

**MCKINLEY AVENUE  
MEMORANDUM OF UNDERSTANDING**

BETWEEN

**THE UNITED STATES DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION WISCONSIN DIVISION,**

**THE STATE OF WISCONSIN DEPARTMENT OF TRANSPORTATION,**

AND

**THE COUNTY OF MILWAUKEE,**

REGARDING

THE DISPOSAL OF SURPLUS LANDS IN BLOCKS 1, 2, 4, 7, 12, AND 22  
OF THE CITY OF MILWAUKEE'S  
PARK EAST REDEVELOPMENT PLAN

This Memorandum of Understanding (“MOU,” or “McKinley Avenue MOU”), entered into by and among the United States Department of Transportation Federal Highway Administration Wisconsin Division (“FHWA”), the State of Wisconsin Department of Transportation (“WisDOT”), and the County of Milwaukee (“County”) describes the terms and conditions for the disposition of the parcels located in Blocks 1, 2, 4, 7, 12, and 22 of the City’s Park East Redevelopment Plan (“Plan”), as shown in **Exhibit A**.

WHEREAS, upon the removal of the Park East Freeway in the City of Milwaukee, Milwaukee County, eight remnant parcels were created and later identified as surplus lands; and,

WHEREAS, the aforesaid parcels are titled to the County; however, because WisDOT and FHWA provided funds to acquire the parcels, disposal of the parcels is subject to the property disposal requirements of WisDOT’s Real Estate Program Manual and title 23, United States Code (“USC”) section 156(b) and the regulations at title 23 Code of Federal Regulations (“CFR”), part 710, section 403; and

WHEREAS, disposition of the aforesaid parcels was provided for in the February 5, 2002 Park Freeway Land Disposition Plan and Agreement (“2002 LDA”); and

WHEREAS, in November 2005, WisDOT and the County signed an Annex Removal Project Agreement (“2005 Annex Agreement”), permitting the County to retain the state and federal share of proceeds from the sale of Park East Freeway right-of-way surplus lands, up to \$5.2 million, as reimbursement for costs the

County expected to incur to remove the Courthouse Annex to accommodate the Marquette Interchange project; and

WHEREAS, although the County has published several Requests for Proposals (“RFPs”) for the sale and development of individual Park East blocks pursuant to the 2002 LDA, the County has had limited success and as a result this prime downtown real estate has remained mostly vacant; and

WHEREAS, the County, in conjunction with others, has developed a new RFP entitled *Request for Proposals: Acquisition and Development of Block(s) 1, 2, 4, and/or 7, Park East, Milwaukee Wisconsin*, RFP #2014-ED01 (June 10, 2014) (“West Side RFP”), which is on file with the County and others; and

WHEREAS, the West Side RFP contains several evaluation criteria, of which purchase price is one factor to be considered, and when all criteria are fully considered may result in the sale of land for less than Fair Market Value (“FMV”); and

WHEREAS, pursuant to 23 USC § 156(b) and 23 CFR § 710.403, where right-of-way was acquired in whole or in part with Title 23 USC funding, FHWA must grant an exception for the sale of surplus right-of-way lands containing a federal interest where such land is being sold for less than FMV; and

WHEREAS, the County and others, by letter dated April 22, 2014, and WisDOT, by letter dated May 2, 2014, requested FHWA grant an exception for the disposal at FMV of “the remaining parcels in the Park East Corridor”; and

WHEREAS, by letter dated July 22, 2014, and based on a finding of public interest for economic purposes, FHWA approved the disposal of the surplus Park East right-of-way in Blocks 1, 2, 3 and 4 of the Plat *Park East on the West Side of the Milwaukee River* (May 18, 2007 Doc. No. 09434632) (which blocks correspond to Blocks 1, 2, 4, and 7, respectively, of the Plan) at less than FMV, subject to the terms and conditions of that letter and this MOU; and,

WHEREAS, by letter dated March 31, 2015, and based on a finding of public interest for economic purposes, FHWA extended its approval for the disposal at less than FMV of the surplus Park East right-of-way to Blocks 12 and 22 of the Plan, subject to the terms and conditions of that letter and this MOU.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties hereto agree:

- (1) Unless otherwise noted, block numbers shall refer to the block numbering convention of the City of Milwaukee’s Plan. Plan block numbers are shown in Exhibit A attached hereto and made a part hereof by reference;
- (2) Sale of Parcels.
  - (a) WisDOT shall monitor the sale of each parcel in Blocks 1, 2, 4, 7, 12, and 22 of the Plan that contains a state and/or federal interest to ensure that conditions for which the federal exemption is granted are fulfilled. No parcel with a federal interest may be sold at less than the appraised FMV without prior concurrence from WisDOT.

(b) Disposal of the parcels in Blocks 1, 2, 4, 7, and 22 of the Plan that contain a federal interest shall be completed in accordance with the West Side RFP, which shall be maintained on file with the County and others.

(c) *Sale of Lands in Block 12.*

(i) The County shall present any plan to offer lands in Block 12 containing a state and/or federal interest for sale at less than FMV, including any such plan that consolidates Block 12 with adjacent parcels, to WisDOT along with a concise written statement on how the plan fulfills the conditions for which the federal exemption is granted. WisDOT shall timely review and approve such plans that fulfill the conditions for which the federal exemption has been granted.

(ii) Alternatively to sub. (2)(c)(i) above, the County may sell lands in Block 12 containing a state and/or federal interest for less than FMV if the County follows subs. (2)(a) and (b).

(d) *Revisions to the West Side RFP.*

(i) The County may not revise the West Side RFP, except:

1. To change dates of issuance and submittal dates;
2. To add or subtract parcels because of the approval of development options or the expiration of unexercised development options, but no parcels in which there is a federal interest outside of Blocks 1, 2, 4, 7, 12, and 22 of the Plan may be added to the West Side RFP without written amendment to this MOU; and
3. Those amendments specifically approved in writing by the parties to this MOU.

(ii) All future revisions to the West Side RFP shall include conveyance conditions substantially similar to those found in Section 2.7 “Conveyance Conditions” of the June 10, 2014 West Side RFP.

(e) In all other respects, the sale of the Park East Freeway surplus right-of-way shall be conducted pursuant to WisDOT’s Real Estate Program Manual, as that manual may be updated from time to time.

(3) Proceeds of Sales.

(a) Pursuant to the 2005 Annex Agreement, and without changing any of the terms thereof, FHWA and WisDOT’s share of any proceeds received from the sale of the surplus Park

East Freeway right-of-way may be retained by the County to defray County incurred costs and expenses directly relating to the Annex Removal Project, defined therein, up to a total of and not exceeding \$5.2 million. Neither FHWA nor WisDOT shall bear any further financial responsibility to any of the parties hereto should the combined sale of all surplus Park East right-of-way yield proceeds of less than \$5.2 million.

- (b) FHWA proceeds in excess of \$5.2 million shall follow the 2002 LDA, 23 CFR § 710.403(e), and WisDOT's Real Estate Program Manual, as these may be amended from time to time.

(4) Future Rights-of-Way.

Should a future transportation-related need arise, WisDOT shall be precluded from requesting or using federal funds for the repurchase of any interests originally acquired for the Park East Freeway right-of-way.

(5) General Terms.

- (a) In case any part of this MOU is determined by any court of law to be unlawful or unenforceable, it is the intention of the parties that all other provisions of this MOU shall remain in full force and effect.
- (b) This document, including Exhibit A, supersedes any and all oral negotiations between the parties directly relating to the subject matter hereof. No term or provision of this MOU, or any of its attachments, may be changed, waived, discharged, or terminated orally, but only by an instrument in writing signed by all parties to this MOU.
- (c) The signatories hereto warrant that they have full authority to enter into this MOU and make it binding upon the parties hereto without further action or approval. Nothing in this MOU accords any third party beneficiary rights whatsoever on any non-party that may be enforced by any non-party to this agreement.
- (d) The parties agree to abide by their own respective non-discrimination policies and procedures during the term of this agreement.
- (e) Nothing in this agreement is intended to, nor shall be construed as, a waiver of any immunity or defense the parties hereto otherwise have.

IN WITNESS WHEREOF, the parties hereto have set their hands of this \_\_\_\_ day of \_\_\_\_\_, 2015.

**For the UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY  
ADMINISTRATION WISCONSIN DIVISION**

By: \_\_\_\_\_ Date \_\_\_\_\_  
George R. Poirier, P.E.  
Division Administrator

**For the STATE OF WISCONSIN DEPARTMENT OF TRANSPORTATION**

By: \_\_\_\_\_ Date \_\_\_\_\_  
Brett Wallace, P.E.  
Southeast Region Director

**For the COUNTY OF MILWAUKEE, WISCONSIN**

By: \_\_\_\_\_ Date \_\_\_\_\_  
Chris Abele  
County Executive

*Approved by County Resolution No. \_\_\_\_\_ dated \_\_\_\_\_*

*Approved as to form:*

\_\_\_\_\_  
Paul Bargren  
Corporation Counsel

\_\_\_\_\_  
Date

**EXHIBIT A**  
TO THE  
MCKINLEY AVENUE  
MEMORANDUM OF UNDERSTANDING

**PARK EAST REDEVELOPMENT CORRIDOR  
LOCATION MAP**

# Park East Redevelopment Corridor

EXHIBIT A  
To the McKinley Avenue MOU



Milwaukee County titled lands are shown in red outline.

Blue shading indicates former County-titled Park East Freeway blocks that have been sold under the 2002 LDA and are not subject to this Agreement.

## Block Numbering Conventions

- 1 = Block Number from "Park East on the West Side of the Milwaukee River" Plat (Doc. No. 09434632, May 19, 2007)
- ① = Block Number from City of Milwaukee and Park East Redevelopment Plan (June 15, 2004)
- [1w] = Block Number from former County block numbering convention