

PROFESSIONAL SERVICE CONTRACT

This Contract between Milwaukee County, a Wisconsin municipal body corporate (hereinafter called "County"), as represented by the Milwaukee County Division of Economic and Community Development and von Briesen & Roper, s.c. (hereinafter called "Contractor") is entered into on _____.

1. SCOPE OF SERVICES

Contractor shall provide legal services to the County related to, and including, the drafting of a Development Agreement with Barrett Visionary Development, or another entity, for the Transit Center property, with any necessary associated documents, such as a Purchase and Sale Agreement, conveyance documents, and title insurance documents.

2. IDENTIFICATION OF CLIENT

As a law firm, Contractor owes certain professional obligation to its clients. With respect to the matter set forth in this Contract, Contractor's client is the County. Contractor will take direction from authorized representatives of the County in connection with this Contract.

3. STAFFING

Contractor shall provide, at its own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of, or have any other contractual relationships with, the County.

4. DATES OF PERFORMANCE

The term of this Contract shall commence upon the effective date and continue thereafter as determined by County, or until such time as either party notifies the other of its termination, as provided herein.

5. COMPENSATION BILLING

a) Compensation. Each bill for legal services rendered will be a function of Contractor's hourly rates multiplied by the hours invested by each attorney or legal assistant who performs services on the County's behalf. The hourly rates for attorneys and legal assistants who may be involved in these matters currently range from \$75 to \$400, depending on the attorney's level of experience. Hourly rates are reviewed periodically and may be adjusted from time to time. Project prior to signature of this contract. Unless subsequently approved the County, the maximum amount for fees to be paid under this Contract is \$50,000. *am*

For the County's internal purposes, the cost related to such legal assistance will be assigned to Org Unit 1961. Contractor agrees that work provided to the County will be performed at the discounted hourly rate of for \$390 partners, \$250 for associates, \$150 for paralegals. At such time as the fees for such professional services approach the contracted amount, the parties will discuss entering into an extension or amendment of this Contract. Such services will commence as soon as this Contract is executed and will continue thereafter as determined by County. Contractor shall provide the County with a bill that shall include the name of the individual attorney or paralegal who performed

services, the actual hours worked, the task(s) performed (e.g. research, conferences, etc.) and the hourly billing rate.

Pre-approved major disbursements and charges for outside services will be forwarded to the County for direct payment. Other out-of-pocket costs and expenses, such as long distance telephone, facsimile photocopy, minor filing fees, computer research fees and other miscellaneous expenses identifiable to the aforementioned matter, will be billed monthly.

b) Billing. Contractor will bill the County monthly for services rendered during the previous month. Payment by County is due upon receipt of Contractor's billing invoice. County shall review all billing statements before being issued to ensure that the amount charged is appropriate.

6. OWNERSHIP OF DATA

Upon completion of the work or upon termination of the Contract, it is understood that all completed or partially completed data, drawings, records, computations, survey information, and all other material that Contractor has collected or prepared in carrying out this Contract shall be provided to and become the exclusive property of the County. Therefore, any reports, information and data, given to or prepared or assembled by Contractor under this Contract shall not be made available to any individual or organization by Contractor without the prior written approval of County.

7. AUDIT AND INSPECTION OF RECORDS

Contractor shall permit the authorized representatives of County, after reasonable notice, to inspect and audit all data and records of Contractor related to carrying out this Contract for a period up to three (3) years after completion of the Contract. The Contractor must obtain prior written County approval for all subcontractors or associates to be used in performing its contractual obligations. There must be a written contractual agreement between the Contractor and its County approved subcontractor or associates which binds the subcontractor to the same audit contract terms and conditions as the Contractor.

Contractor further understands that oral and written communication with the County regarding the legal services provided on behalf of the County are confidential. No aspect of Contractor's representation may be discussed with any individual other than Brian Dranzik or an individual designated by Brian Dranzik unless Contractor receives prior written authorization for such discussion.

8. CONFLICTS OF INTEREST AND WAIVERS

The ethical rules issued by the Wisconsin Supreme Court regarding the conduct of lawyers in the state of Wisconsin require that before Contractor accepts the engagement, waiver of any potential conflict of interest must be obtained. The ethical rule applicable under the circumstances is Supreme Court Rule 20:1.7, which provide as follows:

SCR 20:1.7 Conflict of Interest: General Rule

a) A lawyer shall not represent a client if the representation of that client will be directly adverse to another client, unless;

1) the lawyer reasonably believes the representation will not adversely affect the relationship with the other client; and

2) each client consents in writing after consultation

b) A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interest, unless;

1) the lawyer reasonably believes the representation will not be adversely affected; and

2) the clients consents in writing after consultation. When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation and the advantages and risks involved.

Contractor understands that representation of the County precludes representation of any client or party who is adverse to the county, absent a written waiver to the contrary.

However, the County understands that the Contractor represents clients who now have or who may have in the future, interests adverse to the County in a wide variety of matters, in all of which the County is, or will be, represented by other legal counsel. It is expected that such representation by the Contractor will continue and it is acknowledged that no conflict of interest exists or will exist regarding such representation. However, the Contractor agrees that it will not use information obtained in representing the County in any matter adverse to the County, and will take all reasonable and necessary steps to protect such information from use by members of the Contractor representing clients with interests adverse to the County.

9. DISADVANTAGED BUSINESS ENTERPRISE

The Contractor shall comply with Milwaukee County Ordinance Chapter 42, which has an overall goal of seventeen percent (17%) participation of certified disadvantaged business enterprise (DBE) on professional service contracts. However, due to the unique nature of the services provided under this contract, no specific DBE goal applies to this contract. Contractor shall make reasonable efforts to provide DBE's with opportunities to participate in this project.

10. NON-DISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION PROGRAMS

In the performance of work under this Contract, Contractor shall not discriminate against any employee or applicant for employment because of race, color, national origin, age, sex, or handicap, which shall include, but not be limited to, the following:

Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeships. Contractor will post in conspicuous places, available for employees and applicants for employment, notices setting forth the provisions of the non-discriminatory clause.

Contractor agrees to strive to implement the principles of equal employment opportunity through an effective Affirmative Action program, and has so indicated on the Equal Employment Opportunity Certificate attached hereto as and made a part of this Contract. The program shall have as its objective to increase the utilization of women, minorities and handicapped persons, and other protected groups, at all levels of employment, in all divisions of Contractor's work force, where these groups may have been previously under-utilized and under-represented. Contractor also agrees that in the event of any dispute as to compliance with the aforestated requirements, it shall be its responsibility to show that it has met all such requirements.

When a violation of the non-discrimination, equal opportunity or Affirmative Action provisions of this section has been determined by County, Contractor shall immediately be informed of the violation and directed to take all action necessary to halt the violation, as well as such action as may be necessary to correct, if possible, any injustice to any person adversely affected by the violation, and immediately take steps to prevent further violations.

If, after notice of a violation to Contractor, further violations of the section are committed during the term of the Contract, County may terminate the Contract without liability for the uncompleted portion or any materials or services purchased or paid for by the Contractor for use in completing the Contract, or it may permit Contractor to complete the Contract, but, in either event, Contractor shall be ineligible to bid on any future contracts let by County.

11. INDEMNITY

Contractor agrees to the fullest extent permitted by law, to indemnify, defend and hold harmless, County, and its agents, officers and employees, from and against all loss or expense including costs and attorney's fees by reason of statutory benefits under Workers Compensation Laws, or liability for damages including suits at law or in equity, caused by any wrongful, intentional, or negligent act or omission of Contractor, or its (their) agents which may arise out of or are connected with the activities covered by this Contract.

Contractor shall indemnify and save the County harmless from any award of damages and costs against County for any action based on U.S. patent or copyright infringement regarding computers programs involved in the performance of the tasks and services covered by this Agreement.

12. INSURANCE

Per Wisconsin Supreme Court Rule, the Contractor shall carry professional liability insurance providing for at least \$10.0 million in combined indemnity and defense cost coverage per claim, with at least \$10.0 million aggregate combined indemnity and defense cost coverage amount per period.

13. TERMINATION

The County reserves the right to terminate the Contract at any time for any reason by giving Contractor three (3) days written notice of such termination. In the event of said

termination, the Contractor shall reduce its activities hereunder as mutually agreed to, upon receipt of said notice, and turn over all work product to the County. Upon said termination, Contractor shall be paid for all services rendered through the date of termination. Contractor shall also have the right to terminate this Contract within the bounds of Contractor's ethical obligations as attorneys.

14. INDEPENDENT CONTRACTOR

Nothing contained in this Contract shall constitute or be construed to create a partnership or joint venture between County or its successors or assigns and Contractor or its successors or assigns. In entering into this Contract, and in acting in compliance herewith Contractor is at all times acting and performing as an independent contractor, duly authorized to perform the acts required of it hereunder.

15. SUBCONTRACTS

Assignment of any portion of the work by subcontract must have the prior written approval of County.

16. ASSIGNMENT LIMITATION

This Contract shall be binding upon and inure to the benefit of the parties and their successors and assigns; provided, however, that neither party shall assign its obligations hereunder without the prior written consent of the other.

17. PROHIBITED PRACTICES

- A. Contractor during the period of this contract shall not hire, retain or utilize for compensation any member, officer, or employee of County or any person who, to the knowledge of Contractor, has a conflict of interest.
- B. Contractor hereby attests that it is familiar with Milwaukee County's Code of Ethics which states, in part, "No person may offer to give to any County officer employee or his immediate family, and no County officer or employee or his immediate family, may solicit or receive anything of value pursuant to an understanding that such officer's or employee's vote, official actions or judgment would be influenced hereby."

18. NOTICES

All notices with respect to this Contract shall be in writing. Except as otherwise expressly provided in this Agreement, a notice shall be deemed duly given and received upon delivery, if delivered by hand, or three days after posting via US Mail, to the party addressed as follows:

To Contractor:

von Briesen & Roper, s.c.
Attn: Alan Marcuvitz
411 E. Wisconsin Ave., Ste 1000
Milwaukee, WI 53202

To County:

Milwaukee County Division of Economic and
Community Development
Attn: Teig Whaley-Smith
2711 W. Wells St.

Milwaukee, WI 53208

Either party may designate a new address for purposes of this Contract by written notice to the other party.

19. MISCELLANEOUS

This contract shall be interpreted and enforced under the laws and jurisdiction of the State of Wisconsin. This Contract constitutes the entire understanding between the parties and is not subject to amendment unless agreed upon in writing by both parties hereto. Contractor acknowledges and agrees that it will perform its obligations hereunder in compliance with all applicable state, local or federal law, rules and regulations and orders.

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the day, month and year first above written.

Approved: Alan Marcuvitz Date: 9-23-14
Alan Marcuvitz, von Briesen & Roper, s.c.

DocuSigned by:
Rick Norris Date: 9/24/2014
Approved: _____
AD4C84D4023E450...
Milwaukee County Community Business Development Partners

DocuSigned by:
Andy Beck Date: 9/26/2014
Approved: _____
E454E4CA2D21452...
Milwaukee County Risk Management

DocuSigned by:
Mark A Grady Date: 9/29/2014
Approved: _____
2BE87A71B2AE4E5...
Milwaukee County Corporation Counsel (for Content)

DocuSigned by:
John A. March Date: 9/26/2014
Approved: _____
F7354A95DB0643E...
For Milwaukee County Comptroller

DocuSigned by:
Teig Whaley-Smith Date: 9/29/2014
Approved: AB71EF9493284E0...
Milwaukee County Division of Economic and
Community Development

DocuSigned by:
[Signature] Date: 9/29/2014
Approved: 2E580B33A2CC443...
Milwaukee County Executive

DocuSigned by:
Mark A Grady Date: 9/29/2014
Approved: 28E87A71B2AE4E5...
Milwaukee County Corporation Counsel