



# City of Milwaukee

City Hall  
200 East Wells Street  
Milwaukee, WI 53202

## Meeting Agenda STEERING & RULES COMMITTEE

**ALD. WILLIE L. HINES, Jr., CHAIR**

**Ald. Michael J. Murphy, Vice-Chair**

**Ald. Joe Davis, Sr., Ald. Ashanti Hamilton, Ald. James Witkowiak, Ald. Robert Bauman, Ald. Robert Donovan, and Ald. James Bohl, Jr.**

**Staff Assistant, Terry MacDonald, (414)-286-2233**

**Fax: (414) 286-3456, E-mail: [tmacdo@milwaukee.gov](mailto:tmacdo@milwaukee.gov)**

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**Monday, December 21, 2009**

**2:00 PM**

**Room 301-B, City Hall**

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### SPECIAL

**---PLEASE NOTE: If action is taken on the following file, it may be referred to the Common Council for action at its regular meeting to be held at 9:00 A.M. on Tuesday, December 22, 2009.**

**1. [090078](#)**

Substitute resolution to approve the execution of a second amendment to a lease agreement with Milwaukee World Festival, Inc.

**Sponsors:** Ald. Murphy

**Attachments:** [5-4-09 Introduction Cover Letter](#)

[12-11-09 City Attorney Letter](#)

[Fiscal note](#)

[Park Lease](#)

[Lease - Exhibit B Norris Field Project Plans](#)

[Lease - Exhibit C MU - Norris Park Redevelopment Proposal Re Green Schools](#)

[Lease - Exhibit D - EBE Agreement](#)

[Lease - Exhibit E Letter of Financial Responsibility](#)

[Second Amendment to lease Agreement](#)

[EXHIBITS - Second Amendment to Lease Agreement](#)

[Hearing Notice List](#)

**This meeting will be webcast live at [www.milwaukee.gov/channel25](http://www.milwaukee.gov/channel25).**

**Members of the Common Council and its standing committees who are not members of this committee may attend this meeting to participate or to gather information. Notice is given that this meeting may constitute a meeting of the Common Council or any of its standing committees, although they will not take any formal action at this meeting.**

Upon reasonable notice, efforts will be made to accommodate the needs of persons with disabilities through sign language interpreters or auxiliary aids. For additional information or to request this service, contact the Council Services Division ADA Coordinator at 286-2998, (FAX)286-3456, (TDD)286-2025 or by writing to the Coordinator at Room 205, City Hall, 200 E. Wells Street, Milwaukee, WI 53202.

Limited parking for persons attending meetings in City Hall is available at reduced rates (5 hour limit) at the Milwaukee Center on the southwest corner of East Kilbourn and North Water Street. Parking tickets must be validated in Room 205, (City Clerk's Office) or the first floor Information Booth in City Hall.

Persons engaged in lobbying as defined in s. 305-43-4 of the Milwaukee Code of Ordinances are required to register with the City Clerk's Office License Division. Registered lobbyists appearing before a Common Council committee are required to identify themselves as such. More information is available at [www.milwaukee.gov/lobby](http://www.milwaukee.gov/lobby).



# City of Milwaukee

200 E. Wells Street  
Milwaukee, Wisconsin  
53202

## Master

**File Number: 090078**

**File ID:** 090078

**Type:** Resolution

**Status:** In Committee

**Version:** 1

**Reference:**

**Controlling Body:** STEERING &  
RULES  
COMMITTEE

**Requester:** CITY ATTORNEY

**Cost:**

**File Created:** 05/05/2009

**File Name:**

**Final Action:**

**Title:** Substitute resolution to approve the execution of a second amendment to a lease agreement with Milwaukee World Festival, Inc.

### Notes:

### Code Sections:

**Indexes:** AGREEMENTS, LEASES, SUMMERFEST

**Sponsors:** Ald. Murphy

**Attachments:** 5-4-09 Introduction Cover Letter, 12-11-09 City Attorney Letter, Fiscal note, Park Lease, Lease - Exhibit B Norris Field Project Plans, Lease - Exhibit C MU - Norris Park Redevelopment Proposal Re Green Schools Initiative - November 2009, Lease - Exhibit D - EBE Agreement, Lease - Exhibit E Letter of Financial Responsibility, Second Amendment to lease Agreement, EXHIBITS - Second Amendment to Lease Agreement, Hearing Notice List

**Drafter:** tog

**Contact:**

**Agenda Date:**

**Agenda Number:**

**Enactment Date:**

**Enactment Number:**

**Effective Date:**

**Extra Date 2:**

### History of Legislative File

| Ver-<br>sion: | Acting Body:  | Date:      | Action:                 | Sent To:                         | Due Date:  | Return<br>Date: | Result: |
|---------------|---|------------|-------------------------|----------------------------------|------------|-----------------|---------|
| 0             | COMMON COUNCIL  | 05/05/2009 | ASSIGNED TO             | PUBLIC WORKS<br>COMMITTEE        |            |                 |         |
|               | <b>Action Text:</b> This Resolution was ASSIGNED TO to the PUBLIC WORKS COMMITTEE   |            |                         |                                  |            |                 |         |
| 0             | PUBLIC WORKS<br>COMMITTEE   | 06/19/2009 | HEARING NOTICES<br>SENT |                                  | 06/24/2009 |                 |         |
| 0             | PUBLIC WORKS<br>COMMITTEE   | 06/19/2009 | HEARING NOTICES<br>SENT |                                  | 06/24/2009 |                 |         |
| 0             | PUBLIC WORKS<br>COMMITTEE   | 06/24/2009 | REFERRED TO             | STEERING &<br>RULES<br>COMMITTEE |            |                 | Pass    |
|               | <b>Action Text:</b> A motion was made by ALD. PUENTE that this Resolution be REFERRED TO the STEERING & RULES COMMITTEE . The motion PREVAILED by the following vote: |            |                         |                                  |            |                 |         |

|        |                               |   |            |
|--------|-------------------------------|---|------------|
| Mover: | ALD. PUENTE                   | Aye:3 - Bauman, Dudzik, and Puente<br>No:0<br>Excused:2 - Wade, and Donovan | 3-0-2      |
| 0      | STEERING & RULES<br>COMMITTEE | 11/25/2009 HEARING NOTICES<br>SENT  | 11/30/2009 |
| 0      | STEERING & RULES<br>COMMITTEE | 11/30/2009 HELD TO CALL OF<br>THE CHAIR                                     | Pass       |

**Action Text:** A motion was made by ALD. DONOVAN that this Resolution be HELD TO CALL OF THE CHAIR. This motion PREVAILED by the following vote:

**Notes:** *Ald. Bauman moved that the STEERING AND RULES COMMITTEE convene into closed session, pursuant to s. 19.85(1)(e), Wis. Stats., for the purpose of formulating negotiation strategies relating to the File #090078, resolution approving the execution of a second amendment to a lease agreement with Milwaukee World Festival, Inc.*

*Roll call taken at 3:27 P.M.:  
Present: 6 - Ald. Hines Jr., Witkowski, Witkowiak, Bauman, Donovan and Coggs  
Excused: 2 - Ald. Murphy and Davis*

*Also present: City Attorney Grant Langley, Tom Gartner, Assistant City Attorney, Danielle Bergner, Assistant City Attorney, Barry Zalben, Manager, Legislative Reference Bureau, Jeff Ostermann, Legislative Reference Bureau and Ald. Kovac*

*Ald. Donovan moved that the committee reconvene into open session.*

*Roll call taken at 4:07 P.M.:  
Present: 6 - Ald. Hines Jr., Witkowski, Witkowiak, Bauman, Donovan and Coggs  
Excused: 2 - Ald. Murphy and Davis*

|        |                               |  |       |
|--------|-------------------------------|--|-------|
| Mover: | ALD. DONOVAN                  | Aye:6 - Hines Jr., Witkowski, Witkowiak, Bauman, Donovan, and Coggs<br>No:0<br>Excused:3 - Murphy, Davis, and Bohl | 6-0-3 |
| 1      | CITY CLERK                    | 12/16/2009 DRAFT SUBMITTED   |       |
|        | <b>Action Text:</b>           | This Resolution was DRAFT SUBMITTED  |       |
| 1      | STEERING & RULES<br>COMMITTEE | 12/21/2009   |       |
| 1      | COMMON COUNCIL                | 12/22/2009   |       |

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**Text of Legislative File 090078**

..Number

090078

..Version

SUBSTITUTE 1

..Reference

..Sponsor

ALD. MURPHY

..Title

Substitute resolution to approve the execution of a second amendment to a lease agreement with Milwaukee World Festival, Inc.

..Analysis

This resolution provides the Common Council's approval, as required by sec. 30.38(6), Stats., of a Second Amendment to Lease Agreement ("Lease Amendment") between the Board of Harbor Commissioners ("Board") and Milwaukee World Festival, Inc. ("Festival").

The resolution also authorizes the proper City officers to execute the Lease Amendment. The Lease is for property commonly known as the Henry Maier Festival Grounds. The Lease Amendment extends the term of the Lease by ten (10) years so that the Lease term is thirty (30) years, commencing on January 1, 2001 and terminating on December 31, 2030. The ten-year extension is contingent upon Festival completing a renovation of the south end of the festival grounds by December 31, 2015 with a

corresponding expenditure of not less than \$10 Million. The Festival's annual rental payments are currently estimated to be \$1,542,700 in 2010, increasing to \$3,926,700 in 2030, subject to certain adjustments as set forth in the original Lease and reflected in Exhibit O-3 to the Lease Amendment attached to this file. In addition to Rent, the Lease Amendment also provides for an annual Supplemental Service Fee payment intended to offset a portion of the increasing costs of public safety related services to Festival's operations. The Supplemental Service Fee commences for year 2009 at \$100,000. The Fee then escalates by three percent through 2020, by four percent for the years 2021 through 2025, and by five percent for the final five years of the Lease. Pursuant to this escalation structure, Supplemental Service Fees would total \$3,176,057 over the remaining term of the Lease as set forth in Exhibit O-4 to the Lease Amendment attached to this file. The Lease Amendment also reserves to the City future development rights over an area of the Property identified on Exhibit T to the Lease Amendment attached to this file. The Lease was approved by the Board at its December 10, 2009 meeting.

..Body

Whereas, Representatives of the City, the Board of Harbor Commissioners ("Board") and Milwaukee World Festivals, Inc. ("Festival") have engaged in negotiations to extend and amend the January 1, 2001 Lease for the Henry Maier Festival Grounds (the "Lease Amendment"); and

Whereas, The Board approved the Lease Amendment at its December 10, 2009 meeting; and

Whereas, Pursuant to sec. 30.38(6), Stats., the Common Council must approve all such Board leases; now, therefore, be it

Resolved, That the Common Council hereby approves the Second Amendment to Lease Agreement between the City of Milwaukee, Board of Harbor Commissioners and Milwaukee World Festival, Inc. ("Lease Amendment") attached to this file and further authorizes the proper City officers to execute that Lease Amendment.

..Requestor

City Attorney

..Drafter

DMB

December 11, 2009

1070-2008-3449:152860

**GRANT F. LANGLEY**  
City Attorney

**RUDOLPH M. KONRAD**  
**LINDA ULISS BURKE**  
**VINCENT D. MOSCHELLA**  
Deputy City Attorneys



**THOMAS O. GARTNER**  
**BRUCE D. SCHRIMPF**  
**SUSAN D. BICKERT**  
**STUART S. MUKAMAL**  
**THOMAS J. BEAMISH**  
**MAURITA F. HOUREN**  
**JOHN J. HEINEN**  
**DAVID J. STANOSZ**  
**SUSAN E. LAPPEN**  
**JAN A. SMOKOWICZ**  
**PATRICIA A. FRICKER**  
**HEIDI WICK SPOERL**  
**KURT A. BEHLING**  
**GREGG C. HAGOPIAN**  
**ELLEN H. TANGEN**  
**MELANIE R. SWANK**  
**JAY A. UNORA**  
**DONALD L. SCHRIEFER**  
**EDWARD M. EHRLICH**  
**LEONARD A. TOKUS**  
**MIRIAM R. HORWITZ**  
**MARYNELL REGAN**  
**G. O'SULLIVAN-CROWLEY**  
**KATHRYN Z. BLOCK**  
**MEGAN T. CRUMP**  
**ELOISA DE LEÓN**  
**ADAM B. STEPHENS**  
**KEVIN P. SULLIVAN**  
**BETH CONRADSON CLEARY**  
**THOMAS D. MILLER**  
**HEIDI E. GALVÁN**  
**JARELY M. RUIZ**  
**ROBIN A. PEDERSON**  
**DANIELLE M. BERGNER**  
Assistant City Attorneys

May 4, 2009

Ronald D. Leonhardt, City Clerk  
City Hall, Room 205  
200 East Wells Street  
Milwaukee, WI 53202

Re: Title-only Resolution -- 2<sup>nd</sup> Amendment to Lease Agreement  
Milwaukee World Festival, Inc.

Dear Mr. Leonhardt:

On Friday May 1, 2009, I spoke with Alderman Michael Murphy relative to introduction of a title-only file approving and authorizing the execution of a 2<sup>nd</sup> Amendment to the Milwaukee World Festival, Inc. Lease. Our office is working together with a negotiating team from the City of Milwaukee Board of Harbor Commissioners to finalize a 2<sup>nd</sup> Amendment and would like to proceed at this point with introduction of a file to allow Common Council approval.

Please introduce a resolution by title only entitled "Resolution Approving and Authorizing the Execution of A 2<sup>nd</sup> Amendment to Lease Agreement -- Milwaukee World Festival, Inc."

Alderman Murphy has agreed to act as a sponsor for this file and we anticipate that there may be other members of the Council who also wish to be listed as sponsors at such time as we prepare the actual text of the Resolution.

Thank you for your cooperation with respect to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Thomas O. Gartner". The signature is fluid and cursive, with a large, stylized "T" and "G".

THOMAS O. GARTNER  
Assistant City Attorney

c via e-mail: Alderman Michael Murphy  
Alderman Robert Bauman  
Eric Reinelt  
Ron Sanfelippo  
Craig Mastantuono  
Claude Krawczyk  
Tim Hoelter  
Danielle Bergner  
James Owczarski  
Debra Fowler

1122-2006-3359:145586

**GRANT F. LANGLEY**  
City Attorney

**RUDOLPH M. KONRAD**  
**LINDA ULISS BURKE**  
**VINCENT D. MOSCHELLA**  
Deputy City Attorneys



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**THOMAS D. MILLER**  
**HEIDI E. GALVÁN**  
**JARELY M. RUIZ**  
**ROBIN A. PEDERSON**  
**DANIELLE M. BERGNER**  
Assistant City Attorneys

December 11, 2009

To the Honorable Committee  
on Steering and Rules of the  
Common Council of the  
City of Milwaukee  
Room 205 – City Hall

Re: CCFN 090078 – A resolution approving the execution of a second  
amendment to a lease agreement with Milwaukee World Festival, Inc.

Dear Committee Members:

Enclosed for the Committee's consideration is a substitute resolution and appropriate fiscal note authorizing execution of a Second Amendment to Lease Agreement between the City of Milwaukee Board of Harbor Commissioners and Milwaukee World Festival, Inc. The following is a brief summary of the key terms of the enclosed Amendment.

The Amendment extends the Lease by an additional ten years, through December 31, 2030, contingent upon completion of a significant redevelopment of the south end of the grounds. Rent escalates by three percent through the remaining term of the Lease. The Amendment also introduces an annual Supplemental Service Fee to be paid by Milwaukee World Festival, Inc. to the City to partially offset the City's increasing costs of providing public safety services to festival operations. The Fee begins in 2009 at \$100,000 and escalates by three percent through 2020, by four percent for years 2021-2025, and by five percent for the remaining five years of the Lease.

In addition, the Amendment reserves to the City development rights over a portion of the leasehold property not subject to the public trust doctrine during the extension term of the Lease. This area is described on Exhibit "T" to the Amendment, attached hereto.

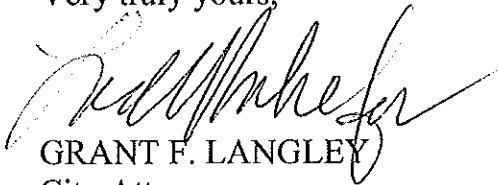


The Amendment requires the Board of Harbor Commissioners to consider additional factors when reviewing proposed capital improvement plans. Those factors include: 1) whether the improvements will enhance public access to the property, 2) whether the improvements will promote sustainability goals, 3) whether the improvements will allow for year-round use, and 4) whether the improvements will accommodate free or lower-cost community events. Pursuant to the terms of the Amendment, Milwaukee World Festival, Inc. must also continue to work with the City to reduce vehicle and pedestrian congestion in the area, including promotion and expansion of mass transit options to the grounds.

The Amendment allows Milwaukee World Festival, Inc. to sublease parking areas for longer than 14 days, but less than 120 days, with the approval of the Port Director. Full Board approval continues to be required for subleases longer than 120 days. And finally, the Amendment allows insurance requirements to be modified from time-to-time with the approval of the Board, the Port Director, and the City Attorney.

The enclosed Amendment was approved by both the Board of Harbor Commissioners and the Milwaukee World Festival, Inc. Board of Directors at their respective meetings on December 10, 2009.

Very truly yours,



GRANT F. LANGLEY  
City Attorney

## CITY OF MILWAUKEE FISCAL NOTE

A) DATE December 10, 2009FILE NUMBER: 090078Original Fiscal Note ☒ Substitute ☐SUBJECT: Resolution to approve the execution of a second amendment to a lease agreement with Milwaukee World Festival, Inc.B) SUBMITTED BY (Name/title/dept./ext.): Grant F. Langley, City Attorney, ext. 2601

C) CHECK ONE: ☐ ADOPTION OF THIS FILE AUTHORIZES EXPENDITURES  
☒ ADOPTION OF THIS FILE DOES NOT AUTHORIZE EXPENDITURES; FURTHER COMMON COUNCIL ACTION NEEDED. LIST ANTICIPATED COSTS IN SECTION G BELOW.  
☐ NOT APPLICABLE/NO FISCAL IMPACT.

D) CHARGE TO: ☐ DEPARTMENT ACCOUNT(DA) ☐ CONTINGENT FUND (CF)  
☐ CAPITAL PROJECTS FUND (CPF) ☐ SPECIAL PURPOSE ACCOUNTS (SPA)  
☐ PERM. IMPROVEMENT FUNDS (PIF) ☐ GRANT & AID ACCOUNTS (G & AA)  
☐ OTHER (SPECIFY)

| E) PURPOSE        | SPECIFY TYPE/USE | ACCOUNT | EXPENDITURE | REVENUE | SAVINGS |
|-------------------|------------------|---------|-------------|---------|---------|
| SALARIES/WAGES:   |                  |         |             |         |         |
|                   |                  |         |             |         |         |
|                   |                  |         |             |         |         |
| SUPPLIES:         |                  |         |             |         |         |
|                   |                  |         |             |         |         |
| MATERIALS:        |                  |         |             |         |         |
|                   |                  |         |             |         |         |
| NEW EQUIPMENT:    |                  |         |             |         |         |
|                   |                  |         |             |         |         |
| EQUIPMENT REPAIR: |                  |         |             |         |         |
|                   |                  |         |             |         |         |
| OTHER:            |                  |         |             |         |         |
|                   |                  |         |             |         |         |
|                   |                  |         |             |         |         |
| TOTALS            |                  |         |             |         |         |

F) FOR EXPENDITURES AND REVENUES WHICH WILL OCCUR ON AN **ANNUAL** BASIS OVER SEVERAL YEARS CHECK THE APPROPRIATE BOX BELOW AND THEN LIST EACH ITEM AND DOLLAR AMOUNT **SEPARATELY**.

|                                    |                                    |  |
|------------------------------------|------------------------------------|--|
| <input type="checkbox"/> 1-3 YEARS | <input type="checkbox"/> 3-5 YEARS | SEE EXHIBITS O-3 AND O-4 OF LEASE AMENDMENT REGARDING  |
| <input type="checkbox"/> 1-3 YEARS | <input type="checkbox"/> 3-5 YEARS | RENT AND SUPPLEMENTAL SERVICE FEE PAYMENTS ATTACHED TO |
| <input type="checkbox"/> 1-3 YEARS | <input type="checkbox"/> 3-5 YEARS | THIS FILE  |

G) LIST ANY ANTICIPATED FUTURE COSTS THIS PROJECT WILL REQUIRE FOR COMPLETION:

None

H) COMPUTATIONS USED IN ARRIVING AT FISCAL ESTIMATE:

PLEASE LIST ANY COMMENTS ON REVERSE SIDE AND CHECK HERE ☐

1070-2008-3449:152869

**SECOND AMENDMENT  
TO  
LEASE AGREEMENT**

**Between**

**The City of Milwaukee  
Board of Harbor Commissioners**

**And**

**Milwaukee World Festival, Inc.**

**SECOND AMENDMENT  
TO  
LEASE AGREEMENT**

**THIS INDENTURE**, (the “Second Amendment”) made and entered into at Milwaukee, Wisconsin, effective as of the \_\_ day of \_\_\_\_\_, 20\_\_, by and between the CITY OF MILWAUKEE, a municipal corporation of the State of Wisconsin, acting by and through its BOARD OF HARBOR COMMISSIONERS, as heretofore authorized by law (hereinafter collectively referred to as “CITY”), and MILWAUKEE WORLD FESTIVAL, INC., a Wisconsin not-for-profit corporation (hereinafter referred to as “FESTIVAL”);

**W I T N E S S E T H:**

**WHEREAS**, CITY and FESTIVAL entered into a Lease Agreement dated as of January 1, 2001 (the “Lease,” or alternatively, the “Agreement”) for real property commonly known as the Henry Maier Festival Grounds (the “Property”); and

**WHEREAS**, CITY and FESTIVAL subsequently amended the Lease pursuant to that certain First Amendment to Lease Agreement dated as of February 1, 2005; and

**WHEREAS**, FESTIVAL is contemplating construction of Capital Improvements on approximately twenty (20) acres of the southern portion of the Property (the “South End Redevelopment”) and desires an extension to the Lease term before proceeding with the design of said Capital Improvements in order to ensure adequate time for a return on its investment; and

**WHEREAS**, FESTIVAL also desires to extend the Festival Season, as that term is defined in the Lease, in order to allow for the scheduling of additional events on the Property; and

**WHEREAS**, CITY desires a supplemental annual fee from FESTIVAL to partially offset certain public safety service expenses which CITY incurs with respect to FESTIVAL’S use of the Property; and

**WHEREAS,** CITY supports FESTIVAL’S desired Lease and Festival Season extensions provided public access to the Property is maximized, and to that end, the parties have agreed that best efforts will be used in designing Capital Improvements to enhance public access to the Property and to develop and/or promote free or lower admission cost community events, subject to certain limitations as set forth in this Second Amendment; and

**WHEREAS,** this Second Amendment also reflects the Parties’ mutual goal of implementing certain Sustainability Goals upon the Property (defined below); and

**WHEREAS,** in consideration of the Lease and Festival Season extensions provided for herein, and in acknowledgment of CITY’s increasing costs of providing public services to FESTIVAL, FESTIVAL has agreed to pay CITY Rent and an annual Supplemental Service Fee (defined below) in accordance with the terms of this Second Amendment; and

**WHEREAS,** FESTIVAL’S desired Lease and Festival Season extensions and CITY’S desire for the Supplemental Service Fee from FESTIVAL in connection with its use of the Property make it necessary for CITY and FESTIVAL to enter into this Second Amendment to Lease Agreement; and

**WHEREAS,** this Second Amendment to Lease Agreement is also entered into for the additional purposes of modifying the insurance provisions of the Lease to allow for periodic review and adjustment of FESTIVAL’S required liability coverage and modifying the sublease provisions of the Lease to allow FESTIVAL to sublease certain areas of the Property for parking purposes with the approval of the Port Director; and

**WHEREAS,** the parties desire to reaffirm the Lease in all respects with the exception of the specific amendments hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**1. DEFINITIONS.**

- a. The following definitions set forth in Paragraph 1 of the Lease are hereby amended and restated to read as follows:

**Annual Report:** Means a report summarizing attendance, activities, events, and compliance with EBE Requirements. The Annual Report shall also summarize FESTIVAL'S efforts and progress in developing Community Events, implementing Sustainability Goals on the Property, and enhancing public access to the Property.

**Festival Season:** A period of time commencing April 1<sup>st</sup> of each year and ending the following November 30<sup>th</sup>.

**Non-Festival Season:** A period of time commencing December 1<sup>st</sup> of each year and ending the following March 31<sup>st</sup>.

**Rent:** Means payments to be made by FESTIVAL during the term of this Agreement pursuant to the schedule attached as **EXHIBIT "O-3"** together with the Financing Charges and Supplemental Service Fee.

- b. The following definitions are hereby added to Paragraph 1 of the Lease:

**City Development Area:** Means that portion of the Property identified and described on the attached **EXHIBIT "T."**

**Community Events:** Means free or lower admission cost events that are undertaken by FESTIVAL, in cooperation with the CITY, or any established

community organization, in order to enhance public access to the Property consistent with FESTIVAL'S organizational goals of fulfilling educational, charitable, recreational and eleemosynary purposes. CITY acknowledges that FESTIVAL is not obligated to commit financial resources to Community Events, but will solicit sponsors or other organizations that will present and/or support Community Events.

**Supplemental Service Fee:** Means payments to be made by FESTIVAL during the term of this Agreement pursuant to the schedule attached as **EXHIBIT "O-4."** The Supplemental Service Fee is intended to offset a portion of the increased costs of public safety services. CITY and FESTIVAL acknowledge and agree that payment of the Supplemental Service Fee is directly related to the increased cost of CITY providing public safety services to FESTIVAL. FESTIVAL further acknowledges and agrees that CITY shall have no obligation to provide public safety services to FESTIVAL at any particular level; however, the CITY, acting through its Board of Harbor Commissioners, and FESTIVAL will meet annually, consistent with past practices, to discuss the provision of certain public safety services by the CITY to FESTIVAL, including police, fire and emergency services. FESTIVAL further acknowledges that the level of public safety services may change from time to time.

**Sustainability Goals:** Means efforts to secure and implement state of the art, higher efficiency mechanical and electrical systems; lower embodied energy in construction materials and processes; integration of landscaped areas;

responsible use of natural resources; energy conservation; use of renewable energy sources; and enhancement of existing public transportation services to the Property.

## **2. TERM.**

Paragraph 2 of the Lease is hereby amended and restated to read as follows:

### **“2. TERM.**

A. The term of the Lease shall be extended by ten (10) years (the “Lease Extension”), so that the Lease term shall be thirty (30) years commencing as of January 1, 2001, and terminating on December 31, 2030. If, prior to December 31, 2015, FESTIVAL has not substantially completed construction of its South End Redevelopment, or if the substantially completed South End Redevelopment expenditure is less than \$10 Million, the CITY may, within its sole discretion at any time after December 31, 2015, elect to terminate the Lease Extension, so that the Lease term shall expire as of December 31, 2020, as originally provided in the Lease. Notwithstanding the above, the December 31, 2015 deadline may be extended as follows:

- a. The period of time the South End Redevelopment is delayed by unforeseen conditions that require a suspension of construction activity or additional work to comply with applicable federal, state or local statutes, regulations and/or any “stop work” orders;
- b. The period of time any “force majeure” conditions delay or suspend the project; and,
- c. The period of time that any required approvals from City or State agencies, boards, commissions or governmental entities (“Approval Authorities”) for the project, are continued, deferred or delayed at the request of the Approval Authorities.



B. CITY shall notify FESTIVAL in writing if it intends to exercise its termination rights under this paragraph. In the event of termination of the Lease Extension under this paragraph, all other terms of the Agreement, including all other terms of this Second Amendment, shall remain in full force and effect for the remaining original term of the Lease, terminating December 31, 2020. If the South End Redevelopment is timely completed, then if, prior to January, 2027, FESTIVAL and CITY have not agreed on the terms of an extension of this Lease Agreement, or a new Lease Agreement, designated representatives of FESTIVAL and CITY shall meet in January, 2027 to confer and negotiate in good faith the terms of either a new Lease Agreement or an extension of this Lease Agreement. The parties shall make all reasonable efforts to successfully conclude such negotiations by July 1, 2027. The same shall apply in the event CITY terminates the Lease Extension because the South End Redevelopment is not timely completed; however, the applicable meet and confer and negotiation conclusion dates shall be January, 2017 and July 1, 2017, respectively. ”

**3. RENT/SUPPLEMENTAL SERVICE FEE.**

a. Paragraph 3 of the Lease is hereby amended and restated to read as follows:

**“3. RENT/SUPPLEMENTAL SERVICE FEE.**

A. Payment of Rent and Supplemental Service Fee. FESTIVAL shall pay rent in accordance with **EXHIBIT “O-3”**, subject to the provisions of this paragraph 3 and paragraph 38. In addition, FESTIVAL shall pay the Financing Charges in accordance with the Financing Documents and the Supplemental Service Fee in accordance with the schedule set forth in **EXHIBIT “O-4”**, attached hereto.

B. 2009 Supplemental Service Fee Payment. Upon execution of this Second Amendment, FESTIVAL shall pay to CITY a lump sum payment of One Hundred Thousand Dollars (\$100,000), accounting for the 2009 Supplemental Service Fee.

b. EXHIBIT “O” to the Lease setting forth a Schedule of Rent Payments is hereby amended and restated and shall be replaced and superseded by EXHIBIT “O-3” in the form attached hereto.

#### **4. APPROVAL OF OTHER CAPITAL IMPROVEMENTS.**

Paragraph 7 of the Lease is hereby amended and restated to read as follows:

“In addition to the approval and financing of Capital Improvements Program I and Capital Improvements Program II described above, CITY reserves the right to review and approve the plans for the construction, renovation or alteration of all other Capital Improvements prior to their implementation by FESTIVAL. The review and approval of such plans shall include consideration of the following factors:

1. Aesthetics, design and the impact of the proposed Capital Improvements upon the Property and surrounding area.
2. Whether the Capital Improvements will enhance public access to the Property during open dates throughout the Festival Season and Non-Festival Season. Any conditions placed upon approval of Capital Improvements related to public access shall be specified in each Annual Access Calendar.
3. Whether the Capital Improvements will promote Sustainability Goals.
4. Whether the Capital Improvements will allow for year-round use, subject to regulatory and constitutional requirements that may apply to the development and use of the Property.
5. Whether the plan for use of the Capital Improvements will accommodate any Community Events.
6. Whether the Capital Improvements will meet or exceed all requirements of the Americans with Disabilities Act.

Further, in the event that the proposed Capital Improvements are intended to create a source of revenue from a use that is substantially different in nature or concept from the Permitted Uses, the review and approval of such plans may include consideration of projected profits to be generated by the proposed new uses associated with the new Capital Improvements as well as CITY participation in such profits. Any such participation by CITY shall allow FESTIVAL to first recoup its investment in such Capital Improvements.

Notwithstanding the foregoing, the following Capital Improvements shall be permitted and subject only to prior design and aesthetic approval of CITY:

1. Capital Improvements necessary to comply with laws, regulations and orders of any governmental body.
2. Capital Improvements necessary to make the Property safe, sanitary and comfortable for employees, patrons and visitors.
3. Capital Improvements to provide green space, trees, shrubs or other plantings.
4. Capital Improvements necessary to repair, replace or upgrade then existing facilities which, in the reasonable judgment of FESTIVAL, are in disrepair, worn out, obsolete or outmoded, unless the cost of such repair, replacement or upgrading exceeds 50% of the replacement cost of the existing facility in which case the review and approval of such plans shall include the additional factors enumerated in 1 through 5, above.

Failure of CITY to respond in writing within ninety (90) days following receipt of a written request from FESTIVAL to approve proposed Capital Improvements shall be deemed to constitute approval of such request by CITY.

FESTIVAL shall pay all costs and expenses arising out of any construction, renovation or alteration of the Property and it shall keep the Property free and clear from all liens of mechanics or materialmen, and all liens of a similar character arising out of the construction, renovation or alteration of the Property.”

## **5. USE OF THE PROPERTY.**

Paragraph 9 of the Lease is hereby amended and restated to read as follows:

- a. “FESTIVAL shall use the Property solely for Permitted Uses and for such other uses as may be approved in advance by CITY. FESTIVAL shall not schedule events during the Non-Festival Season without the prior written consent of CITY.
- b. FESTIVAL shall, subject to financial considerations and unforeseen Property conditions, use best efforts to develop Community Events on the Property, to implement Sustainability Goals on the Property, and to enhance public access to the Property.
- c. CITY and FESTIVAL also agree that both will work together to continue to reduce vehicle and pedestrian congestion and other adverse impacts upon the surrounding neighborhood by promotion and expansion of mass transit use to the grounds wherever financially possible, and by continuing to work positively with the Historic Third Ward

Association as well as other neighboring groups and institutions. CITY acknowledges that FESTIVAL has worked with success on these issues in the recent past.

d. CITY and FESTIVAL agree to meet from time-to-time at the request of either party to discuss FESTIVAL's efforts and progress with respect to development of Community Events on the Property, implementation of Sustainability Goals on the Property, enhancement of public access to the Property, and reduction of vehicle and pedestrian congestion and other adverse impacts upon the surrounding neighborhood.

Notwithstanding the foregoing, the future scheduling of Amphitheater events, as well as recreational activities and the leasing of recreational equipment for use by the general public shall be deemed approved by the CITY."

## **6. ACCESS TO THE PROPERTY.**

a. The introductory paragraph of Paragraph 10 of the Lease is hereby amended and restated to read as follows:

"It is the intent of the parties to maximize public access to the Property and to the State Park. This paragraph establishes minimum requirements for such public access. The Annual Access Calendar for 2009 is attached as **EXHIBIT "C"**. Commencing in 2010, FESTIVAL shall present an Annual Access Calendar to CITY not later than February 1st of each year during the term of this Agreement if events are proposed on the Property between April 1<sup>st</sup> and Memorial Day. If no events are proposed between April 1<sup>st</sup> and Memorial Day, FESTIVAL shall present an Annual Access Calendar to CITY not later than April 1<sup>st</sup> of each year during the term of this Agreement. Prior to final preparation of each Annual Access Calendar, FESTIVAL shall meet and confer with representatives of CITY to discuss its content. Each Annual Access Calendar shall be subject to the approval of CITY so as to assure consistency with the minimum requirements of this paragraph. During construction of the South End Redevelopment, and any subsequent Capital Improvements, FESTIVAL shall continue to make public access available at substantially the same level as during 2009, subject to coordination of such access with the reasonable requirements of FESTIVAL'S contractors and provision for the safety of the general public.

b. Subparagraph 10.B.6) is hereby added to the Lease to read as follows:

"6) South End Redevelopment. The South End Redevelopment area shall be accessible to the public in accordance with standards set forth by CITY as part of the

approval process for said Capital Improvement plan. Such public access standards shall be reflected in the Annual Access Calendar.”

## **7. EASEMENTS AND RESTRICTIONS.**

Paragraph 16 of the Lease is hereby renamed, amended and restated to read as follows:

### **“16. EASEMENTS, RESTRICTIONS, and CITY DEVELOPMENT RIGHTS.**

This Agreement is subject to the Permitted Encumbrances. In addition, CITY reserves the right to grant or create, or to require FESTIVAL to grant or create, any additional reasonable and necessary non-exclusive easements, to convey to the State of Wisconsin a limited fee interest over the Public Access Areas, or to dedicate areas for public right-of-way or public use, as necessary for the construction of and access to the State Park, off-shore improvements adjacent to the Property and Capital Improvements located on the Property; provided, however, that FESTIVAL and CITY shall confer prior to the creation of any such easement, limited fee interest, or right-of-way so that any rights of access shall be at locations and be limited to such times that the exercise thereof does not interfere with FESTIVAL’s activities, including the scheduling and conduct of Ethnic and Cultural Festivals, or otherwise unreasonably deprive FESTIVAL of the use of the Property. CITY shall use its best efforts to exclude or minimize interference with FESTIVAL’s activities and shall create any such easement, limited fee interest, or right-of-way accordingly. The Parties acknowledge and agree CITY’s rights under this Paragraph expressly include the creation and expansion of right-of-way associated with the extension of Harbor Drive pursuant to CITY’s Third Ward Area Plan, adopted by the Common Council on May 20, 2005 and amended on July 12, 2006.

CITY reserves the right to reasonably modify any existing easement granted to the Milwaukee Metropolitan Sewerage District; provided that no such modification shall materially interfere with FESTIVAL’s use and enjoyment of the Property.

In addition to all other rights reserved by the CITY, at any time during the term of the Lease Extension, CITY shall have the right to undertake development of the City Development Area, or any portion thereof, or to offer said area to another entity for development. CITY shall be required to provide not less than twelve (12) months’ prior written notice to FESTIVAL of CITY’s intent to exercise its development rights under this paragraph. If FESTIVAL demonstrates good cause for requiring additional notice, then additional time may be given to address FESTIVAL’s concerns, but not to exceed an additional six (6) months. In the event CITY exercises its rights under this paragraph, the Lease shall terminate as to the area identified by the CITY in its notice to FESTIVAL, effective upon the date specified by CITY. Upon termination under this paragraph, if any, Rent for the remaining term of the Lease shall be reduced on a pro rata basis based on the square footage of area terminated by CITY as compared with the square footage of the entire Property. Nothing in this paragraph shall be construed to limit FESTIVAL’s ability to submit development proposals to the CITY for the City Development Area, and

CITY agrees it will consider and evaluate any such proposals as it would any other development proposal for the area.”

## **8. INSURANCE.**

Subparagraph D of Paragraph 23 of the Lease is hereby amended and restated to read as follows:

“**23.D. Adjustments.** FESTIVAL and CITY agree that, from time-to-time during the term of this Agreement, they shall meet and confer with each other at the other party’s request in order to discuss modification of the insurance coverage required under this section to assure that, at all times, such insurance issues against such risks and is in such amounts as are customary for entities of like size similarly situated. Insurance coverage required under this section may be modified upon approval of the Board of Harbor Commissioners, Port Director, and City Attorney.”

## **9. ASSIGNMENT/SUBLEASE.**

Subparagraph B of Paragraph 25 of the Lease is hereby amended and restated to read as follows:

“**25.B. Sublease.** FESTIVAL shall not sublease the Property or license the Property for any period longer than fourteen (14) consecutive days without the prior written consent of CITY. All approved subleases and all licenses shall be in conformity with the purposes, provisions, and uses permitted by this Agreement. Copies of all subleases and licenses shall be provided to CITY upon written request. Notwithstanding the foregoing, FESTIVAL may sublease or license surface parking lot areas located on the Property for a period longer than fourteen (14) consecutive days, but not to exceed 120 days, with the prior written consent of the Port Director, subject to City Attorney approval.”

## **10. TERMS AND CONDITIONS.**

All terms and conditions of the Lease are incorporated herein and are hereby modified to conform herewith, but in all other respects are to be and shall continue in full force and effect.

**IN WITNESS WHEREOF**, the parties hereto, have caused this Second Amendment to Lease Agreement to be executed by their proper respective officers and their corporate seals to be affixed hereto on the day and year first above written.

**CITY OF MILWAUKEE,  
a Wisconsin municipal corporation**

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Tom Barrett  
Mayor

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Ronald D. Leonhardt  
City Clerk

**COUNTERSIGNED:**

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W. Martin Morics  
City Comptroller

**BOARD OF HARBOR COMMISSIONERS  
OF THE CITY OF MILWAUKEE**

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Timothy Hoelter  
President

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Donna Luty  
Secretary

**MILWAUKEE WORLD FESTIVAL, INC.  
a Wisconsin corporation**

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Dan Minahan, Chairman

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Don Smiley  
President and Chief Executive Officer

1070-2008-3449:149885



# JUNE

## JULY

# AUGUST

# SEPTEMBER

**NOVEMBER****DECEMBER**

**KEY:** A - Complete Lakewalk Open  
B - Lakewalk Open from Erie St. to behind the Marcus Amphitheater to Gate 20A.

Milwaukee Public Schools randomly schedule the Children's Area on school days during the noon hour in April, May, September & October. The area will not be open to the public lakewalk when in use.

Periodic closure of areas may occur during the festival season (June through September) and the non-festival season (January through May and October through December) based on event setup, construction activity and safety considerations.

C - Children's Area Open  
D - Chicago St. Plaza Open

access open  
Lakewalk, Chicago St. Plaza, and  
Children's Area (weather dependent) open

Last Update: 02/02/2009

EXHIBIT "C"

**EXHIBIT "O-3"**

**Schedule of Rent Payments**

|      | <b>02/15<br/>Payment</b> | <b>07/15<br/>Payment</b> | <b>10/15<br/>Payment</b> | <b>12/31<br/>Payment</b> | <b>Total<br/>Payment</b> |
|------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 2001 | 250,000                  | 375,000                  | 375,000                  |                          | 1,000,000                |
| 2002 | 257,500                  | 375,000                  | 375,000                  |                          | 1,007,500                |
| 2003 | 265,200                  | 375,000                  | 375,000                  |                          | 1,015,200                |
| 2004 | 273,200                  | 375,000                  | 375,000                  |                          | 1,023,200                |
| 2005 | 281,400                  | 375,000                  | 375,000                  | 232,000                  | 1,263,400                |
| 2006 | 289,800                  | 425,000                  | 425,000                  |                          | 1,139,800                |
| 2007 | 298,500                  | 425,000                  | 425,000                  |                          | 1,148,500                |
| 2008 | 307,500                  | 425,000                  | 425,000                  |                          | 1,157,500                |
| 2009 | 316,700                  | 425,000                  | 425,000                  |                          | 1,166,700                |
| 2010 | 326,200                  | 425,000                  | 425,000                  | 366,500                  | 1,542,700                |
| 2011 | 336,000                  | 475,000                  | 475,000                  |                          | 1,286,000                |
| 2012 | 346,100                  | 475,000                  | 475,000                  |                          | 1,296,100                |
| 2013 | 356,500                  | 475,000                  | 475,000                  |                          | 1,306,500                |
| 2014 | 367,200                  | 475,000                  | 475,000                  |                          | 1,317,200                |
| 2015 | 378,200                  | 475,000                  | 475,000                  | 601,800                  | 1,930,000                |
| 2016 | 389,500                  | 525,000                  | 525,000                  |                          | 1,439,500                |
| 2017 | 401,200                  | 525,000                  | 525,000                  |                          | 1,451,200                |
| 2018 | 413,200                  | 525,000                  | 525,000                  |                          | 1,463,200                |
| 2019 | 425,600                  | 525,000                  | 525,000                  |                          | 1,475,600                |
| 2020 | 438,400                  | 525,000                  | 525,000                  | 953,900                  | 2,442,300                |
| 2021 | 451,600                  | 575,000                  | 575,000                  |                          | 1,601,600                |
| 2022 | 465,100                  | 575,000                  | 575,000                  |                          | 1,615,100                |
| 2023 | 479,100                  | 575,000                  | 575,000                  |                          | 1,629,100                |
| 2024 | 493,500                  | 575,000                  | 575,000                  |                          | 1,643,500                |
| 2025 | 508,300                  | 575,000                  | 575,000                  | 1,442,200                | 3,100,500                |
| 2026 | 523,500                  | 625,000                  | 625,000                  |                          | 1,773,500                |
| 2027 | 539,200                  | 625,000                  | 625,000                  |                          | 1,789,200                |
| 2028 | 555,400                  | 625,000                  | 625,000                  |                          | 1,805,400                |
| 2029 | 572,100                  | 625,000                  | 625,000                  |                          | 1,822,100                |
| 2030 | 589,300                  | 625,000                  | 625,000                  | 2,087,400                | 3,926,700                |
|      | <u>11,895,000</u>        | <u>15,000,000</u>        | <u>15,000,000</u>        | <u>5,683,800</u>         | <u>47,578,800</u>        |

1) The Rent is subject to reduction for certain sales tax credits in accordance with EXHIBIT "O-1" attached to the Lease. Such reductions, if any, are to be reflected as adjustments to Rent payments in accordance with that EXHIBIT "O-1".

2) The Rent is subject to adjustment based upon deviation in the true interest cost consistent with EXHIBIT "I" for the Bonds issued by RACM pursuant to the 2001 Lease above or below 4.9%. Such adjustments, if any, are to be reflected as adjustments to Rent payments in accordance with EXHIBIT "O-2" attached to the Lease.

**EXHIBIT "O-4"**

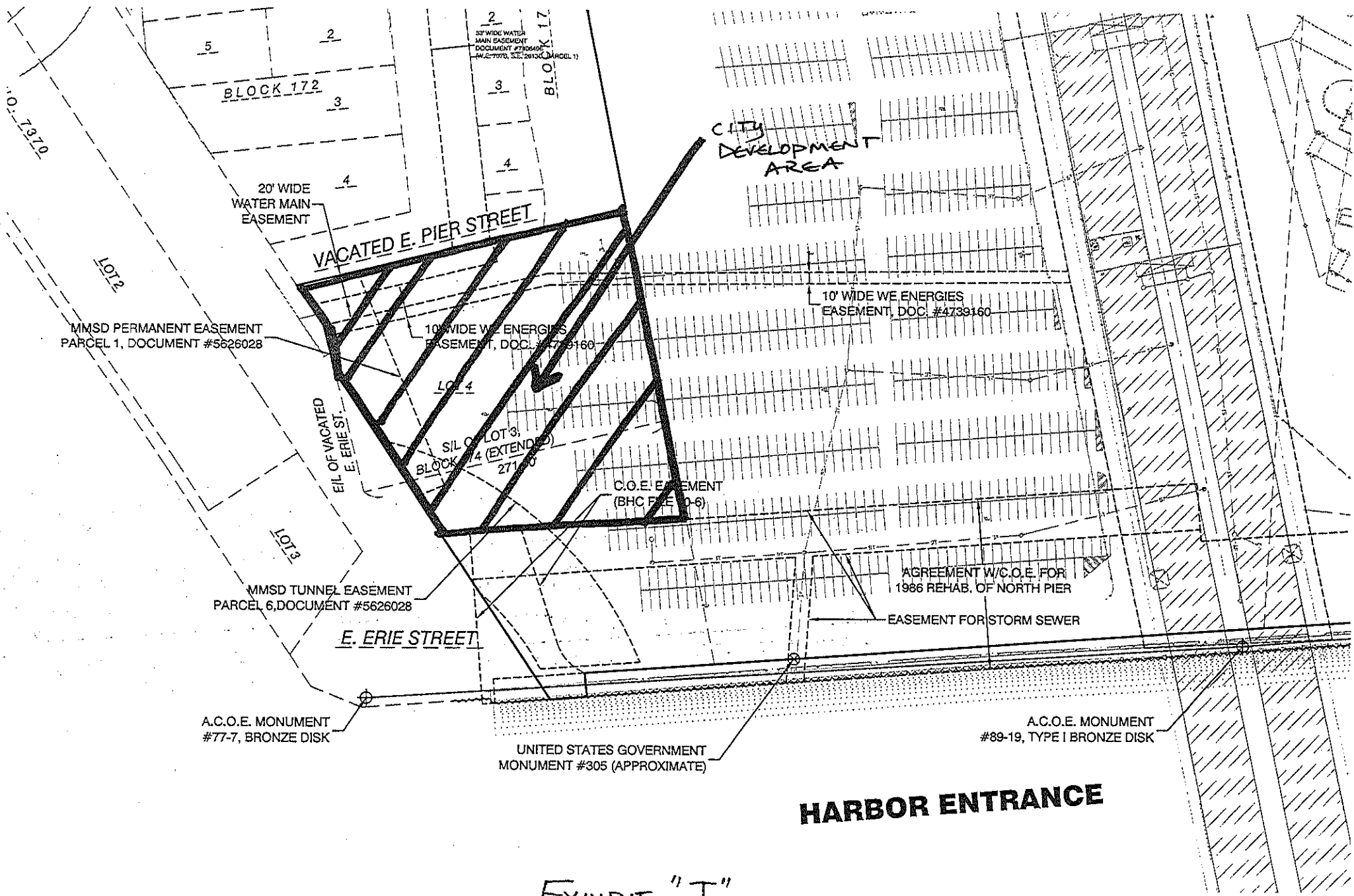
**Schedule of Supplemental Service Fee Payments**

|      | <b>7/15 Payment</b> |
|------|---------------------|
| 2001 | 0                   |
| 2002 | 0                   |
| 2003 | 0                   |
| 2004 | 0                   |
| 2005 | 0                   |
| 2006 | 0                   |
| 2007 | 0                   |
| 2008 | 0                   |
| 2009 | 100,000             |
| 2010 | 103,000             |
| 2011 | 106,090             |
| 2012 | 109,273             |
| 2013 | 112,551             |
| 2014 | 115,927             |
| 2015 | 119,405             |
| 2016 | 122,987             |
| 2017 | 126,677             |
| 2018 | 130,477             |
| 2019 | 134,392             |
| 2020 | 138,423             |
| 2021 | 143,960             |
| 2022 | 149,719             |
| 2023 | 155,707             |
| 2024 | 161,936             |
| 2025 | 168,413             |
| 2026 | 176,834             |
| 2027 | 185,676             |
| 2028 | 194,959             |
| 2029 | 204,707             |
| 2030 | 214,943             |

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**3,176,057**



**HARBOR ENTRANCE**

EXHIBIT "T"  
City Development Area

**FILE NUMBER: 090078**  
**Steering & Rules Committee**

[illegible]