

THIS AGREEMENT, By and between HD Development, LLC, hereinafter known as "HD", 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, HD is the owner of 1136 East North Avenue. This site is shown in Exhibit "A"; and

WHEREAS, HD has requested an agreement that provides for installation of a public water main to serve the site; and

WHEREAS, The public water main 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.

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

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

1. Funding Obligation

HD agrees to provide all funds necessary for design and construction of the public water main, easement preparation as may be required, water fittings, materials inspections, construction inspections and any related City work necessitated by the project.

2. City to Design Public Water Main

The City shall undertake the design of the public water main using funds provided by HD.

3. Construction Option

Upon mutual concurrence of HD and the Commissioner of Public Works, HD may let and administer the construction contract for the public water main covered by this Agreement. In the event HD manages the public improvement construction contract, City shall perform its normal inspections during the course of construction. In addition, HD agrees to make a good faith effort to comply with and administer on behalf of the City, all applicable City rules and requirements pertaining to Emerging Business Enterprise and local resident involvement in the construction contracts.

HD shall not authorize any changes in water main plans without the prior approval of the Commissioner of Public Works. All payments to contractors must be pre-approved by the Commissioner.

4. Water Improvements

Water main will be installed in East North Avenue, as may be necessary, to serve the site. Per paragraph 2, plans for water main improvements shall be prepared by the City.

The estimated costs to design, construct, and inspect the water improvements are as follows:

Design	\$ 6,000
Construction	\$58,000
Inspection and related activities	\$ 8,000
Water fittings and materials	\$ 3,000

If HD lets the contract for the water improvements, HD shall provide the required water fittings. If the City lets the contract, the City shall provide the fittings. As the designer of the water main project, the City is responsible for obtaining the State of Wisconsin Department of Natural Resources Water Main Installation permit. The City will provide the pressure and flow test information to the State of Wisconsin as required as part of the permit application.

5. Utility Laterals

A water lateral (size and location to be determined by HD) will be installed from the water main to the property line. The cost of the lateral is included in the preceding water estimate. The water lateral between the property line and the building must be installed by HD under a separate permit.

6. Other Improvements

HD 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 HD at its sole expense. HD 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 HD or other responsible parties.

7. Easements

HD agrees to provide, where necessary and at no cost to the City, all on-site easements and other property rights required to construct, operate, and maintain the public improvements described herein. All on-site easement areas are to be pre-graded by HD prior to the construction of public improvements therein.

8. Private Utilities

HD 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.

9. Design Engineering Deposit

HD shall deposit a total of \$6,000 with the City to cover the estimated cost of preparing the plans.

10. Funding Guarantee for Construction

HD shall submit an irrevocable Letter of Credit (LOC) or other funding guarantee, satisfactory in format to the City Attorney, in an amount equal to the estimated construction contract cost and water fittings cost (\$61,000) for the public infrastructure improvements described herein prior to the award of any public improvement contracts, whether privately or publicly let. At the request of HD, 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 HD's bank or savings and loan will provide the required funds to cover the contract cost of installing the applicable infrastructure improvements and will, upon simple request by the Commissioner of Public Works and the City Treasurer, release same to City as required, all such funds to be furnished interest free. The Letter of Credit or other funding guarantee shall be submitted to the City prior to the City or the HD entering into any contracts for installation of public improvements.

11. City Force Work Costs

If the City lets the construction contract, the City force work cost estimate for construction services is \$11,000. This estimate includes water main fittings, material and

installation inspections, pressure testing and safe water sampling, and MWW Distribution Division labor.

If HD lets construction contracts, the force work cost estimate is \$8,000. This estimate includes those items listed above except water main fittings. HD shall be responsible for purchasing the water fittings, which will be inspected by MWW.

HD shall deposit the relevant amount with the City prior to the City advertising for public improvement construction bids or prior to HD letting any contracts for public improvements.

12. Payments

In the event the City lets public improvement construction contracts, the contract costs for the public improvements will be billed to HD upon determination that such costs have been incurred by City. HD shall provide the City with funds to make contract payments. If such funds are not provided within 30 days of being requested, City may draw against the funding guarantee referenced in paragraph 10. It shall be further understood and agreed that where HD 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 engineering fund deposit to cover expenses incurred by the City for plan review work commenced by the City at HD's request.

Upon completion of the public water main installation and all associated City work, City shall return any unspent portions

of the HD's cash deposits (i.e. the Design Deposit and the Construction Engineering Deposit) to HD.

13. 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.

14. Ownership of Public Improvements

It is understood and agreed by both parties hereto that upon completion of the public 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 in accordance with the standard practice.

15. Building Permits

It is understood and agreed by both parties hereto that building permits for any work at the site shall not be issued until (1) the required Storm Water Management Plan has been approved, (2) the HD has provided the City with design funds, a funding guarantee, and a deposit for City Force Work, and (3) all easements required to construct and

maintain underground improvements have been provided to the City.

16. Occupancy Permits

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

17. Prevailing Wages

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

18. 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 City Forces or by HD 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.

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

DEVELOPER

IN WITNESS WHEREOF, HD has caused this document to be signed and sealed this ____ day of _____, 2011.

HD Development, LLC

In Presence Of:

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

Personally came before me this ____ day of _____, 2011, 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 _____, 2011.

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 _____, 2011, 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 _____, 2011.

Notary Public, State of Wisconsin

My Commission expires: _____

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____, 2011, 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 _____, 2011.

Notary Public, State of Wisconsin
My Commission expires: _____

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____, 2011, 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 _____, 2011.

Notary Public, State of Wisconsin
My Commission expires: _____