

## ESCROW DISBURSEMENT AGREEMENT

This Escrow Disbursement Agreement is made and entered into as of the \_\_\_\_ day of November, 2015, by and among Chicago Title Company, ("ESCROWEE"), Walker's Landing of Milwaukee, LLC ("DEVELOPER") and The City of Milwaukee ("CITY").

### WITNESSETH:

**WHEREAS**, CITY has entered into a Riverwalk Development Agreement with DEVELOPER dated as September 23, 2014 (the "Development Agreement"), a copy of which is attached as EXHIBIT "A"; and

**WHEREAS**, The Development Agreement addresses the implementation and funding of certain riverwalk improvements in the City of Milwaukee described in the Development Agreement (the "Project") using proceeds to be obtained from CITY and deposited with ESCROWEE by CITY (the "City Funds"); and

**WHEREAS**, the parties desire to enter into this Disbursement Agreement in order to provide for disbursement of the City Funds by the ESCROWEE.

**WHEREAS**, the parties acknowledge that the only responsibility of ESCROWEE created by this Disbursement Agreement shall be the faithful performance of the express obligations assumed hereunder.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties mutually agree as follows:

1. **Deposit of City Funds.** Following execution of this Disbursement Agreement, CITY will deposit to the custody of the ESCROWEE, a total amount of one hundred eighty-one thousand, eight hundred and sixty-nine and 85/100 Dollars (\$181,869.85), to be used for making disbursements under this Disbursing Agreement. All deposits pursuant to this Agreement shall be held by ESCROWEE in a non-interest-bearing account.
2. **Disbursements for Third Party Work, Materials and Services; Other Disbursements.**
  - A. Prior to each disbursement of City Funds for third party work, materials and services, CITY shall be furnished a sworn DEVELOPER'S statement, which will be supplemented in connection with subsequent draws, setting forth in detail the contractors, material suppliers and other third parties with whom DEVELOPER has contracted, their address, work, materials and/or services to be furnished, amounts of the contracts, amount paid to date, amounts of current payments and balances due (the Cost Breakdown

Schedule). The Cost Breakdown Schedule shall include those amounts expended on the Project with City Funds.

3. **Disbursements.** Prior to each disbursement of funds hereunder, DEVELOPER will furnish CITY and ESCROWEE:

- A. A sworn DEVELOPER'S statement setting forth all third parties to whom City Funds will be disbursed, amounts of contracts, amounts paid to date, amounts of current payments and balance due (with supporting documentation) and information sufficient to confirm to CITY that such costs are costs for which City Funds may be used pursuant to the Development Agreement;
- B. A report or a certification by DEVELOPER certifying that either work has been completed as indicated by the request for payment of DEVELOPER.
- C. Upon receipt of approval by CITY of the requested disbursement, ESCROWEE shall, within ten (10) business days transmit to DEVELOPER sufficient funds to cover the requested disbursement.

If either CITY or ESCROWEE discovers a misstatement or deficiency in any of the documents provided by DEVELOPER, it may stop disbursement until the misstatement or deficiency has been corrected.

Disbursements will be made by ESCROWEE either directly to DEVELOPER for payment by DEVELOPER to the parties rendering such work and services or by ESCROWEE directly to the parties rendering such work and services as identified by DEVELOPER in the statements provided under this section. It is the intention of the parties named herein that no person which is not a signatory to this Disbursement Agreement shall be a third party beneficiary of this Disbursement Agreement, and neither CITY nor ESCROWEE owes any duty of care to any such party.

4. **Limits of Escrowee's Duties.** The functions and duties assumed by ESCROWEE include only those described in the Disbursement Agreement, and the ESCROWEE is not obligated to act except in accordance with the terms and conditions of this Disbursement Agreement. ESCROWEE does not certify or insure that (a) the Project will be completed, (b) that the Project, when completed, will be in accordance with plans and specifications, (c) that sufficient funds will be available for completion, or (d) that the certifications of the BORROWER are correct. ESCROWEE shall not be responsible for any loss of documents or funds while such documents or funds are not in its custody. Documents or funds deposited in the United States mail shall not be construed as being in custody of ESCROWEE.

5.

6. **Inspections.** DEVELOPER shall determine to its own satisfaction that the work and services supplied by third parties have been properly made or supplied in accordance with applicable contracts. Neither CITY nor ESCROWEE shall be required to conduct any inspections of the Project but shall have the right to inspect the Project from time to time upon reasonable advance notice to DEVELOPER.
7. **Escrow Fee.** An escrow fee of \$200 per disbursement is to be paid at the time of each disbursement, or which fee will be deducted from the funds deposited for disbursement.
8. **Escrow Termination.** This Disbursement Agreement shall terminate, and ESCROWEE shall have no further liability hereunder upon thirty (30) days prior written notice from ESCROWEE to DEVELOPER & CITY. If this Disbursement Agreement terminates or if ESCROWEE resigns, ESCROWEE shall return all undisbursed funds to CITY.

Executed as of the date first written above.

**CITY OF MILWAUKEE:**

By \_\_\_\_\_  
\_\_\_\_\_  
Department of City Development

**Countersigned:**

\_\_\_\_\_  
\_\_\_\_\_, Comptroller

**DEVELOPER:  
WALKER'S LANDING OF MILWAUKEE LLC**

\_\_\_\_\_  
Ryan Bedford, its Agent

**ESCROWEE:  
CHICAGO TITLE COMPANY**

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

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