

THIS AGREEMENT, By and between the UWM Real Estate Foundation, Inc., hereinafter known as "Developer", and the City of Milwaukee, a municipal corporation, hereinafter known as "City";

WITNESSETH:

IN CONSIDERATION of the sum of One Dollar (\$1.00) to each party in hand paid by the other, receipt whereof is hereby acknowledged, and in further consideration of the covenants and agreements hereinafter contained.

WHEREAS, the Developer is the owner of approximately 3.4 acres located at 1436 East North Avenue, Milwaukee, Wisconsin (the "Property"). This Property is more particularly described by Exhibit "A"; and

WHEREAS, the Developer has requested an agreement that provides for installation of public improvements (the "Improvements") to serve a residence hall and retail development planned for the site, said improvements to be known as Cambridge Commons (collectively, the "Development"); and

WHEREAS, the Project will consist of approximately 188 residential living units and related facilities and retail space; and

WHEREAS, the public improvements for the Development could be installed under the terms of an out-of-program agreement upon condition that title to such facilities shall vest in the City of Milwaukee subject to conditions more fully hereinafter stated; and

WHEREAS, Cambridge Avenue must be widened and altered to accommodate the development; and

WHEREAS, the Developer has requested that the design and construction of the improvements be completed by the Developer because of time constraints to meet the fall 2010 student semester.

NOW, THEREFORE, in consideration of these premises and the mutual benefits herein accruing and for other good and valuable consideration,

IT IS AGREED, by and between the parties hereto that:

1. Funding Obligation

Developer agrees to provide all funds necessary for design and construction of the public improvements, easement preparation as may be required, water fittings, materials inspections, construction inspections and related City work necessitated by the Improvements as defined by the plans submitted by the Developer (the "Submitted Plans").

2. Developer to Design Public Improvements

The Developer shall let and administer one or more design contracts for the sewer, landscaping and paving infrastructure required to serve the Development. Submitted Plans shall be prepared to City specifications and approval by the Commissioner of all such plans shall be required prior to commencement of any improvement work. All City costs associated with review of Submitted Plans prepared by others shall be the Developer's responsibility. To expedite the City's review, Developer shall provide Submitted Plans for the Improvements as follows:

- a. Paving plans and sewer plans shall be submitted upon approval by the City Engineer of site grades established

as part of the Storm Water Management Plan. All proposed catch basins shall be submitted as part of the paving plans.

3. Construction Option

Developer may let and administer construction contracts for the Improvements covered by this Agreement. In the event Developer manages one or more public improvement construction contracts, City shall perform its normal inspections during the course of construction. In addition, Developer agrees to comply with and administer on behalf of the City, any applicable City rules and requirements pertaining to the City's Emerging Business Enterprise and local resident involvement in the public works construction contracts. Such rules and requirements, if any, shall be agreed, in writing, by Developer and City.

Developer shall not authorize any substantive changes in Submitted Plans without the prior approval of the Commissioner of Public Works.

4. Paving Improvements

Cambridge Avenue shall be constructed according to the Submitted Plans.

Per paragraph 2 above, plans for paving improvements shall be prepared by the Developer. Developer shall pay City \$1,000 for the estimated cost for the City's review of the paving plans. The estimated cost to inspect the paving improvements is as follows:

Inspection	\$10,000
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Developer shall provide a deposit of \$10,000 for the inspection of the paving improvements. Any portion of the deposit for the inspection of the paving improvements that is not spent by City shall be refunded to Developer.

5. Utility Laterals

Any proposed laterals that are part of the Improvements shall be subject to the requirements of the Department of Neighborhood Services, including without limitation, the application and receipt of a plumbing permit.

6. Street Lights

The Improvements will have public, harp street lights on the west side of Cambridge Avenue which are not subject to Paragraph 3 of this Agreement. City shall install street lights in a timely manner and coordinate such timing with Developer's designated representative. Developer shall provide a \$30,000 deposit for the installation of the street lights upon execution of this Agreement. Any unused portion of the deposit shall be refunded to Developer.

7. Street Trees

Street trees will be planted by the Developer per the Submitted Plans approved by City. There is no additional cost for design engineering or inspections related to street trees or other landscaping that is a part of Improvements.

8. Storm Water Management Plan

A Storm Water Management Plan for the Development has been submitted by the Developer and approved by the City of

Milwaukee. A bond has been posted for the Storm Water Management Plan.

9. Other Improvements

Developer agrees that any utility and access improvements necessary to serve the site in addition to those listed above shall be its responsibility and shall be undertaken by Developer at its sole expense. Developer further agrees that the City shall review and approve plans for any work to occur in the public right-of-way. Permits necessary for any such work shall be obtained by Developer or other responsible parties.

10. Easements

Developer agrees to provide, where necessary, and at no cost to the City, all easements and other property rights required to construct, operate and maintain the public improvements described herein. It shall be the Developer's responsibility to obtain any permits and/or easements or other property rights necessary for the operation and maintenance of the storm water management system and outlets, as approved.

11. Private Utilities

Developer agrees that all private utility lines necessary to provide telephone, communications, electrical, and gas services to the development shall be installed underground, except where the City Plan Commission finds that such underground installations are not feasible.

12. Funding Guarantee for Construction

The Developer shall submit an irrevocable Letter of Credit or other funding guarantee, satisfactory in format to the City Attorney, in an amount equal to the estimated construction contract cost (\$100,000) for the Improvements described herein prior to the award of any public improvement contracts, whether privately or publicly let. It is hereby agreed that a format satisfactory to the City Attorney includes a certified letter from the Developer's lender. At the request of the Developer, the actual contract amount for the various improvements may be substituted for the estimated costs. In addition, the amount of the LOC may be reduced periodically to reflect payments made to contractors. Any such reductions shall be approved by the Commissioner of Public Works.

Any and all irrevocable Letters of Credit shall guarantee that the Developer's bank or savings and loan will provide, upon simple request by the Commissioner of Public Works and the City Treasurer and in the event of default on the part of Developer which has not been cured after sixty (60) days after written notice from City of such default, the required funds to cover the contract cost of installing the Improvements. Such funds shall be furnished interest free. The Letter of Credit or other funding guarantee shall be submitted to the City prior to the City or the Developer entering into any contracts for installation of the Improvements.

13. Payments

If Developer funded work covered under the terms of this Agreement does not proceed to the bid or contract stage, the City shall still retain a sufficient amount of the Developer's engineering fund deposit to cover expenses incurred by the City for plan review work commenced by the City at the Developer's request.

Upon completion of the Improvements and all associated City work, City shall return any unspent portions of the Developer's cash deposits (i.e. the Plan Review Deposit and the Construction Engineering Deposit) to the Developer.

14. Inspections

Both parties agree that all materials furnished and all work performed hereunder shall conform to all regulations and specifications of the City of Milwaukee and its Commissioner of Public Works and shall be subject to inspection by the Department of Public Works. All engineering and inspection costs incidental to the installation of the public improvements covered by this Agreement shall be subject to the terms of this Agreement, the cost of such service when furnished by City being established as the wages of the person or persons engaged in such work plus all costs of overhead.

15. Ownership of Public Improvements

It is understood and agreed by both parties hereto that upon completion of the Improvements, title to all public facilities installed under the terms of this Agreement shall vest in the City of Milwaukee and that the City will accept the obligation of

operation and maintenance of same in accordance with the standard practice.

16. Building Permits

It is understood and agreed by both parties hereto that building permits for the Improvements shall not be issued until (1) the required Storm Water Management Plan has been approved, (2) the Developer has provided the City with design review funds and a funding guarantee, (3) all required approvals for any sewer improvements have been granted by the appropriate agencies, (4) the dedication process for Cambridge Avenue has commenced, and (5) all easements required to construct and maintain underground improvements have been provided to the City.

17. Occupancy Permits

It is understood and agreed by both parties hereto that any applicable occupancy permits for the Development shall not be issued until all Improvements have been sufficiently completed so essential public utility services and traffic access are provided to the structure.

18. Prevailing Wages

Developer shall comply with the prevailing wages requirements set forth on the exhibit attached hereto.

19. City Ordinances and Regulations

City warrants that all work shall be undertaken in accord with City standard and customary public works contracting procedures unless such work is to be undertaken by Developer per paragraph

3. It is further understood and agreed that this Agreement is subject to all City ordinances and regulations and nothing herein shall be deemed to waive or supersede such requirements.

20. Termination

If Developer elects to terminate the Development, Developer shall pay City for the cost of work incurred prior to the date of termination and City agrees to release Developer from any and all obligations under this Agreement.

21. Indemnification

City shall indemnify, defend and hold harmless the Developer, and its officers, directors, members, partners, employees and agents, from and against all liability, claims, damages, losses, costs, and expenses (including attorney's fees) arising out of or related to City's performance of the work, provided such liability, claim, damage, loss, cost, or expense is not caused by the sole negligence of the Developer.

Developer shall indemnify, defend and hold harmless the City and its officers, directors, members, partners, employees and agents, from and against all liability, claims, damages, losses, costs, and expenses (including attorney's fees) arising out of or related to Developer's performance of the work, provided such liability, claim, damage, loss, cost, or expense is not caused by the sole negligence of the City.

THIS AGREEMENT, drafted by the City of Milwaukee, shall be binding upon the Developer, its lessees, successors and assigns, and upon the City, its successors and assigns.

DEVELOPER

IN WITNESS WHEREOF, the Developer has caused this document to be signed and sealed this ____ day of _____, 2009.

Developer

In Presence Of: _____

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

Personally came before me this ____ day of _____, 2009, who executed the foregoing instrument, and acknowledged that they executed the same.

Notary Public, State of Wisconsin
My Commission expires: _____

IN WITNESS WHEREOF, the proper City Officers have caused this document to be signed and the City's seal to be affixed this _____ day of _____, 2009.

CITY OF MILWAUKEE

In Presence Of:

Tom Barrett, Mayor

City Clerk

COUNTERSIGNED

Comptroller

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____, 2009, Tom Barrett, Mayor of the City of Milwaukee, a municipal corporation, to me known to be the person who executed the foregoing instrument and to me known to be such Mayor of said municipal corporation, and acknowledged that he executed the foregoing instrument as such officer as the deed of said municipal corporation, its authority, and pursuant to Resolution File No. _____ adopted _____, 2009.

Notary Public, State of Wisconsin

My Commission expires: _____

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____, 2009, Ronald Leonhardt, City Clerk of the above-named municipal corporation, to me known to be the person who executed the foregoing instrument and to me known to be such City Clerk of said municipal corporation, and acknowledged that he executed the foregoing instrument as such officer as the deed of said municipal corporation, its authority, and pursuant to Resolution File No. _____, adopted _____, 2009.

Notary Public, State of Wisconsin
My Commission expires: _____

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____, 2009, W. Martin Morics, City Comptroller of the City of Milwaukee, a municipal corporation, to me known to be the person who executed the foregoing instrument and to me known to be such City Comptroller of said municipal corporation, and acknowledged that he executed the foregoing instrument as such officer as the deed of said municipal corporation, its authority, and pursuant to Resolution File No. _____, adopted _____, 2009.

Notary Public, State of Wisconsin
My Commission expires: _____