

DEVELOPMENT AGREEMENT

Ballpark Commons

THIS DEVELOPMENT AGREEMENT (this "Agreement") is made as of the ____ day of _____, 2017, by and among Milwaukee County, a Wisconsin municipal corporation (the "County"), and BPC County Land LLC, a Wisconsin limited liability company (the "Developer").

RECITALS

On or about the date herewith, the Developer is acquiring certain property located in the City of Franklin, Milwaukee County as more fully described on **Exhibit A** attached hereto (the "Property") from the County pursuant to a certain Option to Purchase Agreement between the County and Developer dated September ____, 2017 and attached hereto as **Exhibit B** (the "Option Agreement"). The parties now desire to enter into this Agreement to set forth the terms and conditions by which the Property will be developed and to establish certain additional covenants and restrictions pertaining thereto.

AGREEMENT

In consideration of the mutual covenants and agreements contained herein and in the Option Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Definitions. In addition to the words and terms elsewhere defined in this Agreement, the following words and terms used herein shall have the following meanings:

- (a) "Buildings" means any buildings or other improvements now located on the Property as well as any planned future buildings or other improvements constructed on the Property by Developer.
- (b) "Community Benefits" means collectively, those goals relating to Targeted Business Enterprise participation and residential hiring for those Project construction costs governed by a Community Benefits Compliance Plan (the "Project Construction Costs").
- (c) "Community Benefits Reporting" means the records from the Developer demonstrating its compliance and good faith efforts undertaken with respect to Section 2 of this Agreement and in accordance with the Developer's Community Benefits Compliance Plan.
- (d) "Project" means those portions of the Ballpark Commons mixed-use development, including all Buildings, driveways, parking areas, signs, walkways, loading areas, fences and walls, sewer, electrical, gas, water and

other utility distribution systems, landscaping, drainage and other improvements located on the Property by or for the Developer in conformity with the approved City of Franklin PDD, as amended.

2. Development of the Project.

2.1 Construction by the Developer. The Developer shall be responsible, at its own cost and expense, for the construction of the Project on the Property in a good and workmanlike manner and in compliance with all then applicable building codes and ordinances, including applicable zoning ordinances and the approved City of Franklin PDD for the Ballpark Commons Development, as amended from time to time.

2.2 Condition of Property; Construction of Infrastructure. Except as otherwise provided herein, or in the Option Agreement or the Contribution and Participation Agreement, 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 or in the Option Agreement or Contribution and Participation Agreement.

2.3 General Requirements. The Developer agrees that during construction it shall use reasonable efforts to (a) cause its contractors working on the Project to remove all construction debris from the Property and the infrastructure areas related to their work in a manner and time consistent with industry standards, and if any such construction debris is left on site, it shall be responsible for removing the same, and (b) use reasonable efforts to keep the Property and areas of access thereto in a neat and presentable state.

2.4 Community Benefits Compliance Plan. The Developer shall be required to execute a Community Benefits Compliance Plan ("Compliance Plan") with the Department of Administrative Services – Economic Development Division and the Community Business Development Partners (CBDP) department of Milwaukee County prior to or simultaneously with Closing for purposes of Community Benefits Reporting. The Compliance Plan shall include goals and minimum good faith efforts for Targeted Business Enterprise (TBE) hiring and workforce development (apprenticeship/job training). The specific community benefits goals are set forth below in Sections 2.6 and 2.7. A Compliance Plan is attached hereto as **Exhibit D**. The goals and Compliance Plan shall only be applicable during the construction of the Project and shall only apply to those portions of the Project located on the Property.

2.5 Nondiscrimination and Affirmative Action. In construction of the Project and performance of its duties and obligations hereunder, the Developer shall not discriminate against any employee or applicant for employment race, color, national origin or ancestry, age, sex, sexual orientation, gender identity and gender expression, disability, marital status, family status, lawful source of income, or status as a victim of domestic abuse, sexual assault or stalking which shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeships. The Developer will post in

conspicuous places, accessible to employees, notices setting forth the provisions of the foregoing nondiscriminatory clause. During construction of the Project, the Developer will strive to implement the principles of equal employment opportunities through an effective affirmative action program, which program shall have as its objective to increase the utilization of women, minorities and handicapped persons, and other protected groups in the Developer's construction employment at the Project. The Developer will include this requirement in any and all construction contracts and subcontracts entered into under this Agreement

2.6 TBE Participation Goals. The Developer shall commit to ensuring that Targeted Business Enterprises ("TBEs") have an equal opportunity to receive and participate in construction of the Project and shall require that its contractors and subcontractors do the same, as required by Chapter 42 of the Milwaukee County Code of General Ordinances. The Developer shall utilize good faith efforts to achieve its goal of a minimum of 25% TBE participation for Project costs relating to the hard construction costs and a minimum of 17% TBE participation for Project costs relating to professional services. The Developer's Compliance Plan, which will require the approval of the County's Economic Development Division and the Office of Community Business Development Partners, will restate these goals, outline the minimum good faith efforts necessary to achieve the goals and specify the reporting requirements of the Developer. Participation will be monitored through B2GNow, an online reporting system, or other software designated by the County prior to the execution of this Agreement. Failure to use good faith efforts to abide by the TBE portion of its Compliance Plan could result in the Developer forfeiting all or a portion of its Deposit to the County as liquidated damages and being disqualified from participating on future County projects for a period up to three (3) years. The Developer shall contractually obligate its construction contractors and subcontractors and any assignee to comply with the reporting requirements of this section with respect to construction of the Project.

2.7 Workforce Goals – Apprenticeship and Training Opportunities. The Developer shall commit to utilizing good faith efforts to achieve its goal of at least 10% of on-site construction hours for the Project performed by apprentices or members of acceptable job training programs. The Developer's Compliance Plan will restate this goal, outline the minimum good faith efforts necessary to achieve the goal and specify the reporting requirements of the Developer. Participation will be monitored through certified monthly payroll reports from all contractors and subcontractors, submitted by Developer through LCPTracker, an online reporting system. Failure to use good faith efforts to reach this goal could result in the Developer forfeiting all or a portion of its Deposit to the County as liquidated damages and being disqualified from participating in future County projects for a period up to three (3) years. Any dispute relating to the forfeiture of all or a portion of Developer's Deposit shall be referred to, and fully and finally resolved by, an arbitrator, mutually agreed upon by Developer and County with the arbitration to take place in Milwaukee County. Developer and County shall be jointly responsible for the arbitrator's fees.

2.8 Compliance Deposit Developer shall submit a Compliance Deposit prior to the commencement of construction in the amount of Ten Thousand Dollars (\$10,000.00) ("Deposit") to insure compliance with subparagraphs 2.6 and 2.7 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 Developer, without interest, upon substantial completion of the Project, provided there has been full compliance as required by this subparagraph. The Deposit, or so much

as determined by the Economic Development Director, may be retained if Developer fails to fully comply with the requirements of this subparagraph. Any dispute relating to the forfeiture of all or a portion of Developer's Deposit shall be referred to, and fully and finally resolved by, an arbitrator, mutually agreed upon by Developer and County with the arbitration to take place in Milwaukee County. Developer and County shall be jointly responsible for the arbitrator's fees.

2.9 Noise and Light. The Property and the portions of the Project located thereon shall be subject to the requirements of the Noise and Light Addendum attached hereto as **Exhibit C**.

3. Defaults and Remedies.

3.1 Events of Default by the Developer. Any one or more of the following events are hereby defined as, declared to be, and constitute an "Event of Default" by the Developer for purposes of this Agreement: (a) the Developer fails to complete construction of the Project to the extent such completion is required by the TIF Development Agreement by and between the City of Franklin and Developer (or its affiliate) or (b) the failure of the Developer to perform any other term, condition or covenant to be performed or observed by the Developer, subject to extension for Force Majeure Delays. In the event an Event of Default by the Developer shall occur, the County shall send written notice to the Developer (the "Default Notice") specifying the nature of the Event of Default in detail, and the Developer shall have 30 days after receipt of the Default Notice to cure such Event of Default. Subject to Section 4.18, in the event that the Developer does not cure such Event of Default within such 30-day period (or such other reasonable time as necessary if such Event of Default cannot be cured within 30 days and the Developer, upon receipt of Default Notice, promptly commences the process of curing such Event of Default and diligently and continuously pursues such cure to completion), the County may pursue any available remedy against the Developer, either at law or in equity, including, without limitation, the right to pursue specific performance and collect actual damages (but not consequential damages) for the Developer's failure to perform.

The Developer agrees that damages will not be an adequate remedy at law and that the County shall have the right to an injunction or other judgment of specific performance to enforce any provision in this Agreement, the Community Benefits Compliance Plan, the applicable zoning ordinances, the County ordinances or any other State or Federal law. Venue for such action shall be Wisconsin State Court with venue in Milwaukee County. The County shall be entitled to its reasonable attorneys' fees in any action, in which it prevails, to enforce such provisions, including the actual costs of Milwaukee County Corporation Counsel's office if it is the attorney for the County or reasonable attorney fees for other attorneys that may be hired by the County.

3.2 Events of Default by the County. If the County shall fail to perform any term, condition or covenant to be performed or observed by the County (which shall constitute an "Event of Default" by the County for purposes of this Agreement) for more than 30 days after receipt by the County of written notice from the Developer specifying in detail the nature of such failure (or such other reasonable time as is necessary if such Event of Default cannot be cured within 30 days and the County, upon receipt of such notice, promptly commences the process of curing such Event of Default and diligently and continuously pursues such cure to completion),

the Developer may pursue any available remedy against the County at law or in equity, including, without limitation, the right to pursue specific performance or injunctive relief and collect actual damages for the County's breach or failure to perform, including reasonable attorneys' fees.

3.3 Rights and Remedies Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by any party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times of any other rights or remedies for the same default or any other default by the other party.

4. General Provisions.

4.1 Liens. The Developer shall take all commercially reasonable steps to prohibit any construction liens to be filed against the Property or the Project, and if such a lien is filed, the Developer shall take commercially reasonable steps to contest and/or cause such lien to be removed or bonded over in a timely manner.

4.2 Force Majeure. Notwithstanding anything to the contrary contained in this Agreement, neither the Developer nor the County shall be considered in breach or default of its obligations with respect to the construction of the Project or the construction of any items of the infrastructure, as the case may be, in the event that a delay in the performance of such obligations is due to causes which were beyond its reasonable control, such as adverse weather conditions, strikes, acts of God, acts of a public enemy, acts of any governmental authorities (including the County in the case of the Developer), fire, flood, epidemics, embargoes or shortages of material from all reasonable sources, which shall not in any event include any economic hardship or delay due to the condition of the economy or real estate market ("Force Majeure Delay"). In the event of a Force Majeure Delay, the time for performance of the affected obligation shall be extended for the period of the Force Majeure Delay; provided, however, the delayed party shall, within 15 business days after the occurrence of the event causing the Force Majeure Delay, deliver written notice to the other party of the cause thereof. Failure to deliver written notice of such delay, with back-up documentation if appropriate, shall constitute a waiver of the delayed party's right to claim an extension of its time period because of the Force Majeure Delay.

4.3 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, return receipt requested, postage prepaid, and addressed:

To the County:

Economic Development Director
Milw. County Dept. of Admin. Services
633 W. Wisconsin Avenue, Suite 903
Milwaukee, WI 53203

with a copy to:

Milwaukee County Corporation Counsel
901 North 9th Street, Room 303
Milwaukee, WI 53233

To the Developer: [DEVELOPER]
[ADDRESS]

With a copy to: [Foley & Lardner LLP]

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 or refusal to accept delivery.

4.4 Rules of Construction. Unless the context clearly indicates to the contrary, the following rules shall apply to the construction of this Agreement:

(a) Words importing the singular number shall include the plural number and vice versa.

(b) The captions and headings herein are solely for convenience of reference only and shall not constitute a part of this Agreement nor shall they affect its meaning, construction or effect.

(c) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and masculine genders, and words of the neuter gender shall be deemed and construed to include correlative words of the masculine and feminine genders.

(d) The laws of the State of Wisconsin shall govern this Agreement.

(e) Since both parties to this Agreement have had adequate opportunity to review and negotiate its terms, in no event shall this Agreement be construed against the drafter.

4.5 Waivers. Waiver by the County or the Developer of any breach of any term, covenant or condition herein shall not be deemed to be a waiver of any future breach of the same or any other term, covenant or condition of this Agreement.

4.6 Severability. Any provision of this Agreement which shall prove to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision hereof and the remaining provisions hereof shall nevertheless remain in full force and effect.

4.7 Entire Agreement and Amendments. This Agreement, including exhibits, and all documents referenced herein, contains all the covenants and agreements between the County and the Developer relating in any manner to development of the Project and other matters set forth in this Agreement. No prior oral agreements or understandings pertaining thereto shall be valid or of any force or effect, and the covenants and agreements of this Agreement shall not be altered, modified or amended except in writing signed by the County and the Developer and recorded in the office of the Register of Deeds for Milwaukee County. The County and the Developer reserve the right to modify and amend this Agreement without the joinder or approval of any other party.

4.8 Duration of Covenants. The County and the Developer agree that, upon the Developer's request, within thirty (30) days after satisfaction of the applicable Developer's obligations under Article 2 herein, the County shall either concur with such request as evidenced by a recordable Certificate of Completion (in which case such unapplied portion of the Deposit shall be returned to Developer), indicating that all such applicable obligations have been satisfied hereunder and that those provisions of this Agreement have been satisfied, or reject such request and state which applicable obligations have not yet been completed. The covenants and agreements contained in Section 2.9 and **Exhibit C** shall remain in full force and effect so long as the Project is located on the Property.

4.9 Authority. The Developer hereby acknowledges and agrees that it is a validly formed and existing limited liability company formed in the State of Wisconsin. The undersigned signatory has the requisite power and authority, statutory and otherwise, to enter into and perform this Agreement pursuant to its terms and conditions without any further notice or consent from any person or entity. Promptly following request by the County, Developer shall deliver copies of its limited liability company resolution or other authorizing documentation demonstrating that it has the power and authority to enter into this Agreement. The County hereby acknowledges and agrees that the undersigned signatories have the requisite power and authority, statutory or otherwise, to enter into and perform this Agreement, pursuant to its terms and conditions without any further notice or consent from any person or entity. Promptly following request by the Developer, the County shall deliver copies of its authorizing documentation demonstrating that it has the power and authority to enter into this Agreement.

4.10 Successors. Except as otherwise expressly provided herein, all of the covenants, agreements, terms and conditions of this Agreement shall run with the Property and inure to the benefit of and be binding upon the County and the Developer and their respective successors and assigns and any party obtaining any legal or equitable ownership interest in the Property after the date hereof, including, without limitation, any condominium unit owner of the Property. Notwithstanding anything to the contrary contained herein, the right of enforcement of the terms, conditions or covenants of this Agreement to be performed or observed by the Developer is solely vested in the County or any successor entity to the County.

4.11 Independent Contractor. Nothing contained in this Agreement shall constitute or be construed to create a partnership or joint venture between the County or its successors and assigns and the Developer or its successors and assigns. In entering into this Agreement, and in acting in compliance herewith, the Developer is at all times acting and performing as an independent contractor duly authorized to perform acts required of it hereunder. This Agreement does not create the relationship of principal, an agent or of partnership or joint venture or any other association between the County and the Developer, the sole relationship between the County and the Developer being that of a seller and purchaser of land, with certain obligations, covenants and responsibilities described herein.

4.12 Records and Audits. The Developer shall allow the County, the Milwaukee County Audit Services Division, or any other party the County may name, when and as they demand, to audit, examine, access and make copies of, excerpts or transcripts from any records, books, files, premises or other information in the Developer's possession. The Developer shall

maintain and make available to the County the above described information for no less than three years after conclusion of the obligations and responsibilities of the Developer described herein and required by this Agreement. The Developer understands and will abide by all provisions of Chapter 34 of the Code of Ordinances. These requirements shall apply to any and all contractors and subcontractors to the Developer under this Agreement.

4.13 Intentionally Omitted.

4.14 Memorandum of Development Agreement. After execution of this Agreement, a memorandum of this Agreement (“Memorandum of Agreement”) shall be recorded with the Register of Deeds and the Property title encumbered until successful completion of the Project and submittal of required Community Benefits Reporting demonstrating compliance with the TE and Residential Hiring requirements, as certified by the Economic Development Director on behalf of County at which time the parties shall execute and record a termination of the Agreement. Noise and Light provisions described in Section 2.9 and Exhibit C shall survive expiration of the memorandum of Development Agreement.

4.15 Guaranty. [None].

4.16 Estoppel Certificates. The County agrees to provide within ten (10) days following written request for same estoppel certificates for the benefit of the Developer's lender(s), prospective tenants and/or prospective purchasers of the Project confirming the status of the Developer's compliance or non-compliance with the terms and conditions of this Agreement, and if the Developer is in non-compliance, the specific areas of non-compliance.

4.17 Notice of Default and Opportunity to Cure. The County shall simultaneously provide a copy of each Default Notice to any secured lender of record (provided that the Developer has provided the contact information for such lender to the County) of any notice of default under this Agreement sent to the Developer. The County shall further grant any secured lender an additional thirty (30) day time period to cure the applicable Event of Default beyond the cure period afforded to Developer under this Agreement. Any secured lender shall not be responsible for Developer's performance under this Agreement, incur any obligations under this Agreement by acquiring a security interest in the Project nor be obligated to assume Developer's responsibilities under this Agreement upon an Event of Default by the Developer. Notwithstanding the foregoing, if secured lender assumes the Developer's responsibilities under this Agreement, such secured lender's liability shall not exceed its interest in the Property.

4.18 Further Assurances. The parties agree to amend this Agreement or to enter into such supplements or side agreements as may be appropriate and to the extent necessary to enable the Developer to procure financing and/or obtain any approvals in furtherance of the goals of this Agreement. Any such amendment, supplements or side agreement must be consistent with the terms and conditions of this Agreement and may not modify the existing substance of the Agreements between the Parties without the written consent of each of the Parties and any lender with a mortgage lien in the Property.

4.19 Consent. The parties agree that whenever the consent or approval of a party is required hereunder, such consent or approval shall not be unreasonably withheld, conditioned, delayed or encumbered. With respect to consents or approvals by or from the Developer, Michael Zimmerman (or such other individual as the Developer may subsequently designate in writing) shall be the authorized person to grant such consents or approvals on behalf of the Developer. With respect to consents or approvals by or from the County, James Tarantino, or his successor, as Economic Development Director, shall be the authorized person to grant such consents or approvals on behalf of the County.

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement as of the date first written above.

[Execution Pages Follow]

MILWAUKEE COUNTY

(_____)
Notary Public, State of _____
My Commission _____

DEVELOPMENT AGREEMENT
BPC COUNTY LAND LLC
EXECUTION PAGE

BPC COUNTY LAND LLC

By: _____
Name: _____
Its: _____

STATE OF _____)
) SS
COUNTY OF _____)

This instrument was acknowledged before me on _____, 20__ by
_____ as _____ of _____.

(_____)
Notary Public, State of _____
My Commission _____

[Signature Pages Follow]

Approved with regards to County Ordinance Chapter 42:

*By: _____ Date: _____
Community Business Development Partners*

Reviewed by:

Approved for execution:

*By: _____ Date: _____
Risk Management*

*By: _____ Date: _____
Corporation Counsel*

Approved as to funds available per Wisconsin Statutes Sec. 59.255(2)(e):

*By: _____ Date: _____
Comptroller*

Approved:

*By: _____ Date: _____
County Executive*

Approved as compliant under sec. 59.42(2)(b)5, Stats.:

*By: _____ Date: _____
Corporation Counsel*

Exhibit A

Legal Description of the Property

See attached.

Exhibit B

Option Agreement

See attached.

Exhibit C

Noise and Light Addendum

See attached.

EXHIBIT C

NOISE AND LIGHT ADDENDUM

The Rock Sports Complex and Ballpark Commons project is a multi-use facility developed for a multi-use sports and entertainment complex (“Project”) encompassing the boundaries set forth in Exhibit C.1 (“Abatement Boundaries”). Residents in the communities of Franklin and Greendale have expressed concerns regarding noise and light levels at and beyond the Project Boundaries, originating from activities associated with the Project. This Noise and Light Addendum shall be incorporated into Project documents¹ and consists of three components:

- 1) 2017/2018 Noise and Light Mitigation Plan;
- 2) Noise and Light Standards and Development Plan;
- 3) Noise and Light Compliance Plan.

As specified further herein, BPC County Land, LLC, The Rock Sports Complex LLC, and/or any subsequent or related owner, user, operator, sub-lessee, etc. shall comply with the following:

1. 2017/2018 Noise and Light Mitigation Plan

Attached as Exhibit C.2² are:

- To mitigate unintended light trespass and glare visible from nearby residential areas:
 - This Mitigation Plan details current conditions and identifies 67 lights for new improved glare reduction and control over unintended light trespass (“Gold Standard Visors”) and 11 existing lights for retrofitting with Gold Standard Visors. These new visors and retrofits will be installed on or before the beginning of the Spring 2018 baseball season. All 223 existing fixtures will be adjusted as part of the retrofit effort.
 - New fixtures for lighting outdoor facilities shall meet or exceed the performance of the retrofit fixtures with respect to glare and unintended light trespass.
- To mitigate noise and measure compliance:
 - Past compliance has been measured through handheld monitoring devices. This Mitigation Plan details the installation of permanent monitoring devices at the Abatement Boundaries in three locations. The monitoring devices will trigger a notification in the event of an exceedance and record continuous performance data. Since the monitors require permanent electrical connections, the installation needs to coincide with utility installations, commencing in Spring, 2018 and completed during the outdoor concert season in 2018 (no later than November 1, 2018) generally at the locations shown in the Mitigation Plan.

¹ The Project documents are: 1) Development Agreement between BPC County Land, LLC and Milwaukee County (as Exhibit C); 2) Lease Agreement between BPC County Land, LLC and The Rock Sports Complex, LLC and Milwaukee County (as Exhibit D); and 3) Development Agreement between BPC County Land, LLC and City of Franklin (as Exhibit ___); 4) the Contribution and Participation Agreement between BPC County Land, LLC and Milwaukee County; and the 5) Option to Purchase (as Exhibit F).

² Exact locations for noise and light remediation tools and fixtures are subject to reasonable adjustment.

2. Noise and Light Standards and Development Plan

To ensure compliance with objective standards, the Project shall be subject to the following noise and light standards as set forth in the Franklin Ordinances (“Noise and Light Standards”):

- Section 15-3.1104 Glare;
- Division 15-5.0400 Lighting;
- Section 183-41 Noise;
- With approval by the City of Franklin, such other applicable Noise or Light standards as may apply for a particular event or specified uses within the Project Boundaries.

The point of compliance for application of the Noise and Light Standards, and all activities conducted at the Project, shall be the Abatement Boundaries.

All development within the Abatement Boundaries shall be subject to final plan approval by the City of Franklin following the specifications and process set forth in the Franklin Ordinances. A Lighting plan meeting the requirements of Section 15-5.0402 shall be submitted to the Plan Commission for the City of Franklin, with a copy provided to the Village of Greendale.

3. Noise and Light Compliance Plan

To ensure ongoing compliance, the Project operator(s) shall maintain a compliance log with the following information:

Light Compliance. The City of Franklin shall conduct a final inspection following the installation of any new permanent light emitting outdoor fixture extending or mounted more than 20 feet above ground. The City shall, within 15 days of its inspection, indicate whether any modifications are needed to comply with the plan. The operator shall visually inspect light compliance in the Spring, prior to the start of each baseball season, at or across the roadway from the Abatement Boundaries, as designated on the attached Exhibit C.2 as “visual compliance inspection locations.”

Noise Monitoring.

Annually, the operator will provide the City of Franklin with a list of concerts and special events requiring a permit, including dates and times for operations during the event. Events will be posted at the Property and through electronic media to ensure neighbors can be aware of forthcoming events. The Operator shall provide a means for receiving complaints, through a web page or equivalent electronic media, and shall preserve a record of complaints that will be provided to the City of Franklin, Village of Greendale or County upon request. These records shall be preserved for a minimum of two years.

Continuous noise monitoring data shall be kept for twelve months. Upon reasonable request by the County, City of Franklin, or the Village of Greendale, noise monitoring data and reports, and a record of complaints, shall be provided to the County, City or Village, evidencing the status of compliance. A violation will be considered material if it represents a complaint filed with the operator or the City of Franklin and is evidenced in the monitoring data logs by an exceedance

("Trigger Event") that is not permitted and is not corrected and remediated within 30 minutes of the Trigger Event. The City shall have the right to enforce payment of the penalties specified in the Noise and Light Standards, which may include payment of a double permit fee for any material violation. If the operator has more than eight unpermitted material violations in a calendar year, the operator shall be subject to stepped-up enforcement measures as specified in the Noise and Light Standards. If the City declines to take enforcement action, the County, under the terms of this agreement, shall have the right to impose penalties on the operator, in the County's reasonable judgment given the severity and duration of the violation and the number of violations, which shall not exceed \$1,000 for an individual violation and \$10,000 in aggregate for a calendar year.

No provision of this addendum shall be construed to impair any common law or statutory cause of action or legal remedy or to replace the obligations more specifically set forth in the Noise and Light Standards.

EXHIBIT C.1
Abatement Boundaries

PRELIMINARY
NOISE AND LIGHT
ABATEMENT BOUNDARY EXHIBIT

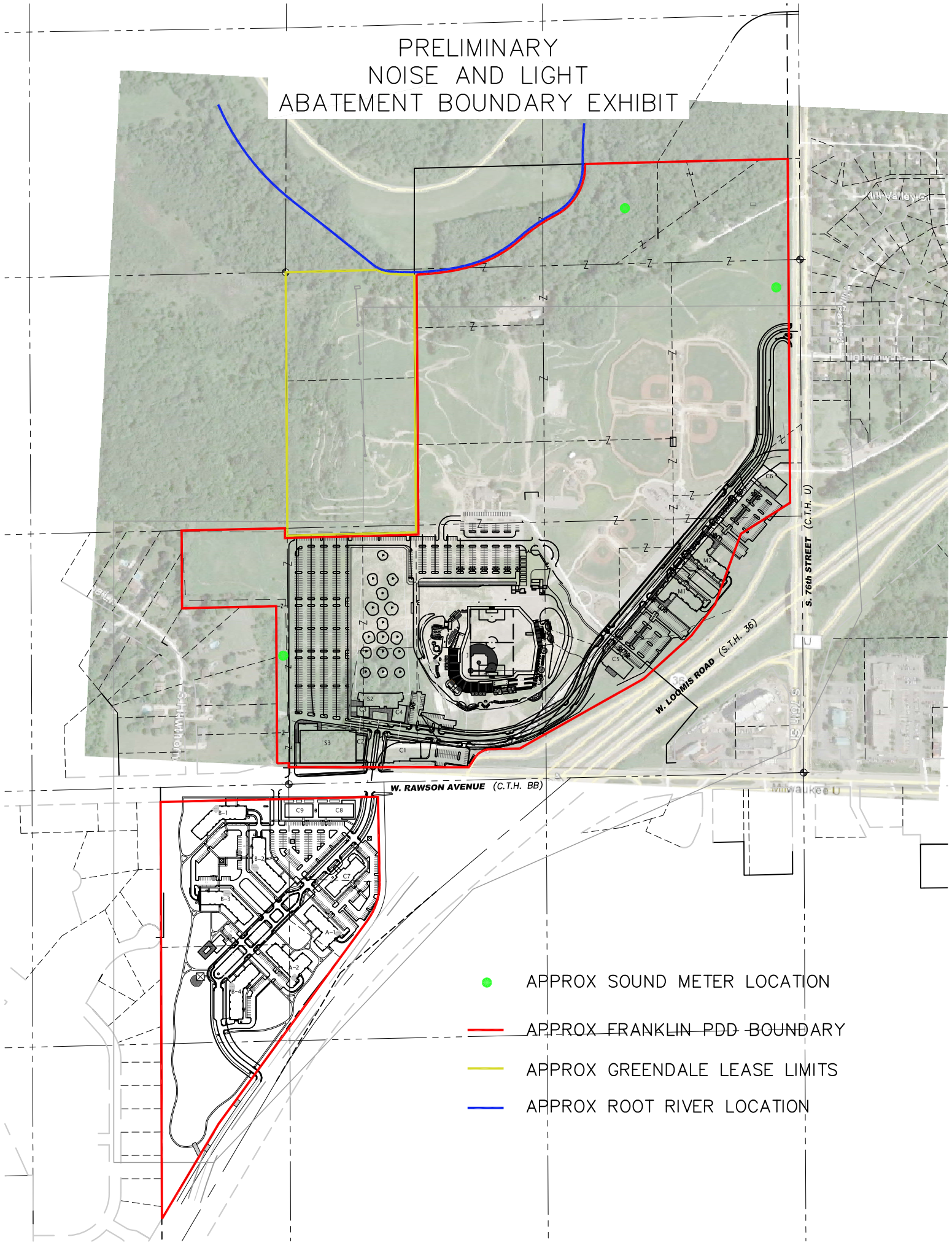
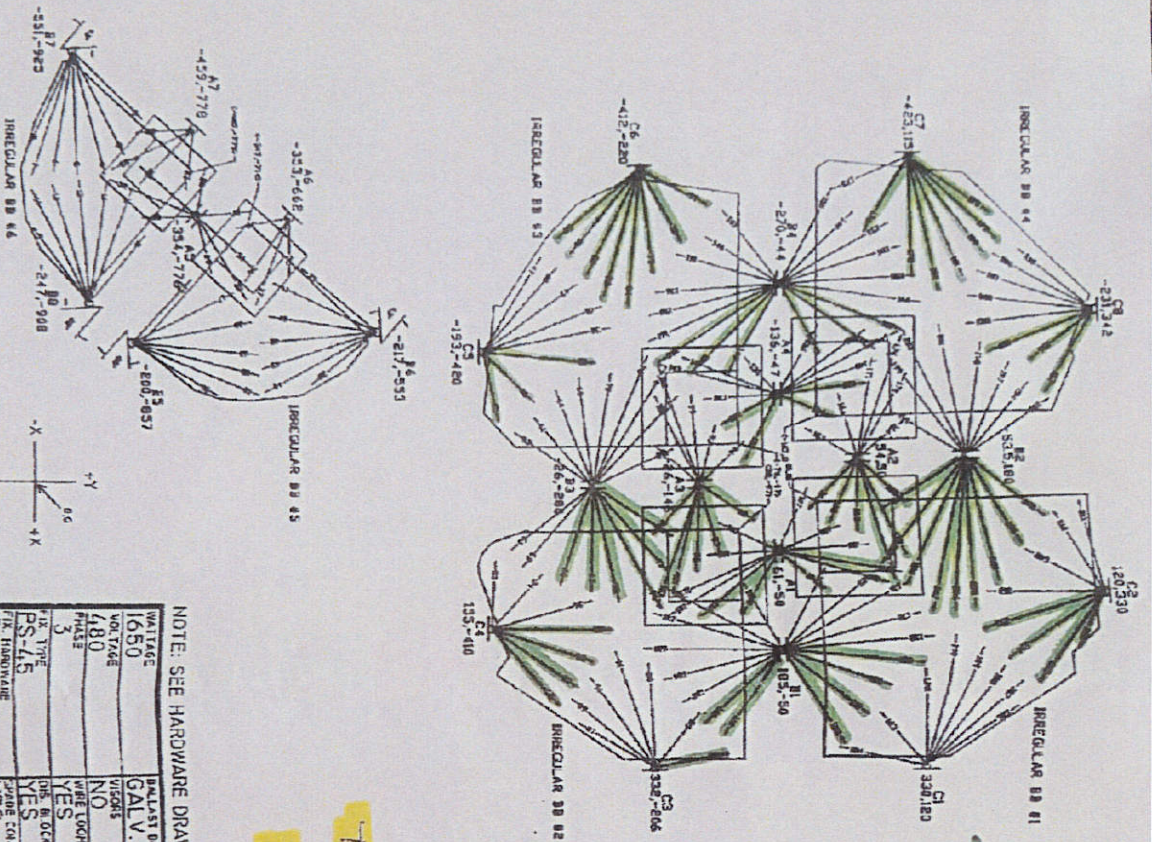


EXHIBIT C.2
Mitigation Plan

Noise and Light - Exhibit X.2

IS NOT A SECTION IN CONSTRUCTION, AND PROPOSED LIGHTING IS NOT TO BE CONSIDERED AS A FINAL DESIGN. THE PROPOSED LIGHTING IS SUBJECT TO THE INTEREST OF THE SPONSOR, FRANKLIN, IN



NOTE: SEE HARDWARE DRAWINGS BEFORE PRODUCTION OR ASSEMBLY

WATTAGE	1650	BALLAST BOX	GALV.	YES	U.C. WIRE ENT.	YES
VOL. TAG	480	WIRE TAGS	NO	NO	WIRE & SIZE	2"
PHASE	3	WIRE LOCKS	YES	NO	INTERCONNECTS	NO
ID. TYPE	PS-45	ONE OF 6045	YES	NO	HERNIMIS CIRCUL	ALUM/STL
FIX. HARDWARE	S.S.	SPRING CONNECTIONS	YES	NO	NO TESTER	YES
LAMP TYPE	1650/S/P60	PER. BASKETS	NO	NO	YES	YES
REMARKS	REMARKS					

TOTAL \Rightarrow 78 VISORS
GOLD SERIES VISORS

- A₁ \Rightarrow 5 VISORS
- A₂ \Rightarrow 6 VISORS
- A₃ \Rightarrow 6 VISORS
- A₄ \Rightarrow 4 VISORS
- B₁ \Rightarrow 6 VISORS
- B₂ \Rightarrow 9 VISORS
- B₃ \Rightarrow 6 VISORS
- B₄ \Rightarrow 6 VISORS
- C₁ \Rightarrow 0 VISORS
- C₂ \Rightarrow 4 VISORS
- C₃ \Rightarrow 1 VISOR
- C₄ \Rightarrow 4 VISORS
- C₅ \Rightarrow 3 VISORS
- C₆ \Rightarrow 8 VISORS
- C₇ \Rightarrow 7 VISORS
- C₈ \Rightarrow 3 VISORS

PERMANENT

76th Street

GOLD SERIES VISOR

VIEW	30	4X3
HIGH VIEW	142	4X4
	47	4X4

Qualite SPORTS LIGHTING

250 INDUSTRIAL DRIVE
HILLSDALE, MI 49242
P.O. BOX 765

PHONE: 517/200-1111
FAX: 517/200-1111

REVISED: 11-15-13 D100

TITLE: IRREGULAR BB #1-#6 FIELDS LIGHT

THE ROCK, FRANKLIN, WI

DATE: 2/27/13

NOTES: REMARKS ARE TAKEN FROM THE POLE, LOOKING TOWARD

KEY:
1. 1/2" V
2. 1/2" V
3. 1/2" V
4. 1/2" V
5. 1/2" V
6. 1/2" V
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Exhibit D

Compliance Plan

See attached.

BALLPARK COMMONS
COMMUNITY BENEFITS COMPLIANCE PLAN
Developer: BPC County Land LLC.

OVERVIEW

BPC County Land LLC (“DEVELOPER”) proposes to utilize this Community Benefits Compliance Plan with Milwaukee County to fulfill its obligations under the Development Agreement to provide perceptible community benefits for the taxpayers of Milwaukee County. It is the intent of DEVELOPER to successfully establish relationships with certified Targeted Business Enterprise (“TBE”) construction contractors and professional service providers to participate on contracts awarded for the completion of this Project. It is also the intent of DEVELOPER to provide apprenticeship opportunities for workers on the project. Thus, in an effort to provide such benefits, and to remain in compliance with the Development Agreement, DEVELOPER has set the following goals with respect to employing TBEs and members of the local workforce (residents):

TBE PARTICIPATION GOALS:

Hard Construction Project Costs: **25%**

Professional Services Project Costs: **17%**

ENHANCED APPRENTICESHIP/JOB TRAINING GOALS:

Project Hours by participants in Apprenticeship/Job Training Program: **10%**

SECTION ONE: TBE PARTICIPATION

General Information

The County’s Community Business Development Partners (CBDP) department ensures compliance with Chapter 42 of the Milwaukee County Ordinances, which requires good faith efforts (GFE) to achieve participation of certified Targeted Business Enterprise (TBE) firms. CBDP knows the TBE market, handles the certification of firms, can assist in the portioning out of contracts to increase TBE participation and be instrumental in the facilitation of contractor/TBE relationships.

CBDP reserves the right to reasonably adjust more or less participation to TBE categories, as it deems necessary to meet program requirements, based upon knowledge of the available TBE firms to perform on specific project work. CBDP will coordinate with DEVELOPER when it believes an adjustment to a goal could be made.

Commitment

In construction of the Project and performance of its duties and obligations hereunder, the Developer shall not discriminate against any employee or applicant for employment race, color, national origin or ancestry, age, sex, sexual orientation, gender identity and gender expression, disability, marital status, family status, lawful source of income, or status as a victim of domestic abuse, sexual assault or stalking which shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeships. The Developer will post in conspicuous places, accessible to employees, notices setting forth the provisions of the foregoing nondiscriminatory clause. The Developer will strive to implement the principles of equal employment opportunities through an effective affirmative action program, which program shall have as its objective to increase the utilization of women, minorities and handicapped persons, and other protected groups in the Developer's employment at the Project for so long as it is located there, and in construction of the Project. The Developer will include this requirement in any and all contracts and subcontracts entered into under this Compliance Plan. Prime contractors further agree to take affirmative action to ensure that TBE Firms have the maximum opportunity to compete for and substantively perform on the Project. Accordingly, each prime contractor shall commit to achieve the participation requirements established above.

All construction bidders further commit that they will not require TBE firms to engage in exclusive relationships with them (other than joint venture relationships approved by Milwaukee County) as a condition to their participation in the construction services being bid. Bidders who engage in such restraint of trade or attempts to monopolize utilization of TBE firms may have their bids rejected.

Certification

In reviewing the initial participation plan, firms must be certified prior to award. No TBE credit can be given for expenditures with a non-certified firm.

A TBE firm must be certified by one of the members of the Unified Certification Program Partners ("UCP"): the Wisconsin Department of Transportation, City of Madison, Dane County and Milwaukee County. The UCP applies only to TBE certification granted under federal USDOT regulation (49 CFR Part 26). Firms that do not have current certification can find instructions and the necessary application forms at the following site:
<http://www.county.milwaukee.gov/CertificationService12282.htm>

All TBE firms participating in the development must maintain TBE certification during the entire term of their contract. CBDP will work with firms to assist in obtaining or updating TBE certification. If documented efforts to have uncertified firms receive certification through the UCP are unsuccessful, DEVELOPER may still receive participation credit, at the discretion of CBDP, if the firm is certified under one of the following reputable programs: City of Milwaukee SBE, MMSD SWMBE, or State of Wisconsin Supplier Diversity Program (State of Wisconsin DOA). The CBDP office should be contacted directly at 414-278-4747 with specific questions and concerns.

Participation Calculation

The TBE participation credited towards the contract goals for both TBE and non-TBE prime contractors is calculated on the following criteria:

1. One hundred percent (100%) participation credit will be allowed for all work self-performed where the **prime contractor is a TBE firm**. TBE firms at the first tier are encouraged to subcontract with other TBE firms.
2. One hundred percent (100%) participation credit will be granted for all contracts and purchase orders awarded to TBE firms if the identified scope of work has a **commercially useful function** in the actual work of the contract and is performed directly by the TBE firm with its own workforce. CBDP shall determine and evaluate whether or not the firm is performing a commercially useful function on the project.
 - a. To determine whether a firm is performing a commercially useful function, CBDP may evaluate the amount of work subcontracted, reasonable and customary industry practices, and other relevant factors. The participation credit allowed shall be based upon an analysis by CBDP of the specific duties that will be performed by the TBE firm(s). Each TBE firm shall be expected to actually manage and supervise the work contemplated for it by any subcontract or agreement through the use of its own employees and equipment and shall perform that portion of the actual work which is reasonable and customary within their industry.
 - b. CBDP reserves the right to deny or limit participation credit to the contractor where any TBE firm is found to be engaged in subcontracting without prior approval of CBDP. TBE firms must be independent businesses.
3. One hundred percent (100%) participation credit granted for contracts held with **lower tier TBE subcontractors** performing work with its own workforce.
4. One hundred percent (100%) participation credit will be granted for contracts held with **lower tier TBE subcontractors who subcontract with other TBE firms**. If TBE further subcontracts a portion of its work to another firm, the value of the subcontracted work will be counted towards TBE goal only if the work is performed by another TBE firm.
5. One hundred percent (100%) participation credit will be granted for the **cost of all materials and supplies purchased and installed by the TBE** for the work of the project. Credit shall also be given for the cost of leasing equipment provided the TBE subcontractor does not lease the equipment from the prime contractor, construction manager or affiliates thereof.
6. One hundred percent (100%) participation credit for all purchases for materials or supplies from **TBE manufacturers or fabricators**. A TBE manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises goods from raw materials or substantially alters the materials or supplies obtained by the contractor.
 - a. **CERTIFICATION ALONE IS NOT ACCEPTABLE.** Contractors should submit a copy of the official and legal wholesale distributor agreement(s) between the supplier and the manufacturer for all brands to be supplied by the wholesaler. If legal agreements are not provided, products supplied by the wholesaler may not be counted for participation credit, or at best, credit towards participation will be limited to the amount of profit actually realized by the supplier.

7. Sixty percent (60%) participation credit will be granted on expenditures for materials or supplies purchased from a TBE “Regular Dealer.” A **Regular Dealer** is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials or supplies are kept in stock, and regularly sold to the public in the usual course of business. A Regular Dealer in such bulk items as steel, cement, gravel, stone and petroleum products need not keep such products in stock, if it owns and operates distribution equipment.
 - a. Brokers, packagers and manufacturers’ representatives or other persons who arrange or expedite transactions are **not** regarded as Regular Dealers. TBE firms may be utilized to assist in the procurement of materials and supplies, but credit will be allowed only from the amount of fees or commissions realized by the TBE firm and not the full price of the merchandise provided under any circumstance.
8. One hundred percent (100%) participation credit will be granted for the **fees or transportation charges** for the delivery of materials or supplies by a TBE to a job site, provided the Developer determines that the fee is reasonable and not excessive as compared with fees customarily allowed for similar services. The cost of the material and supplies transported under this provision will not be considered towards TBE participation unless the materials or supplies are from TBE manufacturers as covered elsewhere in this document.
9. One hundred percent (100%) participation credit will be granted for **transportation expenditures with TBE trucking firms** provided the TBE firm is responsible for the management and supervision of the entire trucking operation for which it has contracted. The TBE must also use trucks it owns, insures, and operates using drivers it employs. The TBE may lease trucks from another TBE firm, including an owner- operator who is certified as a TBE. The TBE who leases trucks from another TBE receives credit for the total value of the transportation services the lessee TBE provides on the contract. The TBE may also lease trucks from a non-TBE firm, including an owner-operator. However, the TBE who leases trucks from a non-TBE firm is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The TBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a TBE. (Concrete ready- mix operators may not get credit for leased concrete delivery trucks from non-TBE firms).
10. TBE participation credit will be affected proportionately by **approved change orders**. On change orders, Contractor shall be expected to achieve the level of participation for the change order segment of work in the contract documents, i.e., if a scope of work is contracted at 25% TBE, then change orders for that scope of work should also have at least the 25% TBE participation. This applies equally to construction costs and professional services costs.
11. Prorated participation credit will be granted for contracts where the Contractor is a legal joint venture. Credit for participation of TBE firms as joint venture partners shall be based upon an analysis of the duties, responsibilities and risks undertaken by the TBE firms as specified by the joint venture’s executed joint venture agreement, as approved by CBDP prior to the bid due date. CBDP reserves the right to deny or limit TBE participation credit to the contractor where any TBE joint venture partner is found to have duties, responsibilities, risks or loss and management control over the joint venture that are not commensurate with or in proportion to its joint venture ownership percentage.

CBDP may request, and a proposer or prime contractor shall promptly furnish, additional information to assist in the making of participation credit determinations, including, without limitation: (1) specific information concerning any supplier's broker fees, mark-up, and/or commissions; (2) intended suppliers or other sources of labor, equipment, materials and/or services; (3) specific financial or other risks to be assumed by the TBE firm; and (4) identification of employees and supervisory personnel assigned to perform the project.

Reporting Forms

Throughout the excavation and construction period, DEVELOPER will issue several bid packages. The individual monitoring TBE participation shall inform CBDP and DAS-Economic Development of the bid release date, date of pre-bid meeting(s) and provide copies of the bid documents/specifications. This will allow CBDP to promote the event/opportunity with certified firms, and to attend the meeting to answer questions, if any. Prior to beginning the work specified in said bid documents, DEVELOPER shall submit to CBDP, with copies to DAS-Economic Development, forms TBE-14 (Commitment to Contract with TBE Firms) and TBE-02 (Subcontractor/Subconsultant/Supplier Information). Listing a TBE on these forms shall constitute a written representation and commitment that the prime contractor has communicated and negotiated directly with the TBE firm(s) listed and intends to utilize them. The prime contractor will be required to enter into subcontract agreements or execute purchase orders with the TBE firm(s) for the work and price set forth on the commitment form. Copies of agreements and/or purchase orders with all TBE firms shall be submitted to CBDP and DAS-Economic Development at least seven (7) days prior to the TBE firm beginning work on the project.

DEVELOPER must also maintain TBE participation and performance logs, which will be reported to the CBDP and DAS-Economic Development on a monthly basis using B2Gnow. If a TBE firm listed on TBE-14 cannot perform, or the DEVELOPER or prime contractor has a problem meeting the TBE goal, or any problem relative to this Compliance Plan's requirements, DEVELOPER shall immediately contact CBDP at 414-278-4747, or via email at rick.norris@milwaukeecountywi.gov. No TBE subcontractor shall be replaced without written approval from CBDP. Requests for substitution must be made in writing and include the reason for the request.

Project subcontractors under a prime contractor (whether TBE or non-TBE) must be paid, upon satisfactory performance of its subcontract, no later than seven (7) calendar days from the receipt of each payment the prime contractor receives. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause following written notice to CBDP. If CBDP determines there is no good cause for delaying or withholding payment, the prime contractor must pay the subcontractor within five (5) calendar days of such written decision from CBDP. All prime contractors are required to ensure that all subcontractors will include this prompt payment provision in all subcontracts at all level or tiers of subcontracting. The County reserves the right to require DEVELOPER to utilize B2Gnow, or other internet-based system for reporting purposes.

GOOD FAITH EFFORTS TO ACHIEVE COMPLIANCE

Developer pledges to undertake the following activities to reach its TBE participation goal:

- Utilize a public process to solicit bids

- Publish notice of the opportunity to bid in local publications, as well as contact the minority chambers of commerce with the submittal information
- Meet with CBDP prior to issuing bid packets to gain a better understanding of current TBE capacities and get assistance structuring project packages to encourage participation
- Hold pre-bid meetings so TBE firms are able to ask questions, connect with larger firms who may serve as primes (if the TBE would be a sub), or otherwise.

Compliance Review and Sanctions

DEVELOPER shall be subject to periodic compliance review by CBDP and DAS-Economic Development. In situations of noncompliance, the County may retain all or a portion of DEVELOPER'S compliance deposit, and/or prohibit the DEVELOPER from participating in future Milwaukee County contracting opportunities for a period of up to three (3) years. In the event DEVELOPER consistently submits late or incomplete reports, it shall be in the discretion of the County whether to seek remediation via withholding a portion of the performance deposit.

SECTION TWO: ENHANCED APPRENTICESHIP/JOB TRAINING

General Information

DAS-Economic Development administers the local workforce hiring provision of the Development Agreement, which requires good faith efforts on behalf of DEVELOPER to encourage enhanced apprenticeship and job training opportunities at levels consistent with their stated goal.

Good Faith Efforts

DEVELOPER has pledged to undertake the following activities, all of which shall be recorded on form ECD-01 if DEVELOPER anticipates that it will not achieve its participation goal. Unless otherwise approved by DAS-Economic Development in writing, DEVELOPER shall complete the following:

- Advertise in notices that Developer is looking for County resident participation
- All subcontractors must meet with a pre-apprenticeship program that is recognized by the State of Wisconsin to identify hiring opportunities.
- Connect with local organizations such as Employ Milwaukee, Esperanza Unida, Milwaukee Urban League and WRT P/Big Step to assist in locating resident workers

SECTION THREE: REPORTING SCHEDULE

All reports referenced in this Community Benefits Compliance Plan are attached hereto. Their submittal should be consistent with the following schedule. Should DEVELOPER desire to utilize different reports, written consent from DAS-Economic Development and CBDP is required.

The following reports required at any time DEVELOPER anticipates it will not meet a stated goal:

- ECD-01: Certificate of Good Faith Efforts – Enhanced Apprenticeship

The following reports are due 7 DAYS PRIOR TO BEGINNING WORK on the contract:

- TBE-14: Commitment to Utilize TBE
- TBE-02: Bidder Information
- Copies of agreements and/or purchase orders with all TBE firms listed in TBE-14

The following reports are due on a MONTHLY BASIS and shall be submitted within 7 days of the end of a month:

- TBE Utilization entered into B2Gnow

The following reports are due on a VARIABLE BASIS, as laid out below:

- Employee affidavits and proof of residency due when the employee commences work on the project

All reports shall be submitted to:

Community Business Development Partners
Milwaukee County Dept. of Admin. Services
633 W. Wisconsin Avenue, Suite 902
Milwaukee, WI 53203

With a copy to:

DAS-Economic Development
Milwaukee County Dept. of Admin. Services
633 W. Wisconsin Avenue, Suite 903
Milwaukee, WI 53203