

**WATERMARKS GRANT AGREEMENT  
(TID 96)**

**THIS GRANT AGREEMENT** is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2019 by and between the City of Milwaukee, a Wisconsin municipal corporation (“City”) and City as a Living Laboratory. (“CLL” and “Grantee”).

**RECITALS**

1. The City created Tax Incremental Financing District No. 96 (“TID 96”) by passage of Resolution No. 181254 by its Common Council on December 18, 2018.

2. The Project Plan for TID 96 includes various public infrastructure improvements and amenities in the vicinity of the proposed Komatsu Mining Corp. office and industrial development, including a contribution to the Watermarks public art installation at four locations along East Greenfield Avenue between the Kinnickinnic River and South 2<sup>nd</sup> Street.

3. Grantee is designing and installing the four markers in locations (the “Project”), which are all within a one-half mile radius of the TID 96 boundary.

4. Supporting the Project will improve the public amenities in the Harbor District and create better access to a new Riverwalk segment associated with the Komatsu project, which is consistent with the purposes for which TID 96 was created.

5. The City’s Common Council, by passage of Resolution No. 181254 on December 18, 2018, authorized the expenditure of up to \$200,000 to cover design and installation costs of the Project as part of the Riverwalk and Public Infrastructure Improvements portion of the TID 96 budget.

6. This Agreement provides a \$200,000 grant (“Grant”) to Grantee from those funds to pay for the design and installation of the Project, as further described in this Agreement

7. This Agreement sets forth the terms and conditions applicable to the design and construction of the Project by Grantee and the disbursement of Grant proceeds by the City.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein and for other good and valuable consideration the receipt of which is hereby acknowledged, the parties agree as follows:

**I. AWARD.**

City hereby awards the Grant in an amount up to \$200,000 to Grantee for design and installation of the Project. Grantee agrees to undertake the design and installation of the Project in accordance with the terms of this Agreement.

**II. GRANTEE REQUIREMENTS.**

In the implementation of the design and installation of the Project, Grantee shall:

- A. Design and install the Project at locations approved by the City that are within one-half mile of the TID 96 boundary. Preliminary Plans for the Project are attached as **Exhibit A**.
- B. Complete installation of the Project by December 31, 2020 (“Deadline”).
- C. Expend all Grant proceeds on the design and installation of the Project. No Grant proceeds shall be expended on Grantee’s operational or administrative costs.
- D. Establish and maintain records and file reports with the City’s Commissioner of City Development as hereinafter set forth:
  - i. Keep and maintain books, records, and other documents as may be reasonably necessary to reflect and disclose fully the amount and

disposition of all Grant proceeds and the total costs of all activities undertaken in whole or in part with Grant proceeds.

- ii. All such books, records, and documents shall be maintained for a period of 7 years following final disbursement of Grant proceeds.
- iii. This Agreement and certain documents relating thereto are, or may be, subject to Wisconsin's Public Records Law (see Wis. Stat. Ch. 19, Subch. II, and, in particular Wis. Stat. § 19.36 (3), which includes records produced or collected under this Agreement). Grantee shall and agrees to cause others under its control to cooperate with City in the event any of them receive a request under Wisconsin's Public Records Law for this Agreement or for any record relating to, or produced or collected under this Agreement which is subject to the Public Records Law.

E. Allow the City's Commissioner of City Development, the City's Comptroller or their designees and agents, at any time during normal business hours, to undertake examination of all of its books, records and documents maintained with respect to all matters covered by this Agreement and permit such City representatives to audit, examine, and make copies of all contracts, invoices, materials, payrolls, records, and other data relating to the activities covered by this Agreement.

F. Provide credit to the City in brochures, news releases, program publications and other printed materials in the following manner:

“The Watermarks project is funded in part through a grant from the City of Milwaukee.”

(or as otherwise approved by the City's Commissioner of City Development).

G. Not unlawfully discriminate against any person participating in the design or construction of the Project or activities funded in whole or in part with Grant proceeds on the basis of age, race, religion, color, disability, sex, physical condition, developmental disability, sexual orientation or national origin.

### **III. INDEMNITY.**

Indemnify and hold harmless the City, its officers, employees, and agents from and against any and all losses, claims, damages, expenses, and all suits in equity or actions at law arising from, in connection with or as a result of the design of construction of the Project. This indemnity does not apply to the installation or construction of the Project. Nothing in the foregoing indemnity shall protect City, its officers, employees, and agents from their own default, active negligence, or misconduct.

### **IV. FUNDING.**

Grant proceeds shall be disbursed in accordance with procedures approved by the City's Commissioner of City Development. Grantee shall provide the City with paid invoices or other evidence reflecting all expenditures incurred and paid by Grantee for the design and construction of the Project to be funded in whole or in part with Grant proceeds.

### **V. INTELLECTUAL PROPERTY.**

The copyright of the four WaterMarks WaterMarkers and that the trademark of City as living Laboratory (CALL) (the "CALL Mark") is a trademark are the intellectual property of Mary Miss/City as Living Laboratory. The City shall use the CALL Mark at all times in a manner consistent with the quality associated with the CALL Mark in order

to maintain the integrity of the CALL Mark and the reputation and goodwill symbolized by the CALL Mark and associated with Mary Miss/ City as Living Laboratory (CALL). City as Living Laboratory CALL shall have the right to review and approved the use of the CALL Mark to ensure the quality of the CALL Mark is maintained. This includes use of the CALL Mark in press releases, didactic and other promotional materials. The City shall either 1) use the ® symbol in conjunction with the CALL Mark or 2) to display on materials using the CALL Mark the following legend: “CITY AS LIVING LABORATORY (CALL) is a trademark of Mary Miss/City as Living Laboratory (CALL) Inc. All rights Reserved Used with permission.”

## **VI. 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:

To City:                      City of Milwaukee Dept. of City Development  
   Attn: Alyssa Remington  
   809 North Broadway  
   Milwaukee, WI 53202  
   Attn: Commissioner

To Grantee:                      Mary Miss

## **VII. BINDING EFFECT / ASSIGNMENT**

This Agreement shall be binding upon and inure to the benefit of the City and Grantee, their successors and permitted assigns. Grantee shall not assign any interest in this Agreement without the prior written consent of the City’s Commissioner of City Development, which shall not be unreasonably withheld.

**VIII. TERMINATION.**

Grantee can terminate this Agreement at any time before disbursement of the Grant.

*[Signature Page Follows]*

**THE PARTIES HERETO** have caused this Agreement to be executed by their duly authorized representatives as of the day and date first above written.

**City as a Living Laboratory (“Grantee”):**

By: \_\_\_\_\_  
\_\_\_\_\_

**City of Milwaukee:**

By: \_\_\_\_\_  
Tom Barrett, Mayor

By: \_\_\_\_\_  
James R. Owczarski, City Clerk

By: \_\_\_\_\_  
Martin Matson, Comptroller

Approved as to form, execution, and content this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Jeremy McKenzie, Assistant City Attorney

1050-2018-639:257557

**EXHIBIT A:**