for the Riverwalk Improvement subject to the approval by the Commissioner as provided in Section I.B.2.

2. Prepare, or have prepared, a budget for the Riverwalk Improvement for approval by the Commissioner as provided in Section I.B.3.

3. Obtain and pay for all governmental permits and approvals necessary to construct the Riverwalk Improvement.
4. Prepare, or have prepared, all contracts and subcontracts for the design and construction of the Riverwalk Improvement.
5. Comply with all applicable federal, state and local laws.
6. Construct the Riverwalk Improvement in accordance with the approved plans and specifications.
7. Execute the SBE Agreement (in the form attached as Exhibit F) and submit same to the Commissioner for approval.
8. Submit a certificate of insurance to the Commissioner for approval.
9. Substantially complete the Riverwalk Improvement within six months after receiving a Certificate of Occupancy for Developer's primary building on the Property. In addition, within twenty-four months after receiving a Certificate of Occupancy for Developer's primary building on the Property, Developer shall have installed a Milwaukee Harbor District historical mural along the ground floor of the Riverwalk elevation at the center point of the west façade, as noted on the elevation (the "Mural"). The dates set forth herein for completion of the Riverwalk Improvement and the Mural shall hereinafter be the "Completion Deadlines." Notwithstanding the foregoing, in the event Developer encounters construction delays beyond the Developer's reasonable control, other than delays caused by the fault or negligence of Developer (an "Excusable Delay") and Developer provides the City and RACM with a notice describing the cause, nature and duration of the Excusable Delay, then the Completion Deadlines shall automatically be extended for a period equal to the duration of the Excusable Delay.
10. Own, operate and maintain the Developer Riverwalk and Public Access Improvement on the Property, including undertaking all necessary capital repairs and replacements, as more fully provided in the Riverwalk Easement. The Riverwalk Easement shall govern all aspects of the operation of the Developer Riverwalk and Public Access Improvement on the Property once the same is completed and will control in the event of conflict with this Agreement.
11. [Intentionally Omitted].
12. When the Riverwalk Improvement is completed, provide the Commissioner with a complete set of "As Built" plans and specifications covering same.
13. Upon request of the Commissioner, provide copies of all contracts and subcontracts entered into by the Developer, or on the Developer's behalf for the preparation of the plans and specifications for the Improvements and construction of the Riverwalk Improvement.

B. The parties acknowledge that the Developer has advised the City that the City Grant together with the guarantees under this Agreement will be treated as a loan for tax purposes by the Developer. The City makes no representation, guaranty, or opinion as to such tax treatment by the Developer.

IV. CHANGES

No material changes in the type, placement or use of construction materials, as indicated on the approved plans and specifications, shall be made by the Developer in the approved plans and specifications or in the manner in which the Developer is obligated to operate and maintain the Developer Riverwalk and Public Access Improvement, without prior written consent of the Commissioner, which consent shall not be unreasonably withheld or delayed. Any changes approved by the Commissioner shall not increase the RACM Grant unless such increase has been approved by RACM.

V. INSPECTIONS

A. Developer and its contractors or subcontractors shall be solely responsible for the completion of the Riverwalk Improvement. Nothing contained in this paragraph shall create a new contractual relationship, or affect any existing contractual relationship, between the City or RACM or any contractor or subcontractor employed by Developer.

B. RACM may make reasonable inspections, including but not limited to inspections on behalf of RACM by the City Department of Public Works, Department of City Development and Department of Neighborhood Services, of the Riverwalk Improvement during the period of construction thereof, provided that such inspections do not interfere with the progress of the work and RACM and/or the City provides Developer with at least twenty-four (24) hours prior written notice of such inspections. In order to allow RACM and the City agencies to undertake these inspections in a meaningful fashion, upon request or otherwise pursuant to this Agreement, the Developer shall provide RACM with a complete set of plans and specifications in respect of the Riverwalk Improvement as well as any change orders and shop drawings relating thereto.

C. In the event that the Commissioner reasonably determines, as a result of such inspections, that the Developer's contractor or subcontractors are not constructing any of the Riverwalk Improvement in accordance with the approved plans and specifications, the Commissioner shall promptly inform the Developer of such noncompliance and the Developer shall, as soon as reasonably possible, require its contractor or subcontractors to remedy such noncompliance. The Commissioner may withhold payment of the RACM Grant until such corrective measures are completed and the noncompliance cured in a reasonably satisfactory manner.

VI. RECORDS

A. The Developer shall keep accurate, full and complete in all material respects books and accounts with respect to the cost of constructing the Riverwalk Improvement, consistent with the approved budget, and shall include a provision in all of its contracts requiring its contractors and their subcontractors to do the same. All such books and accounts shall be maintained in accordance with generally accepted accounting principles or other professional accounting

principles consistently applied, and shall be kept for a period of six years subsequent to the completion of the Riverwalk Improvement.

B. The City Comptroller, on behalf of RACM, shall have the right, upon at least twenty-four (24) hours prior written notice to the Developer, to examine the books, records and accounts of the Developer that relate to the construction of the Riverwalk Improvement, during normal hours of business.

C. After substantial completion of the Riverwalk Improvement, the Developer shall submit to the Commissioner a complete set of “As Built” plans and specifications as well as a copy of all approved shop drawings.

D. Both Parties understand that the City and RACM are bound by the 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. sec. 19.21 *et. sec.* Developer acknowledges that it is obligated to assist the City and RACM 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 Developer under this Agreement pursuant to Wis. Stat. sec. 19.36(3) and that the failure of Developer to do so shall constitute a material breach of this Agreement, and that the Developer must defend and hold the City and/or RACM harmless from liability due to Developer’s breach of this paragraph. Except as otherwise authorized, those records shall be maintained for a period of seven years after receipt of the final payment under this Agreement.

VII. HUMAN RESOURCES REQUIREMENTS

In contracting for the construction of the Riverwalk Improvement, the Developer shall use Best Efforts (as defined in the agreement attached hereto as Exhibit F), and document such efforts in a manner reasonably satisfactory to the Commissioner, to comply with a 25% City Small Business Enterprise requirement (pursuant to the terms of the Agreement attached hereto as *Exhibit F*) as established by the Commissioner in accordance with Chapter 370, Milwaukee Code of Ordinances (“MCO”) and further comply with the requirement that Developer shall use Best Efforts (as defined in the agreement attached hereto as Exhibit F) to have 40% of the worker hours in connection with construction of the Riverwalk Improvement be performed by residents of the City of Milwaukee as provided in Section 309-41-2 of the MCO.

VIII. TERM

This Agreement shall terminate upon the completion of construction of the Riverwalk Improvement to the reasonable satisfaction of RACM and the City and full payment to Developer of the RACM Grant. Termination of this agreement will not affect the right of Developer to any funds to which it is entitled under this Agreement.

IX. DEFAULT

If the Developer has not substantially completed the Riverwalk Improvement by the appropriate Completion Deadlines, and the failure to substantially complete was either the Developer’s fault or was for reasons substantially within the Developer’s control, RACM and the City shall have the right to reduce the amount of the RACM Grant by an amount equal to \$400 for each day, up to 90 days, substantial completion of the Riverwalk Improvement is so delayed, plus \$600 for each day beyond 90 days but less than 180 days substantial completion of the Riverwalk

Improvement is so delayed, and \$1,000 for each day thereafter substantial completion of the Riverwalk Improvement is so delayed

X. CONFLICT OF INTEREST

No member, officer or employee of RACM, during his/her tenure or for one year thereafter, will have or shall have had any interest, direct or indirect, in this Agreement or any proceeds thereof.

XI. WRITTEN NOTICES

Any written notice required to be sent under this Agreement shall be sent to the following:

For RACM:

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

For the City:

City of Milwaukee
Department of City Development
809 N. Broadway
Milwaukee, WI 53202
Attn: Commissioner

For the Developer:

Admiral's Wharf, LLC
W230S4513 Milky Way Road
Waukesha, WI 53189
Attn: Ryan Bedford

With a copy to:

VJS Development Group, LLC
W233N2847 Roundy Circle West
Pewaukee, WI 53072
Attn: Bailey Copeland

With a copy to:

Axley Brynerson, LLP
N20W22961 Watertown Road

XII. ASSIGNMENT

No party to this Agreement may assign any of its interest or obligations hereunder without the written consent of the other party, except that:

A. RACM and the City may each assign its respective rights hereunder to the other without the consent of Developer; and

B. The Developer may grant a collateral assignment of its rights hereunder to any lender providing construction financing for improvements located on the Property.

C. The Developer may assign its obligations and/or rights hereunder to affiliates controlled by or under common control with the Developer.

D. Developer may assign its rights and obligations hereunder to a purchaser of the entire Property provided that Developer first obtains the prior written consent of the City and RACM which consent in each case is not to be unreasonably withheld, conditioned, or delayed.

[Signatures on the following page]

**Signature Page to Riverwalk Development Agreement
Admiral's Wharf Project**

In Witness Whereof, the parties have executed this Agreement on the day and year first above written.

**REDEVELOPMENT AUTHORITY OF THE
CITY OF MILWAUKEE**

By: _____
Name: _____
Its: Executive Director/Secretary

CITY OF MILWAUKEE

By: _____
Tom Barrett, Mayor

By: _____
Jim Owczarski, City Clerk

COUNTERSIGNED

By: _____
Martin Matson, Comptroller

ADMIRAL'S WHARF, LLC

By: _____
Name: _____
Its: _____

Approved as to form and execution
this ____ day of _____, 2020.

Assistant City Attorney

Signatures of Tom Barrett, Jim Owczarski and Martin Matson authenticated this ____ day of
_____, 2020.

Jeremy R. McKenzie
Assistant City Attorney
State Bar No. 1051310

EXHIBIT A
to
Riverwalk Development Agreement
Legal Description of the Property at 234 S. Water Street

THAT PART OF LOT TWO (2) AND ALL OF LOTS THREE (3), FOUR (4), FIVE (5), SIX (6) AND SEVEN (7), IN BLOCK FIFTY-FOUR (54), IN SUBDIVISION OF LOTS 3 AND 5 IN SECTION 33, IN TOWNSHIP 7 NORTH, RANGE 22 EAST, CITY OF MILWAUKEE, MILWAUKEE COUNTY, WISCONSIN, LYING SOUTHEASTERLY OF THE SOUTHEASTERLY LINE OF WEST PITTSBURGH AVENUE, EXCEPTING THEREFROM THAT PART DESCRIBED IN THAT CERTAIN QUIT CLAIM DEED DATED MARCH 2, 1954 BETWEEN THE CHICAGO AND NORTHWESTERN RAILWAY COMPANY AND THE STATE OF WISCONSIN.

ALSO THAT PORTION OF VACATED SOUTH WATER STREET LYING ADJACENT TO THE SOUTHWEST OF SAID LOTS TWO (2), THREE (3), FOUR (4) AND FIVE (5) OF THE ABOVE-DESCRIBED PREMISES.

EXHIBIT B
to
Riverwalk Development Agreement
Riverwalk Design Guidelines
City of Milwaukee

1. Building facades should contain architectural features such as doors and windows, which improve their appearance and provide a pleasant pedestrian environment.
2. Site features that detract from the use and redevelopment of the river's edge will be discouraged. Features such as blank walls; chain link fencing, barbed razor or concertina wire; utility doors and staircases; service drives; loading docks; parking areas; outdoor storage; electrical or mechanical equipment; trash containers or other building maintenance facilities or equipment; ventilator exhausts; and concrete road barriers and guardrails, if required by necessity shall be screened from river areas.
3. Where soft river edge still exists along the Middle River, preserve natural riverbanks and historic elements of the built environment where feasible.
4. Where historic buildings exist along the River, preserve those historic elements of the built environment.
5. Riverwalk landscaping should include native species of trees, plants, and shrubs with trees planted, in order of preference, in the ground, in box-outs with protective guards and grates, or in planters.
6. Riverwalk landscaping should emphasize plant species, which provide year-round interest.
7. Riverwalks should be on the land side of the River where feasible. To provide space for amenities such as benches, planters, light poles, trash containers, trees and railings, Riverwalks should typically be 12 feet wide at 0 to 5 percent slope with a minimum 8-foot unobstructed corridor and be open to the general public 24 hours a day at no charge.
8. If land-side Riverwalks are not feasible, walkways that float on or extend over the water may be considered if they do not obstruct navigation, and do not have permanent roofs, and match the high quality of permanent Riverwalks.
9. Special amenity/activity areas are encouraged but shall be limited to a maximum of 3,200 square feet, must be open to the general public, shall not block pedestrian movements on the Riverwalk and shall not encroach into navigable waters.
10. Riverwalks must be passable year-round and be handicapped accessible.
11. Walkways, seating areas and other high traffic areas should complement adjacent buildings and neighborhoods, be aesthetically pleasing and pedestrian-friendly, and should be paved with brick, tile, stone, decorative concrete or other attractive hard material; avoiding large expanses of slab concrete or asphalt.
12. Lighting units shall be Milwaukee Harp fixtures providing illumination in accordance with standards recommended by the Illuminating Engineering Society of North America (IES) and approved by the Commissioner of Public Works.
13. All segments of the Riverwalk shall be designed to connect to future portions of the Riverwalk system or to connect to adjacent portions of the existing Riverwalk system.
14. Structures built within 50 feet of bridges must not obstruct bridge maintenance.
15. Floating Riverwalks will be permitted under bridges if a minimum 7-foot clearance can be maintained and if the connection will not obstruct navigation or bridge operations.

16. Finger piers will only be permitted where they will not obstruct navigation or do not extend more than 40 feet from the dockline.
17. Temporary moorings (less than 4 hours) for water taxis and tour boats will be permitted riverward of any amenity/activity area subject to navigation restrictions.
18. Parking adjacent to the River is strongly discouraged. Parking areas, service drives, loading docks and outdoor storage areas shall provide an appropriate buffer of at least 5 feet in width, meeting the standards of Section 295-75 of the Code and located between said parking area and the river/ Riverwalk. Parking areas shall be set back from the dockwall at least 25 feet and shall also devote at least 3.33 percent of their area to interior landscaping.
19. Temporary Riverwalks are meant to provide connections between existing and/or proposed Riverwalks when the area of the connection is not ready for development of a full-scale Riverwalk. Such connections may be approved at a lower standard than permanent Riverwalks if the proponent can demonstrate that the proposed temporary Riverwalk is truly temporary, that the temporary Riverwalk will not provide direct pedestrian access to the property on which it is located or attached or be utilized in any manner by that property including boat moorings, docks, tables or chairs, and the design of the temporary Riverwalk is generally consistent with the intent of these design guidelines.

EXHIBIT C
to
Riverwalk Development Agreement
Description of Riverwalk Improvement

Admiral's Wharf LLC will provide a new portion of Riverwalk that will run the entire length (285 linear feet) of the parcel that abuts the Milwaukee River. 1,794 square feet of the proposed Riverwalk will be over the river, while 3,068 square feet will be on land. Total added Riverwalk is 4,862 square feet; this area will be fully ADA accessible and for public use. The deck will be 1" wood over a galvanized steel and treated lumber structure. Guard and handrails will be painted steel. In addition to this, access will be provided under the bridge connecting to the existing Riverwalk elevation.

The Riverwalk will be accessible at the existing grade of E. Pittsburgh Avenue and will join to a new stretch of Riverwalk at the south end of the property. Multiple stretches of ADA compliant ramps will allow pedestrians to navigate the approximate 8'-0" grade change from north to south. Through the use of the ramps, there will be no need for the use of elevators or stairs.

The Riverwalk will have (2) portions which will extend out to accommodate seating for public use. Integrated in the exterior façade of the building will be a series of green screen walls and lighting. The gathering spaces have been designed for the activation and enjoyment of the riverfront environment.

The width of the Riverwalk typical along the site has a ramp width of 9' and a walkway of 10'. At the location of the gathering spaces, the dimension becomes 17'-8".

The ambient lighting for the Riverwalk will replicate what has been done in the Third Ward Riverwalk. Overhead flood lighting will cast a dim light over the entire Riverwalk. Supplemental lighting will be installed at the façade of the proposed building; creating a variety of soft shadow lines while providing a glow from the surrounding green screens.

See Attached Plans

EXHIBIT D
To
Riverwalk Development Agreement
Grant of Easement Agreement
(Riverwalk)

**GRANT OF EASEMENT
AGREEMENT
(234 S. Water Street Riverwalk)**
Document Title

Document Number

**GRANT OF EASEMENT
AGREEMENT
(234 S. Water Street)**

Recording Area

Name and Return Address

Mr. Jeremy R. McKenzie
Assistant City Attorney
City Attorney's Office
841 N. Broadway, 7th Floor
Milwaukee, WI 53202

See Exhibit 1

Parcel Identification Number (PIN)

GRANT OF EASEMENT AGREEMENT

This Grant of Easement Agreement (“Agreement”) is made as of _____, 2020, by and among Admiral’s Wharf, LLC (“Grantor”) and the City of Milwaukee (“Grantee”).

RECITALS

A. Grantor is the owner of certain property located along the Milwaukee River in the City of Milwaukee, State of Wisconsin more particularly set forth on Exhibit 1 attached hereto (the “Property”); and

B. Pursuant to the terms of a Riverwalk Development Agreement dated _____, 2020 (“Development Agreement”) by and among Grantor, the Redevelopment Authority of the City of Milwaukee (“RACM”) and Grantee, a certain riverwalk improvement as identified on Exhibit C to the Development Agreement and on Exhibit 2 attached hereto (the “Riverwalk Improvement”) will be constructed on the portion of the Property and will become part of the Property; and

C. The parties hereto acknowledge that the Riverwalk Improvement is part of a comprehensive, publicly accessible Riverwalk System (the “Riverwalk System”) and that it is desirable that the components of the Riverwalk System be generally compatible in design and appearance and generally uniform in maintenance, operation and usage; and

D. The Development Agreement requires that the Grantor (i) convey to Grantee the easement rights specified in this Agreement, and (ii) agree to fully and timely perform the covenants, restrictions, undertakings and obligations set forth in this Agreement.

AGREEMENTS

NOW THEREFORE, in consideration of the above Recitals and the terms and conditions of the Development Agreement, Grantor and Grantee agree as follows:

1. Grantor hereby grants to Grantee, the following easements:

(a) a non-exclusive easement for pedestrian access, for the benefit of the public, upon and across the entire length of the Riverwalk Improvement in accordance with the terms of this Agreement, provided, however, that the public, pedestrian access granted herein across the designated walkways shall exclude any rallies and/or protests, music or other performances, public gatherings, and/or vendor or other commercial activities or operations not expressly permitted by Grantor;

(b) a non-exclusive easement of ingress and egress across such portions of the Property as may be necessary for the sole purpose of performing maintenance, repair or replacement of all or any portion of the Riverwalk Improvement by Grantee, in accordance with, and to the extent required or permitted by, the terms of this Agreement;

(c) a non-exclusive easement upon the Riverwalk Improvement for the sole purpose of the temporary installation and removal of holiday, seasonal or thematic decorations, banners, plantings and similar items (collectively, the “Decorations”), if any, by Grantee, in accordance with the terms of this Agreement.

2. Throughout the term of this Agreement, Grantor, or its permitted successors and assigns (collectively referred to herein as “Grantor”), shall maintain (a) comprehensive liability insurance, naming the Grantee and its officers, agents and employees, as additional insureds, against all claims, demands, actions for personal injury to or death in an amount not less than \$1,000,000 for each personal injury to or death of one person in any one accident; \$5,000,000 for personal injury or death of more than one person in any one accident; and in an amount not less than \$5,000,000 for damage to property in any one accident; and (b) comprehensive “all risk” insurance, insuring against fire or other casualty, vandalism and malicious mischief, with extended coverage, in an amount equal to 100% of the full replacement cost of the Riverwalk Improvement and sufficient to avoid all co-insurance provisions of the subject insurance policy. Grantor shall have the right to maintain the insurance coverage required to be maintained hereunder under umbrella or blanket insurance coverage covering other premises so long as such umbrella or blanket insurance policies expressly provide coverage for the requirements provided under this Agreement. At the option of the Grantee, the aforesaid minimum amounts may be reviewed and increased every ten (10) years, with any such adjustment being proportionate to the then current economic conditions; provided that the amount of liability insurance required by Grantee shall not be greater than the amount of liability insurance generally maintained by the owners of similar portions of the Riverwalk System. Grantor shall provide Grantee with a certificate(s) of insurance, naming the Grantee as an additional insured for purposes of this Agreement, and Grantor agrees to promptly provide Grantee with a copy of any written notice of cancellation, non-renewal, or material change Grantor receives from its insurer.

3. Grantor shall be responsible to maintain the Riverwalk Improvement in accordance with the maintenance standards set forth on Exhibit 4 attached hereto and shall undertake all necessary capital repairs and replacements when and as necessary (with the exception of repairs and replacements necessitated by defects in original workmanship or design which are covered by any construction warranty). If Grantor fails to maintain the Riverwalk Improvement in the condition required by this Agreement, Grantee may provide Grantor with a written notice setting forth the maintenance or repair work that Grantee reasonably determines has not been done. If Grantor does not commence such maintenance or repair work within thirty (30) days from the date of receipt of such written notice, and such failure to commence such maintenance or repair work is not as a result of causes beyond Grantor’s reasonable control, then Grantee may perform such work and Grantor shall reimburse Grantee for all reasonable costs incurred in performing such work. Should Grantor fail to reimburse the Grantee for such work, the Grantee shall be entitled to record a lien against the Property and the City of Milwaukee (the “City”) shall have the right to specially charge the Property under the provisions of 66.0627, Stats. Should the City need to proceed with such special charges under 66.0627 Stats., Grantor hereby waives notice and hearing on such charges. In exercising its right to maintain, repair or replace the Riverwalk Improvement, Grantee shall, to the extent both possible and practical, perform all necessary work from adjacent portions of the Riverwalk System or from the Milwaukee River and shall not unreasonably or materially disrupt or interfere with access to the Property and the operations of Grantor and any tenant, licensee or

occupant on the Property. Grantee shall notify Grantor in advance of Grantee's needs to enter upon the Property, specifying the scope and duration of such entry.

4. Grantor shall, at all times, make the nonexclusive easement area of the Riverwalk Improvement available for use by members of the public; except for such times as such walkway must be closed for maintenance or repair or to avoid the acquisition of adverse or prescriptive rights. Grantor shall have the right periodically (i.e., not more than once a year and not more than 24 hours at a time) to close off the Riverwalk Improvement in order to prevent the acquisition of any adverse or prescriptive rights.

5. Grantee shall have the right to formulate reasonable rules and regulations regarding the use of the nonexclusive easement area of the Riverwalk Improvement by the public. Such rules and regulations shall be generally uniform and consistent with those applicable to riverwalks throughout the Riverwalk System and shall be effective upon delivery of a copy of same to Grantor. Grantor shall be responsible to expend reasonable efforts for the enforcement of such rules and regulations as they pertain to the Riverwalk Improvement, provided that the same do not result in any cost to Grantor. Grantee covenants that it shall require all grantors of riverwalk easements to Grantee to expend reasonable efforts for the enforcement of such rules and regulations. Grantor shall have the right to promulgate and enforce its own rules and regulations governing the use of the Riverwalk Improvement by the public such as the number of people present in any single location, duration of stays, noise and permissible activities; provided, however, Grantor's rules and regulations shall not be inconsistent nor conflict with the terms of Exhibit 4, with any terms or provisions set forth in the Development Agreement **or any rules and regulations promulgated by Grantee**. In the event of any such conflict, the terms of Exhibit 4, the Development Agreement or the rules and regulations promulgated by Grantee shall control.

6. Grantee shall have the right from time to time, and upon at least 72 hours prior written notice to Grantor, to enter upon the Riverwalk Improvement to install and remove Decorations. Such installations and removals shall not unreasonably or materially interfere with the lawful use of the Property by Grantor or any tenant, licensee or occupant of the Property and shall be at Grantee's sole expense.

7. Grantee agrees to indemnify, defend, and hold harmless Grantor, and its agents, officers, directors, employees, from and against any and all liabilities, claims, demands, costs, and expenses of every kind and nature (including reasonable attorney's fees) arising in connection with the Grantee's rights or obligations arising under this Agreement, including those arising from any injury (including death) or damage to any person or property sustained on or about the Property and resulting from (i) the negligent or intentionally wrongful act or omission of Grantee, its agents, employees, or (ii) the failure of Grantee to perform its obligations under this Agreement; provided, however, that Grantee's obligations hereunder shall not apply to the extent any such injury or damage results from the negligent or intentionally wrongful act or omission of the party seeking indemnification, its agents, officers, directors, employees,.

Grantor agrees to indemnify, defend, and hold harmless Grantee, and its agents, officers, directors, employees, from and against any and all liabilities, claims, demands, costs, and expenses of every kind and nature (including reasonable attorney's fees) **arising in connection with the Grantor's rights or obligations arising under this Agreement**, including those arising from any injury (including death) or damage to any person or property sustained on or about the Property

and resulting from (i) the negligent or intentionally wrongful act or omission of Grantor, its agents, employees, or (ii) the failure of Grantor to perform its obligations under this Agreement; provided, however, that Grantor's obligations hereunder shall not apply to the extent any such injury or damage results from the negligent or intentionally wrongful act or omission of the party seeking indemnification, its agents, officers, directors, employees,.

8. Grantor shall pay for all electricity, water and other utilities used for lighting, cleaning and watering of flowers and other plant materials on the Riverwalk Improvement (including as such may be necessary for Decorations and as such may be used for maintenance and repairs to the Riverwalk Improvement).

9. Grantor shall not make any structural alterations or modifications to the Riverwalk Improvement or make any changes to the color scheme of the Riverwalk Improvement as originally installed without the prior written consent of Grantee. Further, Grantor shall not install any Decorations or attach any fixtures to or upon the Riverwalk Improvement without the prior written consent of Grantee. Any request by Grantor for installation of Decorations must be in writing, and Grantee shall approve or disapprove such request in writing within 15 business days following receipt. Failure of Grantee to deliver a written response within such time period shall constitute approval of the request. Other than installation and removal of Decorations as provided herein, Grantee shall not make any changes to the Riverwalk Improvement without the prior written approval of Grantor.

10. This Agreement is a permanent, nonexclusive, public access 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.

11. Grantor may, at its sole discretion, assign all obligations with respect to the maintenance, repair, and insurance requirements, and funding for electricity, water, and other utilities contained in this Agreement to a condominium association(s), if applicable, on the Property at any time without Grantee's consent. After such assignment, Grantor shall be released from any further liability under this Agreement.

12. All notices to be given by one party to the other under this Agreement 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. Either party may change its address for purposes of receiving notice by delivering written notice thereof in accordance with the requirements of this paragraph.
To Grantor:

Admiral's Wharf, LLC
W230S4513 Milky Way Road
Waukesha, WI 53189
Attn: Ryan Bedford

With a copy to:

VJS Development Group, LLC
W233N2847 Roundy Circle West
Pewaukee, WI 53072

Attn: Bailey Copeland

With a copy to:

Axley Brynson, LLP
N20W22961 Watertown Road
Waukesha WI 53186
Attn: Don Murn

To Grantee: Redevelopment Authority of the City of Milwaukee
809 N. Broadway
Milwaukee, WI 53202
Attn: Executive Director/Secretary

And City of Milwaukee
Department of City Development
809 N. Broadway
Milwaukee, WI 53202
Attn: Commissioner

13. This Agreement may be enforced either at law or in equity, with the nonbreaching party entitled to injunctive relief and monetary damages. If any action for enforcement of this Agreement is brought, the nonprevailing party in such action shall reimburse the prevailing party for its reasonable attorney's fees and other costs incurred in such action.

14. This Agreement may be amended only by a written instrument executed by both Grantee and by Grantor.

[Signatures on the following page]

IN WITNESS WHEREOF, the Grantor and Grantee have hereunto set their hands and seals on this ____ day of _____, 2016.

GRANTOR: **ADMIRAL'S WHARF, LLC**

By: Ryan Bedford

Its: Manager

STATE OF WISCONSIN)
)ss.
 _____ COUNTY)

This instrument was acknowledged before me on _____, 2020 by _____, the _____ of _____.

Notary Public, State of Wisconsin
My commission:_____

GRANTEE: **CITY OF MILWAUKEE**

By:_____
Tom Barrett, Mayor

By:_____
Jim Owczarski, City Clerk

Countersigned:_____
Martin Matson, Comptroller

Signatures of Tom Barrett, Jim Owczarski and Martin Matson authenticated this ____ day of _____, 2020.

Jeremy R. McKenzie
Assistant City Attorney
State Bar No. 1051310

This instrument was drafted by the City of Milwaukee, Office of the City Attorney.

EXHIBIT 1
to
Grant of Easement
Legal Description of the Property

THAT PART OF LOT TWO (2) AND ALL OF LOTS THREE (3), FOUR (4), FIVE (5), SIX (6) AND SEVEN (7), IN BLOCK FIFTY-FOUR (54), IN SUBDIVISION OF LOTS 3 AND 5 IN SECTION 33, IN TOWNSHIP 7 NORTH, RANGE 22 EAST, CITY OF MILWAUKEE, MILWAUKEE COUNTY, WISCONSIN, LYING SOUTHEASTERLY OF THE SOUTHEASTERLY LINE OF WEST PITTSBURGH AVENUE, EXCEPTING THEREFROM THAT PART DESCRIBED IN THAT CERTAIN QUIT CLAIM DEED DATED MARCH 2, 1954 BETWEEN THE CHICAGO AND NORTHWESTERN RAILWAY COMPANY AND THE STATE OF WISCONSIN.

ALSO THAT PORTION OF VACATED SOUTH WATER STREET LYING ADJACENT TO THE SOUTHWEST OF SAID LOTS TWO (2), THREE (3), FOUR (4) AND FIVE (5) OF THE ABOVE-DESCRIBED PREMISES.

EXHIBIT 2
to
Grant of Easement
[Description of the Riverwalk Improvement]

See attached plans

EXHIBIT 4
To
Grant of Easement
Maintenance Standards for the Riverwalk Improvement

1. Open for use at all times except as it relates to adverse possession and times of maintenance and repair, damage and destruction caused by weather or other events outside the control of Grantor.
2. Maintain a minimum of 8-foot wide clear path for through movement of pedestrians at all times the structure is open subject to necessary or advisable repair and maintenance activities.
3. Maintain lighting during hours of darkness for security and safety (same burn time as City street lighting – minimum).
4. Remove ice and snow within 24 hours after the end of a storm.
 - Area drains, if any, kept open at all times
5. Keep Riverwalk generally clean of litter on a daily basis.
 - Empty trash receptacles as necessary
 - Wash down Riverwalk of bird droppings/discarded forage as necessary
6. Keep benches and other amenities in good, safe repair at all times.
7. Paint railings, benches, and other amenities as necessary to maintain a pleasing aesthetic quality, consistent with approved color schemes.
 - Remove graffiti as soon as practical (as weather permits)
8. Effect deck repairs to mitigate potential injury to public.
9. Inspect structural integrity of facility semi-annually and as necessary if collisions or other problems occur.

EXHIBIT E
to
Riverwalk Development Agreement
Developer Budget and City Cost Sharing

(see attached)

EXHIBIT F

To

Riverwalk Development Agreement

**SMALL BUSINESS ENTERPRISE AGREEMENT
FOR
THE RIVERWALK IMPROVEMENT**

**HUMAN RESOURCES AGREEMENT
(Admiral’s Wharf Project)**

This Human Resources Agreement (“Agreement”) is entered into as of _____, 2020, by and between the City of Milwaukee (“CITY”), and Admiral’s Wharf, LLC a Wisconsin liability company (“DEVELOPER”).

WHEREAS, the parties to this Agreement acknowledge and understand that this Agreement is executed in conjunction with the Riverwalk Development Agreement dated of even date herewith (“Development Agreement”) executed by the parties in connection with the implementation of the project described in the Development Agreement.

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 CITY residents in MCO §355-7; and

WHEREAS, DEVELOPER acknowledges that CITY has established policies regarding payment of living wages in MCO §355-13-3; 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 “SBE Office”) based on the requirements of MCO § 370-25.

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 project, as more particularly described in the Development Agreement.

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; work within trades for which there is no available SBE participation; 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 SBE Office, with such approval not being unreasonably withheld. DEVELOPER or its representatives and the SBE Office 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 MCO §355-7.

II. SMALL BUSINESS ENTERPRISE PROGRAM

DEVELOPER shall, in developing and constructing the PROJECT, use Best Efforts, as defined below, to 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.”**

A. “Best Efforts,” when exercised by DEVELOPER in conjunction with the SBE participation in the PROJECT, is defined as DEVELOPER completing all of 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 SBE Office.
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 SBE Office prior to commencement of the bidding process.
3. Complete and submit **Exhibit D “Form A – Contractor Compliance Plan”** to the SBE Office 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 SBE Office. 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, RFP 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 DEVELOPER completes the aforementioned activities it shall be deemed that DEVELOPER has acted in “good faith” and has satisfied the requirement for using Best Efforts for SBE participation for the PROJECT.

C. If at any point during the term of this Agreement, DEVELOPER meets or exceeds the 25% requirement for SBE participation for the construction, including supplies and non-professional services, of any phase or portion of the PROJECT or the 18% requirement for SBE participation for the purchase of professional services for any phase or portion of the 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 the Project, for the purposes of fulfilling the terms of this Agreement.

D. 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 SBE participation requirement for construction supplies described in subsection C, above.

III. RESIDENT PREFERENCE PROGRAM

DEVELOPER shall, in developing and constructing the PROJECT, use Best Efforts, as defined below, to 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 defined in sec. 309.41 of the MCO,¹ included in PROJECT COSTS but less and excluding all non-Construction PROJECT COSTS.

A. If DEVELOPER completes the aforementioned activities it shall be deemed that DEVELOPER has acted in "good faith" and has satisfied the requirement for using Best Efforts for SBE participation for the PROJECT.

¹ 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.

“Best Efforts,” when exercised by DEVELOPER in conjunction with the RPP participation in the PROJECT, is defined as DEVELOPER completing all of the following activities:

1. Listing and causing contractors and sub-contractors to list open positions with any first source hiring agency specified by the SBE Office.
2. Disseminating information provided by the SBE Office 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 SBE Office.
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.

B. If DEVELOPER completes the aforementioned activities it shall be deemed that DEVELOPER has acted in “good faith” and has satisfied the requirement for using Best Efforts for RPP participation for the PROJECT.

Prior to the commencement of the PROJECT, DEVELOPER or its representatives and the SBE Office shall meet and confer to determine the eligible PROJECT COSTS, which are Construction costs subject to the mandatory RPP requirement. If at any point during the term of this AGREEMENT, DEVELOPER meets or exceeds the 40% RPP requirement in conjunction with the PROJECT, it shall be deemed that DEVELOPER has achieved or exceeded CITY’s RPP requirement with respect to the PROJECT.

DEVELOPER shall file the reports attached as **Exhibit H “Construction RPP Hours Calculation”** to evidence compliance with RPP requirements with the SBE Office. All RPP

reports shall be accompanied by supporting Employee Affidavits, in the form attached as **Exhibit G**.

IV. SBE AND RPP REPORTING

DEVELOPER agrees to report to the SBE Office, 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 SBE Office with documentation supporting efforts extended to solicit bids from SBEs. Upon request, DEVELOPER shall make information related to SBE bids available to the SBE Office.**
- C. During construction of the PROJECT, Submit an SBE Monthly Report to the SBE Office on or before the 20th of each month, or a quarterly report with the approval of the SBE Office, on the form attached as Exhibit I "Form D – SBE Monthly Report."**
- D. During construction of the PROJECT, 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 SBE Office, 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 SBE Office.**
- F. Complete and submit a final Exhibit I and Exhibit J "SBE Subcontractor Payment Form" to the SBE Office upon completion of all construction of the PROJECT.**

V. LABOR STANDARDS AND WAGES.

DEVELOPER shall comply in all material respects with all applicable state and municipal labor standards provisions on the PROJECT including, but not limited to, living wage requirements of MCO §355-13-3. Unless precluded by Section 66.0903, Wis. Stats., any worker who performs work on the PROJECT shall, at a minimum, receive a living wage (prorated for the time the worker performs work on the PROJECT) as defined in MCO §310-13-2-a. for its work on the PROJECT and DEVELOPER shall provide and cause its contractors and subcontractors to provide the SBE Office any necessary documentation relative to compliance with applicable labor standards provisions including, but not limited to, the City's living wage requirements on forms specified by the SBE Office.

VI. CITY ADMINISTRATION.

The SBE Office 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 SBE Office shall use good faith and act in a reasonable manner. Notwithstanding the foregoing, the SBE Office 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 SBE Office in the administration of this Agreement.

VII. DEVELOPER ADMINISTRATION.

DEVELOPER may retain a person or firm reasonably acceptable to the SBE Office, 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 in all material respects 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 (or other professional 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 reasonably 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 the provisions of Wis. Stat. Section 19.21, et seq. DEVELOPER acknowledges that it is obligated to provide reasonable assistance to the CITY in retaining and producing records relating to this Agreement and which are in Developer's possession that are subject to Wisconsin Public Records Law, and DEVELOPER must defend and hold the City harmless from liability arising due to the material breach by DEVELOPER of this paragraph. 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: SBE Program Office
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:

Admiral’s Wharf, LLC
W230S4513 Milky Way Road
Waukesha, WI 53189
Attn: Ryan Bedford

With a copy to:
VJS Development Group, LLC _____
W233N2847 Roundy Circle West
Pewaukee, WI 53072
Attn: Bailey Copeland

And a copy to:

Axley Brynelson, LLP
N20W22961 Watertown Road
Waukesha WI 53186
Attn: Don Murn

XI. SANCTIONS.

In the event that any document submitted to CITY by DEVELOPER or a contractor or subcontractor of DEVELOPER contains intentionally false, misleading or fraudulent information or demonstrates non-compliance with the requirements of this Agreement and such

noncompliance is not cured within 30 days after written notice from CITY to DEVELOPER of the non-compliance (which 30 days may be extended as needed if the noncompliance is of a type that cannot reasonably be cured within 30 days provided that DEVELOPER is diligently pursuing the cure and in no case with the cure period be longer than 90 days after written notice from CITY to Developer), the SBE Office may seek prosecution under § 355-19 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 from DEVELOPER demonstrate non-compliance with the resident preference hours required for the PROJECT.
- b. Specific performance or specified remedies under this Agreement.
- c. Collection of any living wage shortfall, with interest, for distribution to employees performing work on the PROJECT.
- d. Remedies available under the Development Agreement for such non-compliance.

IN WITNESS WHEREOF, the parties have executed this Human Resources Agreement as of the ____ day of _____, 20____.

Admiral's Wharf LLC

CITY OF MILWAUKEE

By: _____
Its:

By: _____
Tom Barrett, Mayor

By: _____
James R. Owczarski, City Clerk

By: _____
Martin Matson, City Comptroller

Approved as to form and execution and content
this ____ day of _____, 20____.

Assistant City Attorney

CAO Doc. No. 230187

**EXHIBIT A
CATEGORIES OF WORK**

**CATEGORIES OF WORK
CONSTRUCTION BUDGET FOR
_____ PROJECT**

<u>WORK DESCRIPTION</u>	<u>GENERAL</u>	<u>SUPPLIER ITEMS</u>
SITE PREPARATION:		
DEMOLITION	\$0.00	
EXCAVATION	\$0.00	
SOIL HAULING & DISPOSAL	\$0.00	
STORMWATER MANAGEMENT SYSTEM	\$0.00	
OTHER SITE:	\$0.00	
BUILDING CONSTRUCTION:		
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	
SITE IMPROVEMENTS:		
PAVING	\$0.00	
LATERALS/CATCH BASIN	\$0.00	
LANDSCAPING	\$0.00	
FENCING	\$0.00	

OTHER:	\$0.00	
	-----	-----
TOTAL HARD COSTS	\$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

TOTAL PROFESSIONAL SERVICES	\$0.00

COST SUMMARY & SBE CALCULATIONS

CONSTRUCTION EXCLUDING SUPPLIER ITEMS	\$0.00	25%	\$0.00
SUPPLIER AMOUNT **	\$0.00	25%	\$0.00
PROFESSIONAL SERVICES	\$0.00	18%	\$0.00

CATEGORY RATE SBE REQUIREMENT

TOTAL SBE REQUIREMENTS			\$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

The Milwaukee Urban League

435 West North Avenue
Milwaukee, WI 53212
(414) 374-5850

African American Chamber-Commerce

633 W Wisconsin Ave., Suite 1001
Milwaukee, WI 53203
(414) 462-9450

Hispanic Chamber of Commerce of Wisconsin

1021 W National Ave.
Milwaukee, WI 53204
(414) 643-6963

Hmong Wisconsin Chamber of Commerce

6815 W. Capitol Drive, Suite 204

Milwaukee, WI 53216

(414) 645-8828



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 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
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

Subscribed and sworn to me this _____ day

Home Telephone Number

Of _____, _____ A.D.
My Commission Expires _____.

Notary Public Milwaukee County

RPP Chart

Income Eligibility Guidelines July 1, 2015 to June 30, 2016

Eligibility determination is based on household size and income.
Total income must be at or below the amount in the table.

House-hold Size	Yearly	Monthly	Twice per month	Every 2 weeks	Weekly
1	15,301	1,276	638	589	295
2	20,709	1,726	863	797	399
3	26,117	2,177	1,089	1,005	503
4	31,525	2,628	1,314	1,213	607
5	36,933	3,078	1,539	1,421	711
6	42,341	3,529	1,765	1,629	815
7	47,749	3,980	1,990	1,837	919
8	53,157	4,430	2,215	2,045	1,023
9	58,565	4,881	2,441	2,253	1,127
10	63,973	5,332	2,667	2,461	1,231
11	69,381	5,783	2,893	2,669	1,335
12	74,789	6,234	3,119	2,877	1,439
For Each Additional Household Member Add	5,408	451	226	208	104

Source: Wisconsin Department of Public Instruction
School Nutrition Programs

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 for a complete list of certified firms.

Name of SBE Firm	Service Performed / Material Supplied	Amount Paid for the Month	Total Amount Paid JTD
Total Payments to SBE			

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

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

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)

