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DATE: June 8, 2011

TO: Supervisor Lynne De Bruin
Chair, Honorable Committee,
Economic and Community Development

FROM: John E. Schapekahn,
Principal Assistant Corporation Counsel

The State of Wisconsin is the owner of property adjacent to P&H Mining Equipment, Inc. on the east, bounded by National Avenue on the south and by Miller Parkway on the west, which is commonly referred to as parcel "Area 10." [See attached map]. The State obtained title to the 2.7-acre Area 10 by quit-claim deed from Milwaukee County. The County quit-claim deed restricts the use of the 2.7-acre Area 10 Parcel to construction and operation of a baseball stadium and related facilities and to certain streets and roads, and it also contains a provision that title to the 2.7-acre Area 10 Parcel reverts to Milwaukee County upon the occurrence of certain conditions. Milwaukee County also granted to the State, the State Highway Commission, and the City of Milwaukee a license to construct and maintain a highway and related appurtenances upon a portion of the 2.7-acre Area 10 Parcel.

The City of Milwaukee is the owner of the 3.5-acre Water Works Parcel bounded on the south by Selig Drive, on the west by Miller Parkway and on the east by 44th Street. [See attached map].

The State of Wisconsin and the City of Milwaukee have negotiated to transfer ownership of State's 2.7-acre Area 10 to the City, so that the City can sell the 2.7-acre Area 10 to P&H Mining Equipment, Inc. to use the acreage as a parking lot for the expansion of its Milwaukee business operations. The transfer would be accomplished by the City conveying the 3.5-acre Water Works Parcel to the State, which would in turn lease it to the Stadium District, which would in turn sublease the 3.5-acre Water Works Parcel to the Brewers.

The transaction, from Milwaukee County's perspective, would require approval of the Milwaukee County Board to release the 2.7-acre Area 10 from the Milwaukee County Restrictions, conditioned in turn upon substituted encumbrance of the Milwaukee County Restrictions upon the 3.5-acre Water Works Parcel.

A question has arisen whether the State of Wisconsin would have to agree with the imposition of the County deed restrictions on the 3.5-acre Water Works Parcel such as currently encumber the 2.7-acre Area 10 Parcel. The answer is yes: the State of Wisconsin and the City of Milwaukee have entered into (or will be entering into) a Land Transfer Agreement [attached] governing the exchange

between them of the State's 2.7-acre Area 10 to the City and the City's 3.5-acre Water Works Parcel to the State.

The "Recitals" to the Land Transfer Agreement expressly acknowledge the Milwaukee County license and deed restrictions on the 2.7-acre Area 10, enumerating them, in pertinent part, as follows:

E. Area 10 was also previously owned by Milwaukee County. Milwaukee County granted to the State, the State Highway Commission, and the City a license to construct and maintain upon a portion of Area 10 a highway and related appurtenances. ...

F. The State obtained title to Area 10 by a quit claim deed from Milwaukee County ... The Deed restricts the use of Area 10 for purposes of construction and operation of a baseball stadium and related facilities and for certain streets and roads, and it also contains a provision pursuant to which title to Area 10 reverts to Milwaukee County upon the occurrence of certain conditions

Section 3(a)(i), of the Land Transfer Agreement then goes on to provide, in pertinent part, for:

a quit claim deed from the City conveying the Water Works parcel to the State, which deed shall ... to the extent required by ... Milwaukee County ... contain the ... the Milwaukee County Restrictions (the "City Deed").

The State, as a signatory with the City to the Land Transfer Agreement agrees to be bound by the provisions of Section 3(a)(i), meaning the State agrees to accept the Water Works Parcel with the County Restriction encumbering it.

This obligation, assumed by the State, to accept the Water Works Parcel with the County Restriction encumbering it, is reinforced by Section 4(b) of the Land Transfer Agreement, which provides in pertinent part:

4. Contingency Period. During the one hundred twenty (120) day ... ("Contingency Period"), the Parties shall use commercially reasonable efforts to obtain the following:

...

(b) From Milwaukee County, (i) approval of the Milwaukee County Board to release Area 10 from the Milwaukee County Restrictions and, if ... required by Milwaukee County as a condition to such release, approval to encumber the Water Works Parcel with the Milwaukee County Restrictions; (ii) a fully executed and recordable release of the Milwaukee County Restrictions from Area 10; (iii) approval to terminate the License; and (iv) a fully executed and recordable termination of the License.

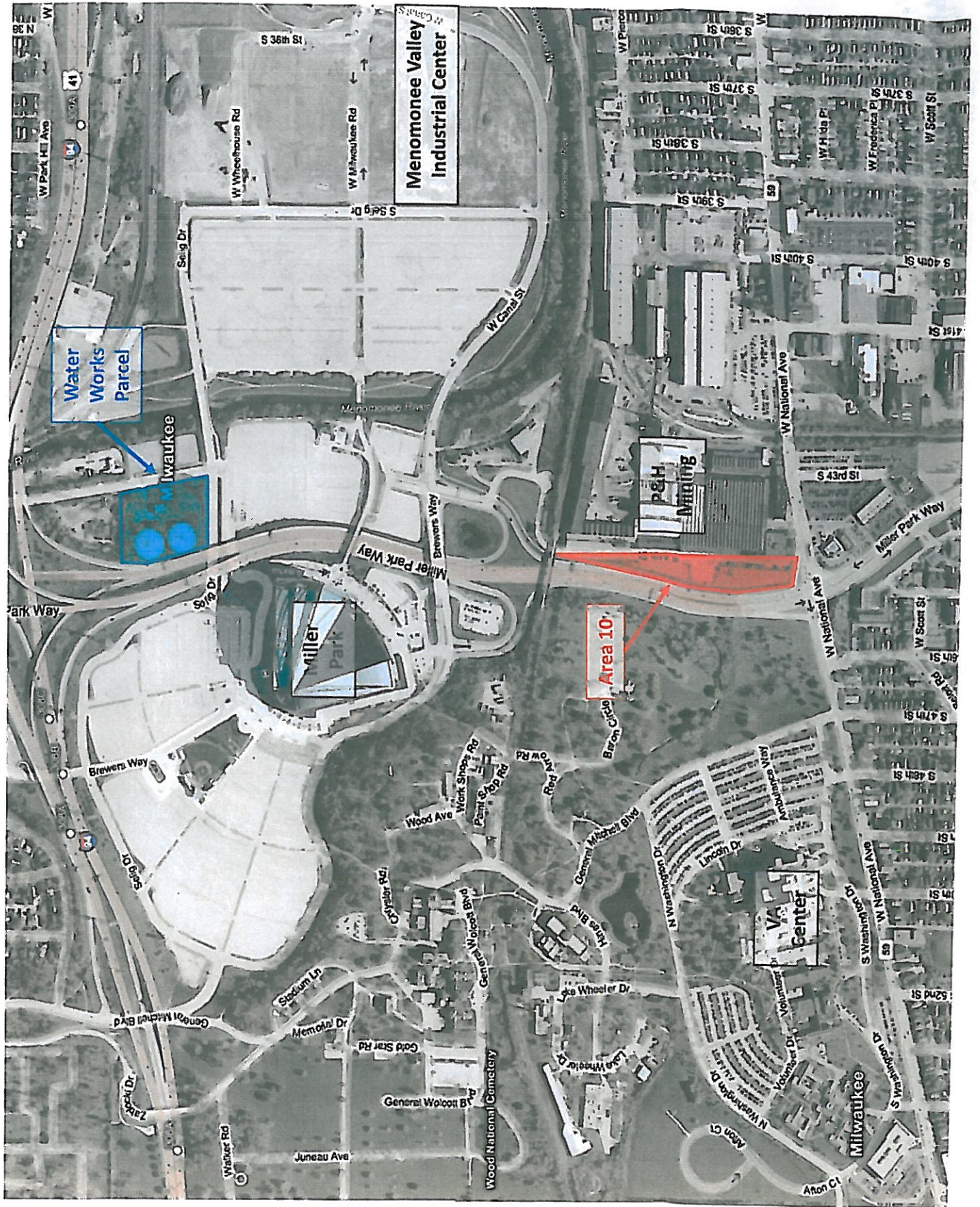
Thus, the State and the City, as signatories to the Land Transfer Agreement, agree to the conveyance of the Water Works Parcel with the County Restriction encumbering it, and further agree, that the 2.7-acre Area 10 will not be released from the Milwaukee County Restrictions unless and until the 3.5-acre Water Works Parcel is encumbered with the County Restriction.

Corporation Counsel is satisfied that the State of Wisconsin would have to agree to the imposition of the County deed restriction on the 3.5-acre Water Works Parcel similar to that which currently encumbers the 2.7-acre Area 10 Parcel. Corporation Counsel is also of the opinion that the County Board may authorize the County Executive to release the deed restriction and license on the 2.7-acre Area 10 Parcel upon demonstration, to his satisfaction, that the deed restriction has been placed on the 3.5-acre Water Works Parcel by the City.

Respectfully submitted,



JOHN E. SCHAPEKAHM
Principal Assistant Corporation Counsel



LAND TRANSFER AGREEMENT

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This Land Transfer Agreement ("Agreement") is entered into as of November 19, 2010 ("Effective Date"), by and between the State of Wisconsin, Department of Administration ("State"); the Southeast Wisconsin Professional Baseball Park District, a statutorily created instrumentality of the State of Wisconsin ("District"); the Milwaukee Brewers Baseball Club, Limited Partnership, a Wisconsin limited partnership ("Brewers"); and the City of Milwaukee ("City"). The State, the District, the Brewers, and the City are referred to herein each as a "Party" and collectively as the "Parties." Chicago Title Insurance Company ("Title Company") is executing this Agreement solely to confirm its agreement to act as escrow agent for the transaction contemplated herein pursuant to the terms and conditions of this Agreement.

RECITALS

A. The State is the owner of property located in the City of Milwaukee, Milwaukee County, Wisconsin, legally described on Exhibit A, attached hereto and incorporated herein, and commonly referred to as "Area 10."

B. The State, as lessor, and the District, as lessee, are parties to a Ground Lease dated October 21, 1996, as amended by that certain First Amendment to Ground Lease dated as of October 31, 1998 (as amended, the "Ground Lease"), which Ground Lease encumbers Area 10, among other property.

C. Pursuant to an Amended and Restated Lease Agreement dated as of June 30, 2004, as amended by First Amendment to Amended and Restated Lease Agreement dated as of December 1, 2004, and by Second Amendment to Amended and Restated Lease Agreement dated as of January 14, 2005 (as amended, the "Sublease"), the District subleases the property subject to the Ground Lease, including Area 10, to the Brewers.

D. Area 10 was previously owned by the United States of America ("U.S. Government"), which conveyed Area 10 to Milwaukee County by a quit claim deed dated December 23, 1949 ("1949 Deed"). The 1949 Deed contains certain restrictions regarding the use of Area 10 and other rights in favor of the U.S. Government. On March 14, 1996, the U.S. Government recorded a Deed of Release with the Milwaukee County Register of Deeds, which Deed of Release released the restriction on alienation of Area 10, but it did not release the restrictions in the 1949 Deed requiring Area 10 to be used for civic and recreational purposes ("U.S. Government Restrictions").

E. Area 10 was also previously owned by Milwaukee County. Milwaukee County granted to the State, the State Highway Commission, and the City a license to construct and maintain upon a portion of Area 10 a highway and related appurtenances. Such license was recorded in the Milwaukee County Register of Deeds Office as Document No. 3066121 ("License").

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F. The State obtained title to Area 10 by a quit claim deed from Milwaukee County recorded in the Milwaukee County Register of Deeds Office as Document No. 7308803 ("Deed"). The Deed restricts the use of Area 10 for purposes of construction and operation of a baseball stadium and related facilities and for certain streets and roads, and it also contains a provision pursuant to which title to Area 10 reverts to Milwaukee County upon the occurrence of certain conditions (such restrictions and reversion right, collectively, the "Milwaukee County Restrictions").

G. The City is the owner of property located in the City of Milwaukee, Milwaukee County, Wisconsin, legally described on Exhibit B, attached hereto and incorporated herein, and commonly referred to as the "Water Works Parcel."

H. The Parties desire to transfer ownership of Area 10 to the City, which it intends to sell to P&H Mining Equipment Inc. to use as a parking lot for the expansion of its business operations in the City of Milwaukee and the Village of West Milwaukee. Additionally, the Parties desire to transfer ownership of the Water Works Parcel to the State, which will lease it to the District, and the District, in turn, will sublease the Water Works Parcel to the Brewers.

AGREEMENT

Now, therefore, in consideration of the above Recitals and other good and valuable mutual consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Exchange. The State hereby agrees to convey Area 10 to the City by quit claim deed in exchange for the Water Works Parcel, and the City hereby agrees to convey the Water Works Parcel to the State by quit claim deed in exchange for Area 10. The State, the Brewers and the District, as their interests appear, agree to amend the Ground Lease and the Sublease to release Area 10 and to substitute the Water Works Parcel in lieu thereof, and to make any other amendments to the Ground Lease and Sublease necessary to effectuate the terms of this Agreement.

2. Title Insurance. Within fifteen (15) days of the Effective Date, the City shall obtain from the Title Company and deliver to the Parties title insurance commitments for Area 10 and the Water Works Parcel. The City shall be responsible for paying the title insurance premium therefor and any costs associated therewith.

3. Formation of Escrow. On the Effective Date, the Parties shall deliver the following documents to the Title Company to be held in escrow pursuant to the terms and conditions hereof:

(a) From the City:

(i) A quit claim deed conveying the Water Works Parcel to the State, which deed shall, if and only to the extent required by the U.S. Government and/or Milwaukee

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County, as applicable, contain the U.S. Government Restrictions and/or the Milwaukee County Restrictions (the "City Deed"); and

Deed. (ii) A Wisconsin Real Estate Transfer Return Receipt for the City

(b) From the State:

(i) A quit claim deed conveying Area 10 to the City (the "State Deed");

Deed; (ii) A Wisconsin Real Estate Transfer Return Receipt for the State

(iii) An amendment to the Ground Lease which (a) excludes Area 10 from the terms and conditions thereof, and (b) adds the Water Works Parcel to the terms and conditions thereof, as well as makes any other amendments necessary or desirable to effectuate the terms of this Agreement ("Ground Lease Amendment");

(iv) A memorandum, in recordable form, of the Ground Lease Amendment ("Ground Lease Amendment Memorandum"); and

(v) An access easement over the property commonly referred to as "Area 9" to serve Area 10 ("Access Easement").

(c) From the District:

(i) The Ground Lease Amendment;

(ii) The Ground Lease Amendment Memorandum;

(iii) An amendment to the sublease which (1) excludes Area 10 from the terms and conditions thereof, and (2) adds the Water Works Parcel to the terms and conditions thereof, as well as makes any other amendments necessary or desirable to effectuate the terms of this Agreement ("Sublease Amendment");

(iv) A memorandum, in recordable form, of the Sublease Amendment ("Sublease Amendment Memorandum"); and

(v) The Access Easement.

(d) From the Brewers:

(i) The Sublease Amendment;

(ii) The Sublease Amendment Memorandum; and

(iii) The Access Easement.

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4. Contingency Period. During the one hundred twenty (120) day period following the Effective Date ("Contingency Period"), the Parties shall use commercially reasonable efforts to obtain the following:

(a) From the U.S. Government, (i) approval to release Area 10 from the U.S. Government Restrictions and, if and only to the extent required by the U.S. Government as a condition to such release, approval to encumber the Water Works Parcel with the U.S. Government Restrictions; and (ii) a fully executed and recordable release of the U.S. Government Restrictions from Area 10.

(b) From Milwaukee County, (i) approval of the Milwaukee County Board to release Area 10 from the Milwaukee County Restrictions and, if and only to the extent required by Milwaukee County as a condition to such release, approval to encumber the Water Works Parcel with the Milwaukee County Restrictions; (ii) a fully executed and recordable release of the Milwaukee County Restrictions from Area 10; (iii) approval to terminate the License; and (iv) a fully executed and recordable termination of the License.

(c) From the State, approval of (i) the disposition of Area 10 in exchange for the acquisition of the Water Works Parcel, (ii) the Access Easement; and (iii) the Ground Lease Amendment.

(d) From the City, the approval of the City of Milwaukee Common Council City for the disposition of the Water Works Parcel in exchange for the acquisition of Area 10.

(e) From the District, all necessary approval(s) of (i) the Ground Lease Amendment, (ii) the Sublease Amendment, (iii) the Access Easement, and (iv) the terms and conditions set forth in this Agreement.

The foregoing are referred to herein each as an "Approval" and collectively as the "Approvals." The Party who obtains each respective Approval shall, upon receipt thereof, deliver written notice of the same to the other Parties and the Title Company. If one or more of the Approvals cannot be obtained during the Contingency Period because of the governmental procedures required to be followed to obtain such Approval, the Contingency Period shall be extended for an additional ninety (90) days ("Extended Contingency Period").

If one or more of the Approvals has not been obtained by the expiration of the Contingency Period and it is highly unlikely that such Approvals will be obtained during the Extended Contingency Period, this Agreement shall be deemed terminated, the Title Company shall deliver the documents being held in escrow to the Party that deposited the same, and no Party shall have any further rights or obligations hereunder.

If one or more of the Approvals has not been obtained by the expiration of the Extended Contingency Period, this Agreement shall be deemed terminated, the Title Company shall deliver the documents being held in escrow to the Party that deposited the same, and no Party shall have any further rights or obligations hereunder.

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5. Termination of Escrow. Upon receipt of the last of the Approvals, the Title Company shall deliver a copy of all of the documents being held in escrow to each of the Parties and shall record the following documents in the order listed below:

- (a) Release of U.S. Government Restrictions;
- (b) Release of Milwaukee County Restrictions;
- (c) Termination of the License;
- (d) State Deed;
- (e) City Deed;
- (f) Ground Lease Amendment Memorandum;
- (g) Sublease Amendment Memorandum; and
- (h) Access Easement.

In addition, the Title Company shall deliver the original Ground Lease Amendment and Sublease Amendment to the State, the District and the Brewers, as applicable.

6. Costs and Expenses. The cost of the escrow will be paid by the City. The cost of the recording fees and other closing costs shall be split equally between the Parties and paid upon receipt of an invoice from Title Company for the same. Transfer fees, if any, shall be the responsibility of the Party that is the grantor in a conveyance in which a transfer fee is due.

7. Notices. All notices or directions given under this Agreement shall be in writing and personally delivered, sent by commercial overnight courier, or sent by facsimile transmission and directed as follows:

IF TO STATE: State of Wisconsin Office of Department of Administration
101 E. Wilson Street
Madison, WI 53703
Attn: Secretary of the Office of Department of
Administration

WITH A COPY TO: State of Wisconsin
Office of Department of Administration
101 E. Wilson Street, 10th Floor
Madison, WI 53702
Attn: Ernest Jones, Esq.

COPY

IF TO DISTRICT: Southeast Wisconsin Professional Baseball Park District
Attention: Mr. Michael Duckett, Executive Director
Miller Park
One Brewers Way
Milwaukee, WI 53214

WITH A COPY TO: Davis & Kuelthau, s.c.
Attention: Susan G. Schellinger
111 E. Kilbourn Avenue, Suite 1400
Milwaukee, WI 53202

IF TO BREWERS: Milwaukee Brewers Baseball Club
Miller Park
One Brewers Way
Milwaukee, WI 53214
Attention: Legal Department

WITH A COPY TO: Foley & Lardner LLP
777 East Wisconsin Avenue
Milwaukee, WI 53202
Attn: Joseph S. Rupkey, Esq.

IF TO CITY: City of Milwaukee
Attn: Commissioner of the Dept. of City Development
809 North Broadway
Milwaukee, WI 53202

WITH A COPY TO: City of Milwaukee
Office of the City Attorney
200 E. Wells Street, 8th Floor
Milwaukee, WI 53202
Attn: Danielle M. Bergner, Esq.

Notices or demands personally delivered shall be deemed received when given. Notices or demands sent by confirmed facsimile transmission shall be deemed received when given, if prior to 3 PM, recipient's local time, on a business day, otherwise on the next occurring business day. Notices or demands sent by commercial overnight courier shall be deemed received on the next business day following deposit.

8. Miscellaneous.

(a) This Agreement may only be modified in writing signed by all of the Parties. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

(b) This Agreement shall be governed by and construed under and enforced in accordance with the laws of the State of Wisconsin applicable to agreements made and to be

COPY

performed wholly within such state.

(c) Whenever in this Agreement a day is appointed for the closing, delivery of notice or any other matter shall occur on other than a business day, such date shall be deemed extended to the next regular occurring business day.

(d) Except as otherwise specifically provided herein, any Party may enforce this Agreement by appropriate action and the prevailing Party in such litigation shall be entitled to recover its costs and reasonable attorneys' fees. This paragraph shall survive the closing of this transaction.

(e) This Agreement has been duly and validly authorized by each of the Parties and constitutes the valid and binding obligations of the Parties.

(f) This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same instrument.

This Agreement is executed as of the Effective Date.

STATE:
STATE OF WISCONSIN

By: [Signature]
Name: DANIEL SCHOFF
Title: SECRETARY

Date: Dec. 28, 2010

DISTRICT:
SOUTHEAST WISCONSIN PROFESSIONAL
BASEBALL PARK DISTRICT

By: [Signature]
Name: Jay Williams
Title: Chairman

Date: November 23, 2010

BREWERS:
MILWAUKEE BREWERS BASEBALL CLUB, LIMITED PARTNERSHIP

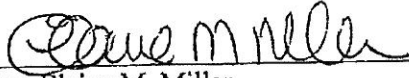
By: Milwaukee Brewers Baseball Club, Inc., its General Partner

By: [Signature]
Name: Rick Schleringer
Title: EVP-Business Operations

Date: November 23, 2010

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CITY:
CITY OF MILWAUKEE:

By: 
Name: Elaine M. Miller
Title: Special Deputy Commissioner
Signed per MCO § 304-49-9

Date: Nov. 19, 2010

Solely to confirm its agreement to act as escrow agent for the transaction contemplated herein pursuant to the terms and conditions of this Agreement:

TITLE COMPANY:
CHICAGO TITLE INSURANCE COMPANY

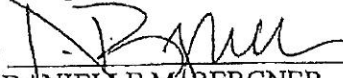
By: _____
Name: _____
Title: _____

Date: _____, 2010

This Document Drafted By:
Danielle M. Bergner
Assistant City Attorney
City of Milwaukee

Milwaukee City Attorney
Approval and Authentication

Danielle M. Bergner, as a member in good standing of the State Bar of Wisconsin, hereby approves the signatures of the Milwaukee representatives above, and also authenticates the signatures of each of the above Milwaukee representatives/signatories per Wis. Stat. § 706.06 so this document may be recorded per Wis. Stat. § 706.05 (2)(b).

By: 
DANIELLE M. BERGNER
Assistant City Attorney
State Bar No. 1049359

Date: 11/19/2010

1049-2007-986:163488

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EXHIBIT A

Legal Description of Area 10

The following tract of land in the City of Milwaukee, Milwaukee County, State of Wisconsin, described as:

That part of the Southeast ¼ of the Northeast 1/4 of the Southeast 1/4 of Section 35, Township 7 North, Range 21 East; described as follows:

Commencing at the Southeast corner of said Northeast ¼ of Section 35; thence North 01°26'46" West along the east line of said Northeast 1/4 of Section 35, 128.00 feet; thence perpendicular to said section line South 88°33'14" West 461.51 feet to the POINT OF BEGINNING; thence South 01°31'15" East, 524.04 feet; thence South 0°41'19" West, 766.39 feet to the north right of way of National Avenue; thence along said north line North 83°00'10" West 100.27 feet to the east right of way line of STH 341; thence along said east line the following courses: North 11°59'12" West, 137.46 feet; thence North 06°33'18" West 142.26 feet; thence North 0°17'46" East 135.49 feet; thence North 6°56'02" East 143.68 feet; thence North 12°08'36" East 154.88 feet; thence North 12°02'50" East 206.66 feet; thence North 89°32'33" East 25.68 feet; thence North 0°59'08" West 190.85 feet; thence North 3°54'00" East 50.04 feet; thence North 03°46'26" East 115.44 feet; thence North 12°32'40" East 16.40 feet to a point of the end of the following courses along with said east line of STH 341; thence South 79°45'43" East 9.04 feet to the Point of Beginning.

This parcel contains 118,310 sq. feet or 2.716 acres, more or less

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EXHIBIT B

Legal Description of the Water Works Parcel

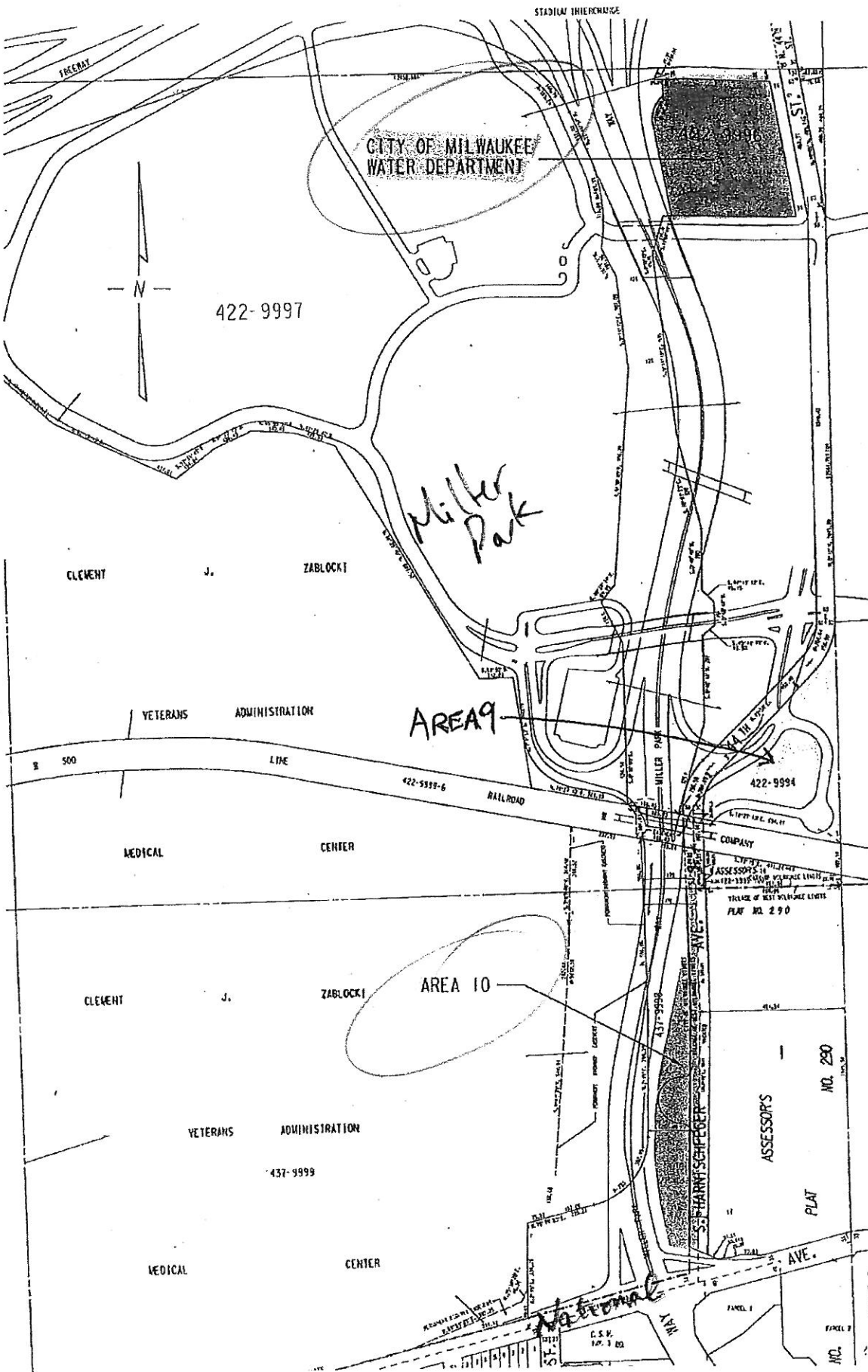
A parcel of land in the Northeast 1/4 of Section 35, Town 7 North, Range 21 East, in the City of Milwaukee, County of Milwaukee, State of Wisconsin, more particularly described as follows:

Commencing at a point in the Northeast corner of the Northeast 1/4 of Section 35, Town 7 North, Range 21 East; running thence West along the North line of said 1/4 Section, 181.06 feet to a point said point lying 36.00 feet Southwesterly of and measured at right angles to the Westerly line of South 44th Street; thence Southeasterly and parallel to the Westerly line of South 44th Street, 38.48 feet to a point, said point lying 38.00 feet South of and measured at right angles to the North line of said 1/4 Section, said point also being the point of beginning of the land to be described; thence Southeasterly along a line which lies 36.00 feet Westerly of and parallel to said Westerly line of South 44th Street, 450.00 feet to a point; thence West and parallel to the North line of said 1/4 Section, 400.00 feet to a point; thence Northwesterly and parallel to said Westerly line of South 44th Street, 450.00 feet to a point; said point lying 38.00 feet South of and measured at right angles to the North line of said 1/4 section; thence East along the a line which lies 38.00 feet South of and parallel to the North line of said 1/4 section, 400.00 feet to the point of beginning.

EXCEPT that part conveyed in Quit Claim Deed recorded as Document No. 3543635.

Address: 127 South 44th Street

This parcel contains 3.640 acres, more or less



422-9997

CLEMENT J. ZABLOCKI

VETERANS ADMINISTRATION

MEDICAL CENTER

CLEMENT J. ZABLOCKI

VETERANS ADMINISTRATION

MEDICAL CENTER

CITY OF MILWAUKEE
WATER DEPARTMENT

AREA 9

AREA 10

422-9994

ASSESSORS
PLAT NO. 290

NO. 290

ASSESSORS

PLAT

NO. 290

422

437

6990

N.E. 1/4 SEC. 35, T.7N., R.21E.

S.E. 1/4 SEC. 35, T.7N., R.21E.

STADIUM INTERCHANGE

FREEWAY



RAILROAD

COMPANY

ASSESSORS

PLAT NO. 290

ASSESSORS

PLAT NO. 290

ASSESSORS

PLAT NO. 290

ASSESSORS

PLAT NO. 290

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