THIS AGREEMENT, By and between the Endeavour Company, 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 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 the property located in either side of South Ferry Street between South Water Street and East Pittsburgh Avenue. This property, hereinafter known as "Site", is illustrated by Exhibit "A"; and

WHEREAS, The Developer has requested an agreement providing for relocation of a water main located in South Ferry Street; and

WHEREAS, Subject water main relocation will allow vacation of South Ferry Street and redevelopment of the site; and

WHEREAS, The requested water main relocation could be completed under the terms of an Out-of-Program Agreement upon condition that title to the water main relocation upon its completion shall vest in the City of Milwaukee subject to conditions more fully hereinafter stated; and

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

Developer agrees to provide funds equal to one half the total amount required for design, construction, and inspection of the water main relocation, and any related City work necessitated by the project.

2. Water Main Relocation

The existing 36-inch diameter water main located in South Ferry Street between East Pittsburgh Avenue and South Water Street will be relocated to allow for eventual vacation of South Ferry and redevelopment of the vacated right-of-way along with abutting property on either side. The new 36-inch diameter water main, totaling approximately 600 linear feet, will be located in South 1st Street between East Seeboth Street and East Pittsburgh Avenue. City shall design, construct, and inspect the relocated water main as well as provide materials, fittings, and force work as needed. The estimated costs for the water main relocation project are:

Design engineering	$ 14,000
Materials and fittings	23,000
Inspections and related work force	18,000
Construction	170,000
Total	$225,000

The abandoned water main will be left in place. Concrete bulkheads will be installed in the open ends as part of the new main construction project. The cost for the bulkheads is included in the above figures. Developer shall be

responsible for removing or backfilling the abandoned water main, as he deems appropriate.

3. Other Improvements

Developer agrees that any other utility and access improvements necessary to serve the site 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.

4. Private Utilities

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

5. Funding Guarantee

Prior to the award of any improvement contract, Developer shall provide a funding guarantee satisfactory in format to the City Attorney (such as a letter of credit) in an amount equal to one half the estimated construction cost of the water main relocation. One half of the estimated construction cost equals $85,000.

The funding guarantee shall ensure that the required funds to cover the estimated construction contract cost of installing the applicable public improvements will, upon simple request

by the Commissioner of Public Works, be released to City as required, all such funds to be furnished interest free.

The Developer shall further provide a cash deposit to the City equal to one half the total amount of the design, inspections, materials and fittings, estimates, and related force work prior to the City commencing design of the relocated water main. The required cash deposit equals $27,500.

6. Excess Costs

It is understood and agreed that one half of any actual cost in excess of amounts estimated herein will be billed to Developer upon determination that such excess costs have or will be incurred by City.

The Construction Engineering estimate listed in paragraph 2 above is based upon an assumed forty (40) days of construction. Should actual construction take longer, actual Construction Engineering costs are likely to exceed the estimate.

It shall be further understood and agreed that where 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 Developer's pro rated share of expenses incurred by the City for engineering and plan preparation work commenced by the City at the Developer's request.

7. Inspections, Fittings & Materials

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 and approval of inspectors and engineers furnished by the Department of Public Works. All engineering, inspection, materials and fittings 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.

8. Ownership of Public Improvements

It is understood and agreed by both parties hereto that upon completion of the water main relocation and associated improvements, title to such improvements shall vest in the City of Milwaukee and that the City will accept the obligation of operation and maintenance in accordance with its standard practice.

9. Building Permits

It is understood and agreed by both parties hereto that building permits for any planned structures to be located in the current South Ferry Street right-of-way shall not be issued until the relocated water main has been completed and placed in operation.

10. City Ordinances and Regulations

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 supercede such requirements.

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 _____, 2004.

_____
The Endeavour Company

In Presence Of: _____

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____, 2004, who executed the foregoing instrument, and acknowledge 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 _____, 2004.

CITY OF MILWAUKEE

In Presence Of:

_____ Mayor's name? _____
Mayor

_____ _____
City Clerk

COUNTERSIGNED

_____
Comptroller

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

Mayor's name?

Personally came before me this ____ day of _____, 2004, 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 _____, 2004.

_____
Notary Public, State of Wisconsin

My Commission expires: _____

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____, 2004, _____, 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 _____, 2004.

_____
Notary Public, State of Wisconsin

My Commission expires: _____

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____, 2004, _____, 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 _____, 2004.

_____
Notary Public, State of Wisconsin

My Commission expires: _____