

**RIVERWALK ADA RAMP FUNDING
AGREEMENT
(TID 68)**

THIS GRANT AGREEMENT is made and entered into as of the _____ day of _____, 2020 by and between the City of Milwaukee, a Wisconsin municipal corporation (“City”), Business Improvement District #15 (“BID 15”) and 111 Michigan Partners LLC, a Wisconsin limited liability company. (“Developer”).

RECITALS

1. The City created Tax Incremental Financing District No. 68 (“TID 68”) by passage of Resolution No. _____ by its Common Council on _____, and approved the Third Amendment to TID 68 by passage of Resolution No. _____ by its Common Council on _____.

2. The Amended Project Plan for TID 68 includes funding for public infrastructure improvements and amenities within one-half mile of the boundary of TID 68, including the installation of an ADA compliant ramp located adjacent to Developer’s property at 111 West Michigan Street (“the Property”) to replace the existing lift (the “Project”).

4. Supporting the Project will improve Riverwalk access to and enhance pedestrian access and circulation, which is consistent with the purposes for which TID 68 was created.

5. The City’s Common Council, by passage of Resolution No. _____ on _____, authorized the expenditure of up to \$213,000 to cover a portion of the \$426,000 total estimated cost of construction of the Project as part of the Riverwalk and Public Infrastructure Improvements portion of the TID 68 budget.

6. The BID has agreed to contribute \$213,000 (“BID Funds”) to cover the remaining balance of the cost to construct the Project.

7. The Developer has agreed to construct the Project as part of its redevelopment of the Property.

8. This Agreement provides a \$213,000 grant (“Grant”) to Developer to pay for a portion of the Project, as further described in this Agreement

7. This Agreement sets forth the terms and conditions applicable to the construction of the Project by Developer 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 \$213,000 to Developer for a portion of the cost of the construction of the Project. Developer shall combine the Grant with the BID Funds in order to pay Developer’s cost to construct the Project in accordance with the terms of this Agreement.

II. BID 15 REQUIREMENTS.

In the implementation of the construction of the Project, BID 15 shall:

A. On or before September 1, 2020, [**DISCUSS DEPOSITING FUNDS SOONER, AS PROJECT CAN LIKELY BE COMPLETED EARLIER THAN SEPTEMBER 1**] deposit the BID Funds in an escrow account held by a title company that is mutually acceptable to the Parties.

B. 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). BID 15 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.

- C. 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.

III. DEVELOPER REQUIREMENTS.

- A. Construct the Project in accordance with the Final Plans as approved by the City. Preliminary Plans for the Project are attached as **Exhibit A**.
- B. Expend the Grant proceeds and the BID Funds solely on the construction of the Project. No Grant proceeds or BID Funds shall be expended on Developer's operational or administrative costs.
- C. Complete construction of the Project by September 1, 2020 ("Deadline").
- D. If the Project is not already included in the easement area subject to the Riverwalk Easement on the Property, execute an amendment to the Riverwalk Easement on the Property to include the Project in the easement area.
- E. Submit draw requests as more fully set forth in Section V of this Agreement.
- F. 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 BID Funds and the total costs of all activities undertaken in whole or in part with Grant proceeds. All such books, records, and documents shall be maintained for a period of 7 years following final disbursement of Grant proceeds.
 - ii. 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.
- G. 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.
- H. Not unlawfully discriminate against any person participating in the 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.

IV. INDEMNITY.

Developer shall indemnify and hold harmless the City and BID 15, their 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 construction of the Project. Nothing in the foregoing indemnity shall protect City or BID 15, their officers, employees, and agents from their own default, active negligence, or misconduct.

V. FUNDING.

City, BID 15, and Developer shall enter into an escrow agreement with a title company mutually agreed upon by the parties. BID 15 shall deposit the Grant and the BID Funds in an escrow account with the selected title company. Developer shall submit draw requests to the City along with a signed AIA Form G702 and associated lien waivers. The City shall review each draw request and shall instruct the title company to disburse funds to the Developer in the amount of each approved draw request. In addition to the foregoing, prior to its final draw request, Developer shall have submitted final as built plans of the Project.

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 addressed as follows:

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

To BID 15: _____

To DEVELOPER: 111 Michigan Partners LLC
c/o RMB Capital
10361 W Innovation Drive, Suite 350,
Milwaukee, WI 53226
Attn: Dan Matola

With a copy to: Davis & Kuelthau, s.c.
111 Kilbourn Avenue, Suite 1400
Milwaukee, WI 53202
Attn: Robert W. Habich

VII. BINDING EFFECT / ASSIGNMENT

This Agreement shall be binding upon and inure to the benefit of the City, BID 15, and Developer, their successors and permitted assigns. Neither BID 15 nor Developer shall 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.

[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.

Business Improvement District Number 15:

By: _____

111 MICHIGAN PARTNERS LLC

By: 111 Michigan Manager LLC, its
Manager

By: _____
Michael P. Klein, Manager

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 _____, 2020.

Jeremy McKenzie, Assistant City Attorney

EXHIBIT A: