



# Milwaukee County

## Legislation Details (With Text)

**File #:** 11-276      **Version:** 1      **Name:** Area 10 Release of Deed Restriction and Licensing Agreement  
**Type:** Action Report      **Status:** Signed  
**File created:** 5/27/2011      **In control:** County Clerk  
**On agenda:**      **Final action:** 7/12/2011

**Title:** From the Director of Economic Development, DTPW, requesting the release of a deed restriction and Licensing Agreement on a parcel known as "Area 10", located near Miller Park.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. RESOLUTION, 2. REPORT, 3. FISCAL NOTE, 4. Area 10 1951 deed cnty state license.pdf, 5. Area 10 1996 Deed cnt state land conveyance.pdf, 6. Area 10 city of milwaukee memo on Area 10.pdf, 7. Area 10 land transfer agreement.pdf, 8. Area 10 map showing Area 10 and Waterworks parcels.pdf, 9. Area 10 Transaction diagram.pdf, 10. Area 10 Documents from Corporation Counsel, 11. CB Resolution, 12. Audio ECD 6/13/11

Date	Ver.	Action By	Action	Result
7/12/2011	1	County Executive	SIGNED	
6/23/2011	1	Milwaukee County Board of Supervisors	ADOPTED	Pass
6/13/2011	1	Committee on Economic and Community Development	RECOMMENDED FOR ADOPTION	Pass
6/3/2011	1	Board Chairman	ASSIGNED	

From the Director of Economic Development, DTPW, requesting the release of a deed restriction and Licensing Agreement on a parcel known as "Area 10", located near Miller Park.

From the City of Milwaukee requesting the release of a deed restriction and Licensing Agreement on a parcel known as "Area 10", which is located near Miller Park.

### **POLICY ISSUE**

Releasing a deed restriction on parcel, called "Area 10", in which Milwaukee County currently has an interest and transferring the Deed restriction to another parcel as fair compensation.

### **BACKGROUND**

P&H Mining has made major investments in its plant on Milwaukee's near southside. As a result of the new investment, P&H expects to expand its business and create a significant number of new jobs. P&H is a firm that values the safety of its employees and is committed to ensuring that all hazards are minimized within and around its plant. Currently, P&H employees must cross a busy National Avenue to access the current parking lot; at least four employees have been struck by vehicles while crossing National Avenue. To minimize the danger that employees face, P&H is committed to securing safer parking for its employees.

The City of Milwaukee ("the City"), in an effort to support the needs of P&H Mining, has constructed an arrangement for the City to acquire a parcel just west of the P&H plant, called "Area 10", and then sell the land to P&H for its parking needs. Currently, the Area 10 parcel is owned by the State of Wisconsin ("the State").

Area 10 is 2.7 acres and is located just east of HWY 41 (see map), near National Avenue. Area 10 was transferred to the State of Wisconsin by Milwaukee County to be used solely for the construction and operation of a major league baseball park; the deed restriction that currently sits on the parcel was meant to protect the interest of Milwaukee County if the parcel is no longer to be used for the operation of a Major League Ball Park. As it is, Area 10 can not be sold for any other use other than the operation of a Major league Baseball Park.

The City's plan to unencumber, acquire and then sell Area 10 is detailed in a document called the Land Transfer Agreement (see attached), which was endorsed by the State on December 28, 2010. The Effective Date of the Agreement is November 19th 2010. The Land Transfer Agreement (LTA) has the following tenets:

- All parties (including Milwaukee County) with an interest in the Area 10 parcel would need to release their interest in Area 10, which would then unencumber the parcel for sell to P&H Mining by the City of Milwaukee.
- To compensate parties for releasing their interest in the 2.5 acre Area 10 parcel, the City of Milwaukee has offered to provide ownership/interest of its 3.5 acre WaterWorks parcel in a land swap - essentially transferring the interest of all parties from the Area 10 parcel to the WaterWorks parcel.
- Parties having an interest in Area 10 that would need to release and transfer their interest to the WaterWorks parcel include the following;
  - **State of Wisconsin:** As the current owner of the Area 10 parcel the State of Wisconsin has agreed (in the LTA) to release its interest in the Area 10 parcel in exchange for the City's Waterworks parcel. Currently the State owns Area 10 and leases the space to the Baseball District. The lease term is for 99 years.
  - **Milwaukee County:** In 1996, Milwaukee County conveyed Area 10 to the State of Wisconsin (at zero cost to the State) for the purpose of supporting the construction and operation of Miller Park. The County received no direct or upfront compensation for the conveyance of the parcel. To ensure that the land conveyed to the Baseball District ("the District") was to be used by the District solely for the operation of a Major League baseball park, the Milwaukee County Board placed restrictive deed covenant on the land: If, at some point in the future, the parcels are not to be used for the operation of a Major League baseball park, then the parcels will be conveyed back to the County. As it is, with the restrictive covenant on the land, the land can not be transferred or sold unless the buyer operates a major league baseball park.
  - **The Baseball District/Milwaukee Brewers:** The Baseball District and the Milwaukee Brewers agreed to release their interest in Area 10 on the condition that the District be offered interest in a site of comparable size and proximity to Miller Park. The City of Milwaukee offered the WaterWorks parcel as a viable leasing alternative to Area 10. The Baseball District and the Milwaukee Brewers agreed that the WaterWorks parcel is a viable alternative and endorsed the LTA.
  - **The Veterans Administration (VA):** The VA has an interest in the Area 10 site and is working with the City of Milwaukee to release its interest.
- The transaction must take place within 210 days from the Effective Date of November 19th, 2010 or June 17th.

**Diagram of Transaction:** All Parties with interest in Area 10 would transfer their interest to the WaterWork parcel, and the City would transfer its interest from the WaterWorks parcel to the Area 10 parcel. Once the City gains control of the unencumbered Area 10 parcel, it can then sell the parcel to P&H Mining.

## **ISSUES**

**Transferring the Deed Restriction:** The Land Transfer Agreement does mention that the County can transfer its deed restrictions to the WaterWorks parcel “if and only to the extent required by Milwaukee County as a condition to such release, approval to encumber the Water Works Parcel with the Milwaukee County Restrictions.” However, there is no mechanism or agreement binding the State to accept this transaction as a condition of the Land Transfer Agreement. [Note: There has been a change of administration at the State since the Land Transfer Agreement was originally authorized, and an update of the State’s position may be warranted.]

**Acknowledgement of Termination of License:** In 1951, Milwaukee County granted to the State, its Highway Commission, and the City of Milwaukee a license to construct “a highway and related appurtenances upon certain real estate then owned by Milwaukee County.” In 1996, the parcel was conveyed from the County to the State for the construction of Miller Park, effectively terminating the license. To release all claims to the Area 10 parcel, Milwaukee County must also acknowledge that this license is effectively terminated.

## **RECOMMENDATION**

Given the urgent need for P&H Mining to acquire safer and more secure parking to support the expansion of its operations and the creation of new jobs, staff respectfully requests approval from the County Board of Directors for 1) releasing the Deed Restriction on “Area 10” and 2) approval for acknowledging the Termination of License on the Area 10 parcel, contingent on the State of Wisconsin formally approving the transfer of the deed restriction from the Area 10 parcel to the WaterWorks parcel.

## **FISCAL NOTE**

There is no fiscal impact.

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Damon M. Dorsey,  
Director of Economic Development

Meeting Date: June 13, 2011

Attachments

cc: Chris Abele, Milwaukee County Executive  
Jack Takerian; Director, Transportation and Public Works  
George Aldrich, Chief-of-Staff, County Executive's Office  
Terry Cooley, Chief-of-Staff, County Board of Supervisors

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