

OPTION AGREEMENT
909 E. Michigan St. Milwaukee, Wisconsin

For and in consideration of the sum of Twenty Five Thousand Dollars (\$25,000.00) (“Option Fee”) tendered herewith, Milwaukee County (the “County”) does hereby grant unto BARRETT VISIONARY DEVELOPMENT, LLC or its permitted assigns (“Developer”) an exclusive Option to Purchase (“Option”) the property at 909 East Michigan Street, Milwaukee, Wisconsin (the “Land”) more particularly described in Exhibit A attached hereto, on the following terms and conditions:

1. **Purpose.** This Option is granted for the purpose of granting the right to Developer to acquire the Property, demolish the current structure on the Property, known as the “Milwaukee Transit Center”, and construct a high rise mixed-use tower (the “Project”).
2. **Acceptance Date.** The “Acceptance Date” shall be the date on which both parties execute and deliver this Option Agreement.
3. **Agreement to Sell and Purchase.** If Developer exercises this Option, the County shall sell to Developer and the Developer shall buy from the County, the Land along with all of the following (collectively, the “Property”):
 - a. All rights and appurtenances pertaining to the Land, including, without limitation, any and all right, title, and interest of the County in and to adjacent roads, alleys, streets and ways, and any easements or other rights appurtenant to the Land;
 - b. All improvements, structures, facilities and fixtures placed, constructed or installed on the Land (collectively, the “Improvements”);
 - c. All mechanical systems and related equipment owned by the County and attached to the Improvements or located upon the Land (the “Systems and Equipment”), including, but not limited to, all electrical systems, plumbing systems, heating systems, and air conditioning systems; and all machinery, equipment, fixtures and supplies located in or on and used in connection with the Land or the Improvements or the operations thereon;
 - d. The County’s interest in any warranties and guaranties relating to the Land or Improvements, to the extent the same are assignable; and
 - e. Any governmental permits, approvals and licenses owned or held by County in connection with the Land or Improvements, and the right to the use thereof, all to the extent the same are assignable.
 - f. The Land may be modified, by mutual agreement of the parties, to accommodate public access, in which event the parties shall provide a substitute Exhibit A to replace the initial Exhibit A.

The transaction contemplated herein shall not include the County's personal property or any other property not falling within the definition of Property herein (collectively, the "County's Personal Property").

4. **Purchase Price.** If the Option is exercised, the purchase price shall be Five Hundred Thousand Dollars (\$500,000.00) ("Purchase Price") payable by certified check or wire transfer at time of closing, subject to customary deductions and pro-rations in a commercial real estate transaction in downtown Milwaukee, Wisconsin. Any Option Fees or Extension Option Fees paid by the Developer shall be credited towards the Purchase Price.

5. **County's Deliveries.**

- a. **Due Diligence Materials.** Within thirty (30) days from the Acceptance Date, the County shall (at the County's sole cost) deliver or make available to the Developer copies of the following documents, to the extent they are in the County's possession and control (all such documents being referred to as the "Due Diligence Materials"):
- (i) All tests, inspections, evaluations and/or reports relating to the Property, including but not limited to, environmental, structural, topographical and geological studies and reports.
 - (ii) All surveys, maps, site plans, architectural plans, specifications, and other drawings of the Property, and any as-builts, blueprints, warranties or owners' manuals relating to the Improvements.
 - (iii) All notices, orders or other communications by or between County and any federal, state, municipal, local, or governmental agency regarding the Property.
 - (iv) The most recent ALTA survey of the Property.
 - (v) Any appraisal of the Property from 2010 to the present.

In the event information contained in the Due Diligence Materials materially changes at any time prior to Closing, or in the event such documents require updating due to the passage of time, the County shall immediately update such information and provide revised documentation to Developer. Likewise, if at any time prior to Closing any additional Due Diligence Materials come into the County's possession or control, or otherwise become reasonably obtainable by the County or its agents, the County shall deliver same to Developer. All documents required to be provided under the foregoing provisions shall hereinafter be referred to as the "Additional Due Diligence Materials." If the County delivers any Additional Due Diligence Materials after the Developer has exercised its Option hereunder, the Developer may, in its discretion, cancel the transaction and the Option Fee and Renewal Fees shall be returned to the Developer.

- b. **Title Commitment.** After the Acceptance Date, the County shall diligently seek to obtain a title insurance commitment showing title to the Property as of a date that is no more than fifteen (15) days before the delivery of such title commitment (the "Title Commitment"). The Title Commitment shall be subject only to those liens which will be paid out of the proceeds of Closing (as defined herein), and shall have no reference to and contain no indemnity requirements or other exceptions for any issue involving the public trust doctrine or restrictions regarding the use of the Property. The Title Commitment shall be issued by an insurer licensed to write title insurance in Wisconsin that has been approved by the Developer. The County shall pay all costs associated with the Title Commitment.

6. **Term.** This Option shall commence immediately upon the Acceptance Date and shall continue in effect until the date that is five hundred and forty-seven (547) days (or 18 months) after the date on which Developer is in possession of the Title Commitment or the Title Defect Notice as provided in Section 17(b), below (the "Option Period"). The Developer may extend the Option Period for up to two (2) additional six (6) month periods by delivering written notice of such extension to the Economic Development Director for Milwaukee County ("Economic Development Director") before the end of the applicable Option Period, together with a fee of \$25,000 for each extension ("Extension Option Fee"). The Developer may terminate this Option at any time prior to its exercise of the Option; provide, however, that the Option Fee shall be fully refunded if this Option is terminated by the Developer within 90 days of the Acceptance Date or within 30 days of the Title Defect Notice.

7. **Manner of Exercise.** The Developer shall exercise this Option by delivering a written statement to the Economic Development Director on or before the end of the Option Period (or any extension thereof).

8. **Closing.** Provided that all of the conditions for closing hereunder have been satisfied, the closing ("Closing") shall occur within thirty (30) days from the date of the Developer's written statement to exercise the Option (the "Closing Date"), unless another date is agreed to by the parties in writing. The transaction shall be closed at the place designated by Developer. Occupancy of the entire Property shall be given to Developer at the time of Closing. Occupancy shall not be subject to any rights of a tenant or other occupant of the Property. The County shall remove all of the County's Personal Property from the Property prior to Closing. At any time after exercising this Option, Developer shall have the right to inspect the Property at reasonable times upon reasonable notice to determine if there has been a significant change in the condition of the Property. If Developer reasonably determines there has been a significant change in the condition of the Property, Developer may, in its discretion, terminate this Option Agreement and forfeit the Option Fee and any Renewal Fees.

9. **Due Diligence Review.** Prior to the end of the Option Period:

- a. The Developer and/or Developer's agents and representatives shall have the right to conduct any soil, environmental or other assessment of the Property that the Developer deems necessary including, without limitation, any geotechnical investigation, a Phase I and/or Phase II environmental assessment, or any

procurement and testing of soil, groundwater, indoor air, or any other material located on the Property (collectively together the “Soil/Environmental Assessments”). Developer shall pay all costs associated with the Soil/Environmental Assessments and promptly restore any portions of the Property damaged by such tests (i.e., soil borings) to substantially the same condition as existing just prior to such Assessment. Developer shall, and shall request that its agents, representatives, and independent contractors, perform such work in a manner that does not unreasonably cause disturbance to the Property.

- b. Before the end of the Option Period, Developer may, in its sole discretion, conduct any other test, inspection or review of the Property (or any information related to the Property) or seek to obtain any financing, approvals, or other information relating to the Project, including, but not limited to, (i) inspecting the Improvements, the Property’s mechanical and electrical systems, roof, structure and foundation; (ii) reviewing the Due Diligence Materials; and (iii) reviewing or seeking to obtain any permit, notice, approval, variance, review or other matter relating to any federal, state, municipal, local or governmental agency involving the Property or the Project (collectively, the “Due Diligence Review”).
- c. County hereby grants to the Developer and the Developer’s agents permission to enter onto and/or into the Property at reasonable times upon reasonable notice to conduct the activities set forth in this Section 9. The County shall also cooperate with the Developer with respect to the Developer’s activities set forth in this Section 9. Notwithstanding the provisions of this Section 9, before engaging in any Soil/Environmental Assessment or Due Diligence Review requiring the installation of soil borings on the Property, the Developer shall submit its contractor’s proposed work plan to the Economic Development Director for approval as to the location of the proposed borings (which approval shall not be unreasonably withheld, conditioned or delayed). The Economic Development Director shall require any contractor to produce a certificate of insurance complying with the requirements set forth in Exhibit B attached hereto.

10. **Closing Deliveries.**

a. **Developer’s Deliveries.** At Closing, or as otherwise provided herein, the Developer shall deliver the following:

- (i) the Purchase Price.
- (ii) three (3) executed versions of a Development Agreement (“Development Agreement”), the final version of which shall be negotiated by the Economic Development Director and Developer, but which shall incorporate the following provisions:
 - (1) If Developer does not commence construction of the Project on the Property, defined as commencement of excavation on the Property,

within eighteen (18) months of Closing, County shall have the right to compel Developer to reconvey the Property to County, on ten (10) days written notice of the eighteen (18) month anniversary of Closing, in exchange for payment to Developer of 85% of the Purchase Price.

- (2) If Developer, having commenced construction, does not substantially complete construction of the Project on the Property within forty-two (42) months from the commencement of construction, County shall have the right to compel Developer to reconvey the Property to County, on ten (10) days written notice of the forty-two (42) month anniversary from the commencement of construction, in exchange for payment to Developer of 85% of the Purchase Price, plus the sum of Developer's certified construction costs expended.

The Development Agreement shall define the Developer's development obligations on the Project. Except as otherwise provided herein, the Development Agreement shall require, among other things, that the Developer:

- (1) Because the Developer has submitted Concept Plans attached as Exhibit C, prior to Closing Developer shall submit schematic design plans, including detailed landscape plans ("Schematic Design Plans"), and, before commencement of construction, evidence of adequate financing for the Project. Schematic Design Plans should be generally consistent with the Concept Plans. Any Material Alteration contained in the Schematic Design Plans, compared to the Concept Plans, shall require County Board Approval. As used herein Material Alteration includes:
 - a. A 20% variation in square footage of the proposed project.
 - b. A 10% change in square footage of space available to the public.
 - c. A material change in the quality of exterior construction materials.

Material Alteration does not include:

- a. An alteration required by any municipality or other governmental agency or otherwise required by law.
- b. An alteration required due to shortages or unavailability of materials (though substitute must be of comparable quality).
- c. An alteration regarding phasing.

- d. Addition, reduction or alteration of planned green space on or about the Project.
- (2) Deliver an executed DBE Compliance Plan with the Community Business Development Partners (CBDP) department of Milwaukee County. The Developer's goal for DBE participation is at least 25% of the architectural and engineering services component and 25% of hard construction costs of the Project budget, all based on County DBE capacity. Developer shall meet with CBP prior to closing and shall consult the CBDP website for County certified DBE contractors. Any change to the DBE goals shall require County Board Approval.
- (3) Deliver an executed Milwaukee County Resident Hiring Plan with the Economic Development Department of Milwaukee County. The Developer's goal for Milwaukee County Resident hiring is 40% of the construction labor costs of the Project Budget. Any change to residential hiring goal shall require County Board Approval.
- (4) For all construction labor performed by or on behalf of Developer on the Property, Developer shall pay Prevailing Wages, as published by the Wisconsin Department of Work Force Development (DWD), or a separate prevailing wage determination received by Developer through DWD. Any change to the Prevailing Wage requirement shall require County Board Approval.
- (5) Submit a Compliance Deposit prior to the commencement of construction in the amount of Fifty Thousand Dollars (\$50,000.00) ("Deposit") to insure compliance with subparagraphs (2), (3) and (4), above. The Deposit shall not be applied against the Purchase Price, but shall be held by County to insure such compliance. The Deposit shall be repaid to the Developer, without interest, upon completion of the Project, provided there has been full compliance as required by this subparagraph. The Deposit, or so much as determined by the County Economic Development Director, may be retained if Developer fails to fully comply with the requirements of this subparagraph. In the event of any dispute between the Developer and County Development Director, the dispute shall be referred to, and fully and finally resolved by, the County Director of Administrative Services.
- (6) After execution, a Memorandum of this Agreement shall be recorded with the Register of Deeds.

b. **County Contingency.** Within 180 days of execution of this Agreement, County will have applied for and intends to have received the approval described in subparagraph c(iv), below. If not so received, the date for such receipt shall be extended to the date of Closing.

c. **County Deliveries.** At Closing, County shall:

- (i) Deliver a Warranty Deed in recordable form warranting that title to the Property is free and clear of all liens and encumbrances except any of the following items identified in the Title Commitment to which Developer has not objected: any municipal and zoning ordinances and recorded agreements entered under them, recorded easements for the distribution of utility and municipal services, recorded building and use restrictions and covenants and the general taxes levied in the year of closing.
- (ii) Complete and execute the documents necessary to record the conveyance at County's cost, including the payment of the Wisconsin Real Estate Transfer fee, if any.
- (iii) Deliver an owner's policy of title insurance (from the same insurer issuing the Title Commitment) in the amount of the purchase price on a current ALTA form (the "Title Policy"). The Title Policy shall be the evidence of the County's title. The Title Policy shall be subject only to those items shown in the Title Commitment which Developer has expressly accepted. The Title Policy shall contain a "gap" endorsement or other equivalent gap coverage (at the County's sole cost) to provide coverage for any liens or encumbrances first filed or recorded after the effective date of the Title Commitment and before the deed is recorded. All other endorsements to the Title Policy shall be issued at the Developer's sole cost. The County shall provide any affidavits or other documents required by the title company to issue the GAP endorsement (or equivalent coverage), to remove the applicable standard exceptions to title and/or to issue any endorsements reasonably requested by Developer.
- (iv) Deliver written approval from the Federal Transit Authority (FTA) expressing its concurrence with the Purchase Price and plans to incorporate a public transportation concourse into the Project, such that County will not be required to return any funds to FTA as a result of the sale.
- (v) Any other documents reasonably requested by Developer's lenders or otherwise required for the financing for the Project.
- (vi) Any other documents customarily associated with the sale of commercial real estate in downtown Milwaukee, Wisconsin.

d. **Additional Closing Terms.**

- (i) Option Fee Credit. The Option Fee shall be non-refundable except in the following instances: (a) where the County is unable to deliver the Title Commitment; (b) the Developer cannot obtain its own Title Commitment for the full cost of the development under a policy that also has no reference to and contains no indemnity requirements or other exceptions for any issue involving the public trust doctrine or restrictions regarding the use of the Property; (c) the County is unable to deliver the items set forth in Section 10.b. herein; (d) the County denies any request by the Developer to perform a test or inspection on the Property; (e) the findings of any Soil/Environmental Assessment or Due Diligence Review renders the Project economically infeasible, after reasonable efforts to develop a plan of remediation with all applicable federal, state and local authorities; and (f) if the Option is terminated by the Developer within 90 days of the Acceptance Date.
- (ii) Restrictions on Assignment. This Option shall not be assigned by Developer without the written consent of the County, other than to an entity in which Richard Barrett has an ownership interest and controlling managerial authority. Any assignment of the Option by the Developer in violation of this Section shall result in termination of the Option by the County and retention of the Option and Extension Option Fees as liquidated damages.
- (iii) Real Estate Proration. General real estate taxes and private and municipal charges, if any, shall be prorated at Closing. Special assessments levied or attributable to work actually commenced prior to Closing shall be paid by County no later than Closing. Any income, taxes or expenses shall accrue to the County and be prorated through the Closing Date.

11. **County's Warranties and Representations.** County hereby makes the following warranties and representations with respect to the Property:

- a. County has the full power and authority to enter into this Option and to close the transaction contemplated hereunder, pursuant to County Board Resolution ____.
- b. To the best of County's current and actual knowledge, County has not received, and County has no knowledge of any predecessor receiving, notice of any violation of any law, municipal ordinance or other governmental requirement affecting the Property. County has no knowledge that any governmental authority is contemplating issuing such notice or that any such violation exists.
- c. Other than this Option Agreement, County is not a party to any agreement, contract or commitment to sell, convey, lease, assign, transfer, provide option rights, provide rights of first refusal, or otherwise give any third party any rights to use or occupy all or any part of the Property.

- d. To the best of County's current and actual knowledge, there are no service or maintenance contracts or equipment leases granting any person any rights to the Property after the Closing.
- e. To the best of County's current and actual knowledge, there are no condemnation or eminent domain proceedings, nor any negotiations in lieu of condemnation, pending against the Property, and County is not aware of any condemnation or eminent domain proceedings being contemplated or threatened against the Property.
- f. County is not aware of any outstanding permits, certificates, licenses or other similar approvals or authorizations that are required (but have not been obtained) for the transfer of all or any part of the Property under any federal, state or local law, ordinance, rule or regulation, or by any governmental or quasi-governmental agency having jurisdiction over the Property.
- g. County has no actual knowledge of any existing law, ordinance, governmental requirement or restriction that would prevent or limit the Project of the Property.
- h. To the best of County's current and actual knowledge, there are no claims, actions, litigation, proceedings, inquiries, disputes, rulings, judgments, or orders that are (i) attached or pending against or relating to the Property or the transaction contemplated herein; or (ii) attached or pending that could affect the Property or the transaction contemplated herein.
- i. To the best of County's current and actual knowledge, there are no attachments, executions, assignments for the benefit of creditors, receiverships, or voluntary or involuntary proceedings in bankruptcy, or pursuant to any other debtor relief laws which have been (i) filed by County; (ii) contemplated by County; (iii) threatened against County; or (iv) which are currently pending against County in any judicial or administrative proceeding.
- j. To the best of County's current and actual knowledge, (i) County has no knowledge of any Hazardous Material (as defined below) being or having been transported to or from, or generated, released, stored, or disposed of on or under the Property; (ii) County has no knowledge that the Property or any part of any Improvements and equipment thereon contains any asbestos or polychlorinated biphenyls; (iii) County has not received any notice of any action or proceeding relating to any Hazardous Material or notice of any release or threatened release thereof on or under the Property or any notice contrary to (i) and (ii) above; and (iv) no underground or above-ground storage tanks are or have been located on or under the Property.

For purposes of this Agreement, "Hazardous Material" means, without limitation, any substance or material defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials", "extremely hazardous waste", "acutely hazardous waste", "restricted hazardous waste", "toxic

substances” (including toxic mold) or “known to cause cancer or reproductive toxicity” (or words of similar import), petroleum products (including crude oil or any fraction thereof) or any other chemical, substance or material which is prohibited, limited or regulated under any federal, state or local law, ordinance, regulation, order, permit, license, decree, common law, or treaty regulating, relating to or imposing liability or standards concerning materials or substances known or suspected to be toxic or hazardous to health and safety, the environment, or natural resources. For purposes of this sub-paragraph, laws and regulations shall include, but not be limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. § 1901, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 901, et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1251, et seq.; the Clean Air Act, 42 U.S.C. § 7401, et seq.; the Toxic Substances Control Act, 15 U.S.C. § 2601, et seq.; the Oil Pollution Act of 1990, 33 U.S.C. § 2701, et seq.; the Occupational Safety and Health Act, 29 U.S.C. § 651, et seq.; the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. § 11001, et seq.; A.R.S. §§ 49-201(16), 49-901(3), and 49-921(5); and in the regulations adopted pursuant to such laws; and any substance or material which has been determined by a state, federal or local governmental authority with jurisdiction over the Property to be capable of posing a risk of injury to health or safety.

- k. To the knowledge of County, no brokerage fee, commission or finder’s fee of any type is due any person in connection with the transaction contemplated by this Option.

All such warranties and representations of County, together with any others made hereunder, shall be reaffirmed to be true and correct as of the Closing Date to the same extent as the date of this Option. If any of the foregoing warranties and representations becomes untrue in any respect after the execution of this Option and is not cured by County (at no cost to Developer) on or before Closing, then Developer may elect to terminate this Option, in which event the Option Fee and any Renewal Fees shall be returned to Developer.

12. **Property Condition.**

- a. Except as otherwise provided herein, County shall convey the Property in its "AS IS" physical condition with all faults and defects, known or unknown, including but not limited to environmental defects, and without representation or warranty, express or implied. Such provisions shall bar all tort, warranty, and misrepresentation claims, including any action based on non-disclosure, excepted as otherwise provided herein.
- b. County discloses that the Property may contain old building foundations, building materials and other debris. Without changing the “AS-IS” nature of this transaction, Developer is aware that the Property is or may be affected by adverse geotechnical

conditions due to the presence of these materials or due to the bearing capacity of the soil. County has conducted no geotechnical investigation of the Property and assumes no liability for any subsurface conditions. Developer is encouraged to undertake a geotechnical investigation and other due diligence reviews that it deems necessary upon execution of this Option by both parties.

c. County shall not provide an updated survey of the Property.

13. **ADA Compliance.** Developer agrees that the Project will comply with all requirements of the Americans with Disabilities Act of 1990, U.S.C. #12101, et. seq.

14. **Time is of the Essence.** It is understood that time is of the essence as to the provisions of this Option.

15. **Notices.** All notices and demands by either party to the other shall be given in writing and personally delivered or sent by United States certified mail, postage prepaid, and addressed:

To the County: Teig Whaley-Smith, Economic Development Director
Dept. of Administrative Services
Economic Development Division
2711 West Wells Street, 3rd Floor
Milwaukee, WI 53208

With copies to: Paul Bargren
Milwaukee County Corporation Counsel
901 North 9th Street, Room 303
Milwaukee, WI 53233

Alan H. Marcuvitz, Esq.
von Briesen & Roper, s.c.
411 East Wisconsin Avenue, Suite 1000
Milwaukee, WI 53202

To the Developer: Barrett Visionary Development, LLC
Attn: Richard J. Barrett, Manager
260 East Highland Ave., Ste. 401
Milwaukee, WI 53202

With a copy to: Adam J. Tutaj, Esq.
Meissner Tierney Fisher & Nichols S.C.
111 E. Kilbourn Ave., 19th Floor
Milwaukee, WI 53202-6622

Either party may, upon prior notice to the other, specify a different address for the giving of notice. Notices shall be deemed given upon receipt (in the case of personal delivery) or on the date of their deposit in the United States mail (in the case of mailing).

16. **Default.** A material failure to perform any obligation relating to the purchase or sale of the Property after the Developer's exercise of this Option shall be a default which may subject the defaulting party to liability for damages or other legal remedies. If the Developer defaults on the terms of the purchase of the Property after the Developer's exercise of this Option, the County may sue for specific performance and request the Option Fee and any Renewal Fees as partial payment of the purchase price, or terminate this Option Agreement and sue for actual damages. If County defaults on the terms of the purchase of the Property after the Developer's exercise of this Option, the Developer may sue for specific performance or terminate this Option Agreement and sue for actual damages. In addition, either party may seek any other remedies available in law or equity.

17. **Special Conditions.**

- a. **Taxable Use.** The Conveyance may be subject to a deed restriction requiring that the Property shall contain no more than a certain percentage of overall square footage as being exempt for property-tax purposes. This restriction would be a permanent covenant that runs with the land, and could only be released by resolution passed by the County Board and approved by the County Executive.
- b. **Marketable Title.** The Economic Development Director may determine at any time during the initial or renewal Option Period and prior to Closing that the County cannot provide marketable title. If the Economic Development Director makes such a determination he shall send a notice to Developer of the title defect ("Title Defect Notice"). Within thirty (30) days of receipt of the Title Defect Notice, Developer must send a notice that it either (a) terminates this Option and shall receive reimbursement of all Option Fees and Renewal Fees, or (b) will accept title for all or any portion of the Property at closing, as provided herein, with the title defects disclosed in the Title Defect Notice. Title defects may include restrictions placed on the County by other governmental units regarding land proceeds. In the event that Developer opts to accept title for all or any portion of the Property as described above, the Option shall continue in effect for the Option Period, as it may be extended hereunder, but the Purchase Price payable at Closing shall be deposited into an escrow with an agent mutually agreeable to the parties and shall be used to indemnify Developer and/or its title insurer for the costs associated with securing marketable title with respect to the Property acquired, including, without limitation, any Title Litigation (as defined in Section 17(d) hereof) up to a maximum amount of the Purchase Price, all as set forth in an escrow agreement to be negotiated in good faith by the Economic Development Director and the Developer.
- c. **Radio Tower.** At no additional fee to the County, the Developer shall grant to the County a mutually agreeable easement to allow a radio tower to be installed and maintained by the County on the Property with a height and in a location reasonably

approved by Developer, provided the County provides indemnification to the Developer and its affiliates for the operations of the tower.

- d. **Force Majeure Delay.** If any party is delayed or prevented from the performance of any act required by this Option by reason of either (i) fire, earthquake, war, flood, riot, strikes, labor disputes, judicial orders, public emergency or regulations, or other causes beyond the reasonable control of the party obligated to perform, or (ii) litigation involving the title to the Property (“Title Litigation”), including but not limited to litigation involving the public trust doctrine, regardless who files such Title Litigation, then performance of such act shall be excused for the period of such delay and the time for the performance of any such act shall be extended for a period equivalent to such delay. In all events, the Option Period (and any renewal thereof) shall be tolled and extended during any time there is Title Litigation until such Title Litigation is fully resolved through all applicable appeals.
- e. **Distribution.** The County and the Developer agree that the Developer (or its agents) may distribute copies of this Option to any potential lenders, investors or other persons interested in the Project, and to any appraisers, title insurance companies and other settlement service providers connected to the transaction contemplated herein or the Project.
- f. **Dates and Deadlines.** Deadlines expressed as a number of “days” from an event, such as the calculation of the Option Period of the Closing Date, shall be calculated by excluding the day the event occurred and by counting subsequent calendar days. The deadline expires at midnight on the last day.
- g. **Counterparts.** The Option is executed in three (3) counterparts, each of which shall constitute one and the same instrument. The parties agree that a signature affixed to any counterpart of this Agreement and delivered by facsimile or email shall be valid, binding and enforceable against such party.
- h. **Further Assurance.** Each of the parties hereto hereby agrees to execute and deliver such documents and to take such other actions at any time and from time to time hereafter as may be reasonably requested by the other party hereto to carry out the provisions or purposes of this Option Agreement.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, The Developer, Barrett Visionary Development, LLC, has signed and sealed this Option this _____ day of _____, 20__.

Barrett Visionary Development, LLC

By: _____
Richard J. Barrett, Manager

Date: _____

STATE OF WISCONSIN)
) ss.
COUNTY OF _____)

Personally came before me this _____ day of _____, 20__, Richard J. Barrett, to me known to be the persons who executed the above and foregoing Option.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

(SEAL)

Notary Public
_____ County,

My Commission _____

IN WITNESS WHEREOF, Milwaukee County, has caused this Option to be duly executed in its name and on its behalf by Teig Whaley-Smith its Economic Development Director.

Milwaukee County

By: _____
Teig Whaley-Smith, Economic Development Director

Date: _____

STATE OF WISCONSIN)
) ss.
COUNTY OF MILWAUKEE)

On this _____ day of _____, 20___, before me, the undersigned officer, personally appeared Teig Whaley-Smith who acknowledged themselves to be the Economic Development Director of Milwaukee County, a Corporation, and that they, as such officers of said Corporation being authorized so to do, executed the foregoing Option for the purposes therein contained for and on behalf of said Corporation and as such officers caused the corporate seal to be hereunto duly affixed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

(SEAL)

Notary Public
Milwaukee County, WI
My Commission _____

Approved by the County on _____ by adoption of Resolution No. _____.

Exhibit A

Legal Description

All that certain parcel or parcels of land located in the City of Milwaukee, County of Milwaukee, State of Wisconsin, more particularly described as follows:

That part of part of Lots 1,2,3,4 and Lot 9, Block 99 all in the Plat of the Division of 13.30 acres off the east end of Lot 3 and 17.10 acres of the east end of Lot 4 in the NE V. and the SE V. of the SW V. of Section 28, Town 7 North, Range 22 East, Located the City of Milwaukee, Milwaukee County, Wisconsin and more particularly described as follows:

Beginning at a point that that is N 85°45'54" E 199.97 feet of the Northwest corner of Lot 7 in Block 99 in the Plat of the Division of 13.30 acres off the east end of Lot 3 and 17.10 acres of the east end of Lot 4, on the south right of way line of East Michigan Street;

thence S 05°05'43" E 2.64 feet;

thence S 73°05'56" E 79.83 feet;

thence S 63°29'59" E 56.13 feet;

thence S 79°17'51" E 161.77 feet;

thence S 69°58'57" E 34.61 feet;

thence S 49°36'03" E 6.76 feet;

thence S 42° 48'26" E 42.41 feet;

thence S 07°00'32" E 9.58 feet;

thence S 18°38'08" W 11.15 feet;

thence S 25°09'24" W along the westerly edge of a concrete walk for N. Lincoln Memorial Drive, 206.70 feet;

thence S 40°11 '27" W 13.02 feet;

thence S 75°30'25" W 15.43 feet to a point on the northerly edge of a concrete walk for E. Clybourn Street extended easterly;

thence S 85°43'33" W along the north edge of the concrete walk, 269.21 feet;

thence N 8°07'33" E 7.40 feet to the north right of way line of East Clybourn Street;

thence N 10°41 '09" E 223.43 feet;

thence N 05°05'43" W 140.36 feet; to the point of beginning

Containing 2.207 acres of land, more or less.

96,130 square feet.

Address: 909 E Michigan Street

Tax Key Number:

Exhibit B

Insurance Requirements -Right of Entry

A Certificate of Insurance, naming Milwaukee County as an additional insured, must be sent for inspection and approval prior to commencement of the proposed activity to Teig Whaley-Smith, Economic Development Director, Milwaukee County by email to teig.whaley-smith@milwaukeecountywi.gov, evidencing the following coverages and minimum amounts:

<u>Type of Coverage</u>	<u>Minimum Limits</u>
Wisconsin Workers' Compensation or Proof of All States Coverage	Statutory (waiver of subrogation)
Employer's Liability	\$100,000/500,000/100,000
Commercial or Comprehensive General Liability Bodily Injury and Property Damage (incl. Personal Injury, Fire Legal, Contractual & Products/Completed Operations)	\$1,000,000 Per Occurrence \$1,000,000 General Aggregate
Professional Liability	\$1,000,000 Per Occurrence \$1,000,000 Aggregate
Automobile Liability Bodily Injury & Property Damage All Autos-Owned, non-owned and/or hired Uninsured Motorists	\$1,000,000 Per Accident Per Wisconsin Requirements

Coverages shall be placed with an insurance company approved by the State of Wisconsin and rated "A" per Best's Key Rating Guide. Additional information as to policy form, retroactive date, discovery provisions and applicable retentions shall be submitted to County, if requested, to obtain approval of insurance requirements. Any deviations, including use of purchasing groups, risk retention groups, etc., or requests for waiver from the above requirements shall be submitted in writing to the County for approval prior to the issuance of a right of entry permit.

The insurance requirements are subject to periodic review and reasonable adjustment by the County Risk Manager.

EXHIBIT C

**44 STORIES / 700,000 SQUARE FEET
TOTAL PUBLIC AREA 81,561 SQUARE FEET**

**PUBLIC AREA CORE/COMMON SPACE
PUBLIC TRANSPORTATION CONCOURSE
ROOFTOP PUBLIC SPACE
PUBLIC ACCESS STAIRS TO WALKWAYS
PUBLIC PEDESTRIAN VISITOR PLAZA
VISITOR WALKWAYS**

