DEPARTMENT OF ADMINISTRATIVE SERVICES-ECONOMIC DEVELOPMENT

 **Milwaukee County**

Brian Taffora • Director, Economic Development

**INTEROFFICE COMMUNICATION**

**Milwaukee County**

**Date: October 22, 2012**

**To: Patricia Jursik, Chairwoman, Economic and Community Development Committee**

**From: Brian Taffora, Economic Development Director**

**Subject: Status of Negotiations with Barrett Visionary Development, Inc.**

As per Resolution 12-633, the following has been prepared:

* DAS-Division of Economic Development Real Estate has begun working on the issuance of Title Insurance.
* On September 28, 2012, DAS-Economic Development received the following conclusion from Wisconsin DNR regarding the Transit Center:

 The September 12, 2012 survey information presented by Preserve our Parks all predate statehood of Wisconsin in 1848 and do not definitely establish the exact location of the shore of Lake Michigan in the vicinity of the Milwaukee Transit Center site.

Because the legislature in the submerged lakebed grants all used the Chicago & Northwestern Railway breakwater as the westerly boundary line of that portion of Lake Michigan which was to be filled in as authorized by said lakebed grants and the former Chicago & Northwestern Railway breakwater is located on or near the easterly boundary of the current Milwaukee Transit Center site, it follows that the Milwaukee Transit Center site has not been demonstrated to be submerged lands.

The railroad charters of Chicago & Northwestern Railway (and its predecessors’) clearly granted the right to locate railroad tracks, even if that meant going over water, as needed for the most direct route. Beginning sometime in the late 1850’s to 1860’s the initial railroad tracks were constructed in this vicinity. While it is not clear exactly when all the railroad tracks were constructed in the vicinity of the Milwaukee Transit Center site, it is clear by the early 1900’s that the Chicago & Northwester Railway company had numerous railroad tracks at this site including the main northbound and main southbound track and at least an additional 8 tracks. While the distance between these railroad tracks varied, on average it appears that they are approximately 15 feet between the tracks, with the breakwater by located east of these tracks. Sometime in the 1880’s it appears that a breakwater was constructed in this vicinity. As of the 1915 lakebed grant in this vicinity all those tracks are located on “land” according to the railroad maps for that era, as well the 1910 blueprint map from the Secretary of War. The legislature by using the Chicago & Northwestern Railway breakwater as the “upland” boundary line of Lake Michigan for the submerged land grants clearly acknowledge that Chicago & Northwestern Railway had the right to do what was necessary to locate its’ railroad tracks in the most direct and convenient route under the railroad charters.

The 1913 line by agreement between the city of Milwaukee and the Chicago & Northwestern Railway company clearly establish that particular line further easterly of the “breakwater constructed by Chicago & Northwestern Railway” as described in the previous submerged land grants and acknowledged the railroad as the riparian owner and have riparian rights. It was subsequent to this 1913 line by agreement, in 1915, that the legislature granted the city of Milwaukee the submerged lands of Lake Michigan in the vicinity of the Milwaukee Transit Center site. It stands to reason that the legislature of the time knew what it was doing with these submerged land grants and that they would not establish the westerly boundary of Lake Michigan as described in the submerged land grants if that boundary line was truly further to the west as suggested by Preserve our Parks.

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