

**INTERGOVERNMENTAL COOPERATION AGREEMENT  
BETWEEN  
MILWAUKEE COUNTY DEPARTMENT OF PARKS, RECREATION AND CULTURE  
AND  
THE CITY OF MILWAUKEE  
(Bay View Dog Exercise Area)**

This Intergovernmental Cooperation Agreement (this "Agreement") is made as of this \_\_\_\_ day of \_\_\_\_\_, 2013 (the "Effective Date") by and between the Milwaukee County Department of Parks, Recreation and Culture (the "County") and the City of Milwaukee (the "City").

**WHEREAS**, the County and the City have endorsed an initiative to jointly develop and operate an off-leash dog exercise area on a portion of City right-of-way located at East Lincoln Avenue and South Bay Street in Bay View; and

**WHEREAS**, the Common Council of the City of Milwaukee, by virtue of adopting Resolution 121650 on April 9, 2013, has approved the City Comptroller's transfer of up to Fifty Thousand Dollars (\$50,000) from the Allis and Lincoln Play Area rehabilitation account for the development of the off-leash dog exercise area; and

**WHEREAS**, the Common Council of the City of Milwaukee, by virtue of adopting Resolution \_\_\_\_\_ on \_\_\_\_\_, 2013, has authorized the appropriate City officials to enter into this Agreement with the County for and on behalf of the City.

**NOW THEREFORE**, the County and the City, for good and valuable consideration and the promises set forth herein, agree as follows:

1. Description of Dog Exercise Area. The County and the City will cooperate in the development of an area on a portion of City right-of-way property located at East Lincoln Avenue and South Bay Street in Bay View and more particularly set forth on Exhibit A attached hereto (the "Premises") for the purpose of establishing an off-leash dog exercise area, to be called the Bay View Dog Exercise Area (the "Dog Exercise Area").

2. Development of Dog Exercise Area. In recognition of the County's expertise in the creation and operation of off-leash dog exercise areas, the City has asked the County and the County agrees to develop and operate the Dog Exercise Area, including complementary facilities desired, if any, with input and prior approval from the City. The City will remit Fifty Thousand Dollars (\$50,000) to the County in exchange for its development and operation efforts for the Dog Exercise Area. Payment shall be made by July 31, 2013, and mailed or delivered to Milwaukee County Treasurer, Milwaukee County Parks Department, 9480 Watertown Plank Road, Wauwatosa, WI 53226.

3. Term. This Agreement shall commence on the Effective Date and shall continue for a period of ten (10) years (the "Initial Term"). The parties may renew the Agreement upon mutual written consent for two (2) extension terms of ten (10) years each (each such term, an "Extension Term"). The Initial Term and any Extension Term then exercised shall be referred to herein as the "Term."

4. Operation of the Dog Exercise Area. The County shall operate the Dog Exercise Area, with responsibilities as follows:

- The County shall provide supplies, containers and regular pick-up and disposal of waste.
- The County shall provide signage outlining basic rules and regulations for use of the Dog Exercise Area. The rules and regulations and, hence, posted signage will include, but are not limited to, the following: (i) the owner or keeper of the dog must be present at all times; (ii) the dog must be under voice control or leashed by the owner or keeper at all times; (iii) the owner or keeper of the dog must have proof of the dog's current rabies vaccination; and (iv) dog waste must be removed and properly disposed of in designated containers provided and paid for by the County.
- The County shall be responsible for maintenance and upkeep of the Dog Exercise Area, including plowing, salting, mowing, and control of weeds. The County will maintain the Dog Exercise Area in a neat and attractive condition at all times and shall keep the Dog Exercise Area free of trash, litter and debris.
- The County will permit all dogs for use of the Dog Exercise Area.
- The County shall enforce all rules and regulations regarding use of the Dog Exercise Area. The City shall notify the County of any violations of such rules and regulations of which it is aware.

Both parties will encourage the use of the Dog Exercise Area by promoting its benefits to potential users.

5. Signage. The County shall be responsible for all signage in the Dog Exercise Area as well as all signage directing patrons to the Dog Exercise Area. The County shall acknowledge the City's partnership on such signage.

6. Right to Enforce Rules. The County shall have the right to establish such rules and regulations regarding use of the Dog Exercise Area as it may deem appropriate from time to time and such rules and regulations shall apply to the Dog Exercise Area upon implementation of said rules and regulations. The County shall enforce such rules and regulations consistent with Section 4 herein.

7. Release of Liability; Indemnification. To the fullest extent permitted by law, each party shall be liable for its own acts and negligence and agrees to hold the other harmless for any losses, damages, costs or expenses, including, but not limited to, reasonable attorneys' fees and litigation expenses, paid or sustained by reason of legal liabilities of the other. Each party (the "Indemnifying Party") also agrees to indemnify and hold the other party (the "Non-Indemnifying Party"), its agents, elected officials, and employees harmless from and against all actions, claims, demands, damages, losses, liabilities, costs, and expenses (collectively, "Actions"), including, but not limited to, reasonable

attorneys' fees and litigation expenses, based on any Actions that the Indemnifying Party caused any injury, damage or loss to any third party. The Non-Indemnifying Party shall promptly give notice to the Indemnifying Party of any claim filed against the Non-Indemnifying Party by such third party.

8. Environmental Indemnification. The City shall, to the full extent provided for under any environmental laws, rules and regulations, be responsible for any required repair, cleanup, remediation or detoxification arising out of any Hazardous Materials whose presence pre-exists the commencement of the County's construction activities, located on the Premises, that are discovered or disturbed as a result of the County's construction activities on, at or near the Premises. Notwithstanding the foregoing, the County shall not be liable for, and shall have no obligations for (including but not limited to the indemnification, repair, clean-up, remediation, or detoxification of), any Hazardous Materials brought onsite by the City or any third parties, other than the County's contractors or subcontractors. The City hereby agrees to indemnify, defend and hold the County harmless from and against any and all liabilities, costs, expenses (including reasonable attorney's fees), damages (including, but not limited to, clean-up, remediation or detoxification of) or any other losses caused by any Hazardous Materials brought onsite by the City, its agents, or guests or any Hazardous Materials located at the Premises whose presence pre-exists the commencement of the County's construction activities. "Hazardous Materials" means any substance: (a) the presence of which requires investigation or remediation under any federal, State or local statute, regulation, ordinance, order, action or policy; or (b) which is or becomes defined as a "hazardous waste" or "hazardous substance" under any federal, State or local statute, regulation, ordinance or amendments thereto. In no event will the City bear financial responsibility or legal liability for Hazardous Materials present or environmental damage that is the result of any wrongful, intentional or negligent act or omission, willful misconduct, direct or indirect acts of the County or its affiliates, agents, representatives, employees, contractors, subcontractors or invitees. In no event will the County bear financial responsibility or legal liability for Hazardous Materials present or environmental damage that is the result of any wrongful, intentional or negligent act or omission, willful misconduct, direct or indirect acts of the City or its affiliates, agents, representatives, employees, contractors, subcontractors or invitees (except where the County and its affiliates could be considered affiliates, agents, representatives, contractors or invitees of the City). In the event that Hazardous Materials are discovered or suspected at the Premises by the County or its affiliates, agents, consultants or contractors, the County agrees to promptly notify the City of the discovery and shall permit access to the City staff to inspect the conditions. The County agrees to provide copies of all data and reports of environmental testing conducted in the Premises to the City within seven (7) calendar days of receipt of such data or reports.

9. Interest. Unless waived by County Board of Supervisors, the City shall be responsible for payment of interest on amounts not remitted in accordance with this Agreement. The rate of interest shall be the statutory rate in effect for delinquent County property taxes (one-percent (1%) per month or fraction of a month) as described in Wisconsin statutes section 74.47(1). The obligation for payment and calculation thereof shall commence upon the day following the due dates established herein.

- a. In addition to the interest described above, the City may be responsible for payment of penalty on amounts not remitted in accordance with this Agreement, as may be determined by the County. The penalty shall be the statutory rate in effect for delinquent County property taxes (.5% per month, or fraction of a month) as described in Milwaukee County ordinance section 6.06(1) and Wisconsin statutes section 74.47(2). The obligation for payment and calculation thereof shall commence upon the day following the due dates established herein.
- b. If, as a result of the annual audit required herein, additional amounts are disclosed to be due and owing to the County, interest and penalty shall be calculated thereon in accordance with the above method. The City shall remit to the County any additional amounts identified due and owing for the audit including interest and penalty thereon within thirty (30) days following receipt of the audit report by the County.
- c. This provision permitting collection of interest and penalty by the County on delinquent payments is not to be considered the County's exclusive remedy for the City's default or breach with respect to delinquent payment. The exercise of this remedy is not a waiver by the County of any other remedy permitted under this Agreement, including but not limited to termination of this Agreement.

10. Audit.

- a. Pursuant to Milwaukee County ordinance section 56.30(6)(e), the City shall allow the County or any other party the County may name, when and as they demand, to audit, examine and make copies of records in any form and format, meaning any medium on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by the City, including but not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), computer files, computer printouts and optical disks, and excerpts or transcripts from any such records or other information directly relating to matters under this Agreement, all at no cost to County. Any subcontracting by the City in performing the duties described under this Agreement shall subject the subcontractor and/or associates to the same audit terms and conditions. The City (or any subcontractor) shall maintain and make available to the County the aforementioned audit information for no less than three years after the conclusion of this Agreement.
- b. Pursuant to Milwaukee City Ordinance section 3-18, the County shall allow the City or any third party the City may name, when and as they demand, to audit, examine and make copies of records in any form and format, meaning any medium on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by the County, including but not limited to, handwritten, typed or printed pages, maps,

charts, photographs, films, recordings, tapes (including computer tapes), computer files, computer printouts and optical disks, and excerpts or transcripts from any such records or other information directly relating to matters under this Agreement, all at no cost to City. Any subcontracting by the County in performing the duties described under this Agreement shall subject the subcontractor and/or associates to these same audit terms and conditions as the County. The County (and any subcontractor) shall maintain and make available to the City the aforementioned audit information for no less than three years after the conclusion of this Agreement.

11. Default; Termination. A default will occur under this Agreement if a party fails to comply with any provision in this Agreement, and such failure continues for thirty (30) days after a written notice from the other party setting forth in reasonable detail the nature of such default. The non-defaulting party may terminate this Agreement by sixty (60) days prior written notice of termination of this Agreement to the defaulting party or by any other lawful means, in which case this Agreement and the Term shall terminate. Such termination shall be without prejudice to the recovery of damages against the defaulting party or parties for breach of this Agreement. Waiver by either party of any default shall not constitute a waiver of any other default. In the event that this Agreement is terminated within one (1) year of the Effective Date due to default by the County, the County shall reimburse the City for the \$50,000 payment made by the City to the County pursuant to Section 2 of this Agreement.

12. Assignment. Neither party shall assign this Agreement, or any part thereof, at any time during the Term.

13. Notices. All notices with respect to this Agreement shall be in writing. Except as otherwise expressly provided in this Agreement, a notice shall be deemed duly given and received upon delivery, if delivered by hand or after posting via US Mail, to the party addressed as follows:

To the City:  
City of Milwaukee  
Attn: Commissioner of Public Works  
841 N. Broadway, Room 501  
Milwaukee, WI 53202

To the County:  
Milwaukee County Parks Dept.  
Attn: Parks Director  
9480 Watertown Plank Road  
Wauwatosa, WI 53226

Either party may designate a new address for purposes of this Agreement by written notice to the other party.

***Signature page follows***

**IN WITNESS WHEREOF, the parties hereto have set their hands as follows:**

**City of Milwaukee**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Mayor Tom Barrett

By: \_\_\_\_\_ Date: \_\_\_\_\_  
James R. Owczarski, City Clerk

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Martin Matson, Comptroller

City of Milwaukee signatures approved as to form and execution this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Mary L. Schanning, Assistant City Attorney

**Milwaukee County Dept. of Parks, Recreation and Culture**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
James Keegan, Interim Director

*Approved as to form and independent status:*

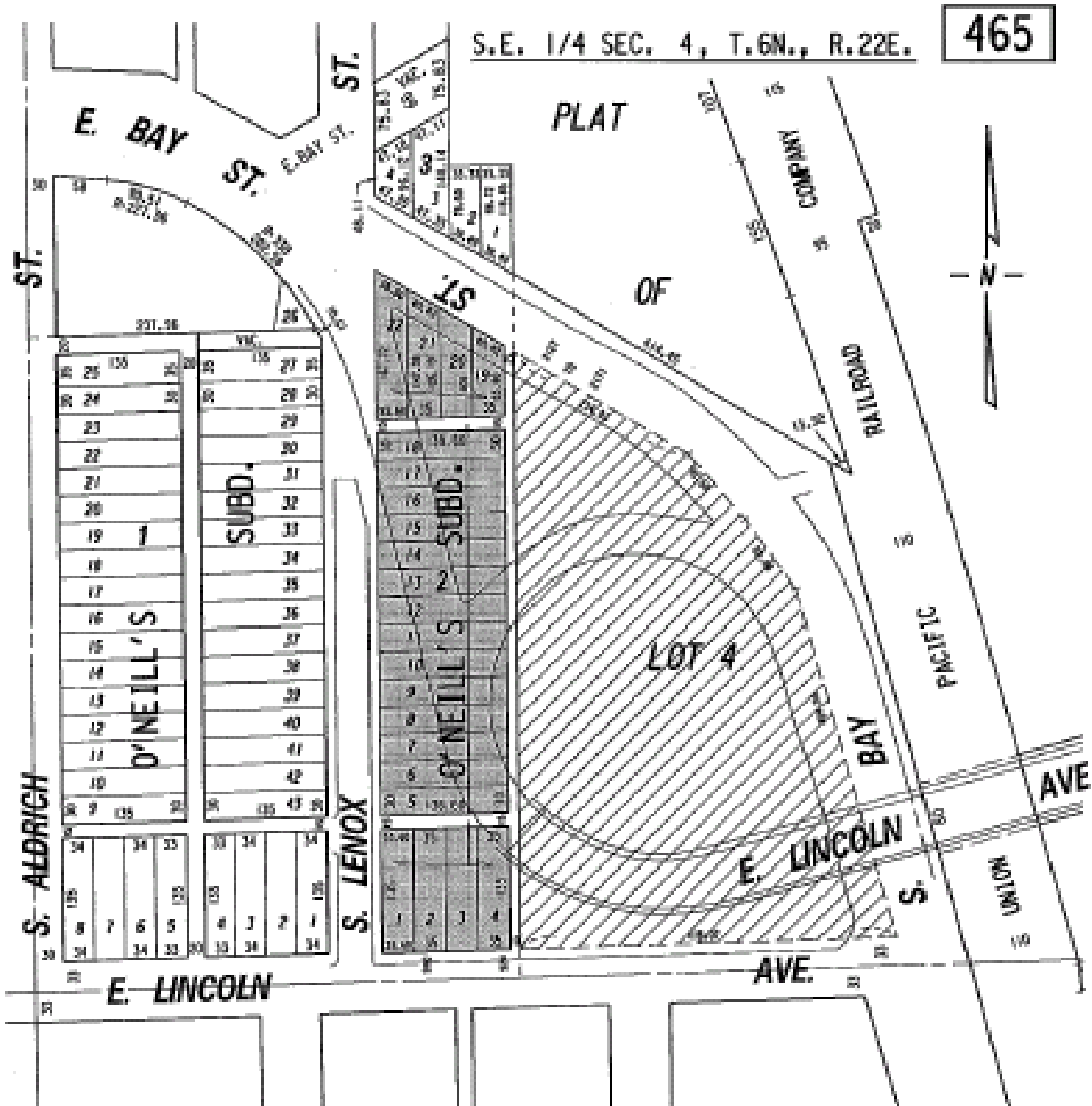
*Reviewed by:*

By: \_\_\_\_\_ Date: \_\_\_\_\_  
County Corporation Counsel

By: \_\_\_\_\_ Date: \_\_\_\_\_  
County Risk Management

1033-2013-1117:192119

EXHIBIT A  
PREMISES



465

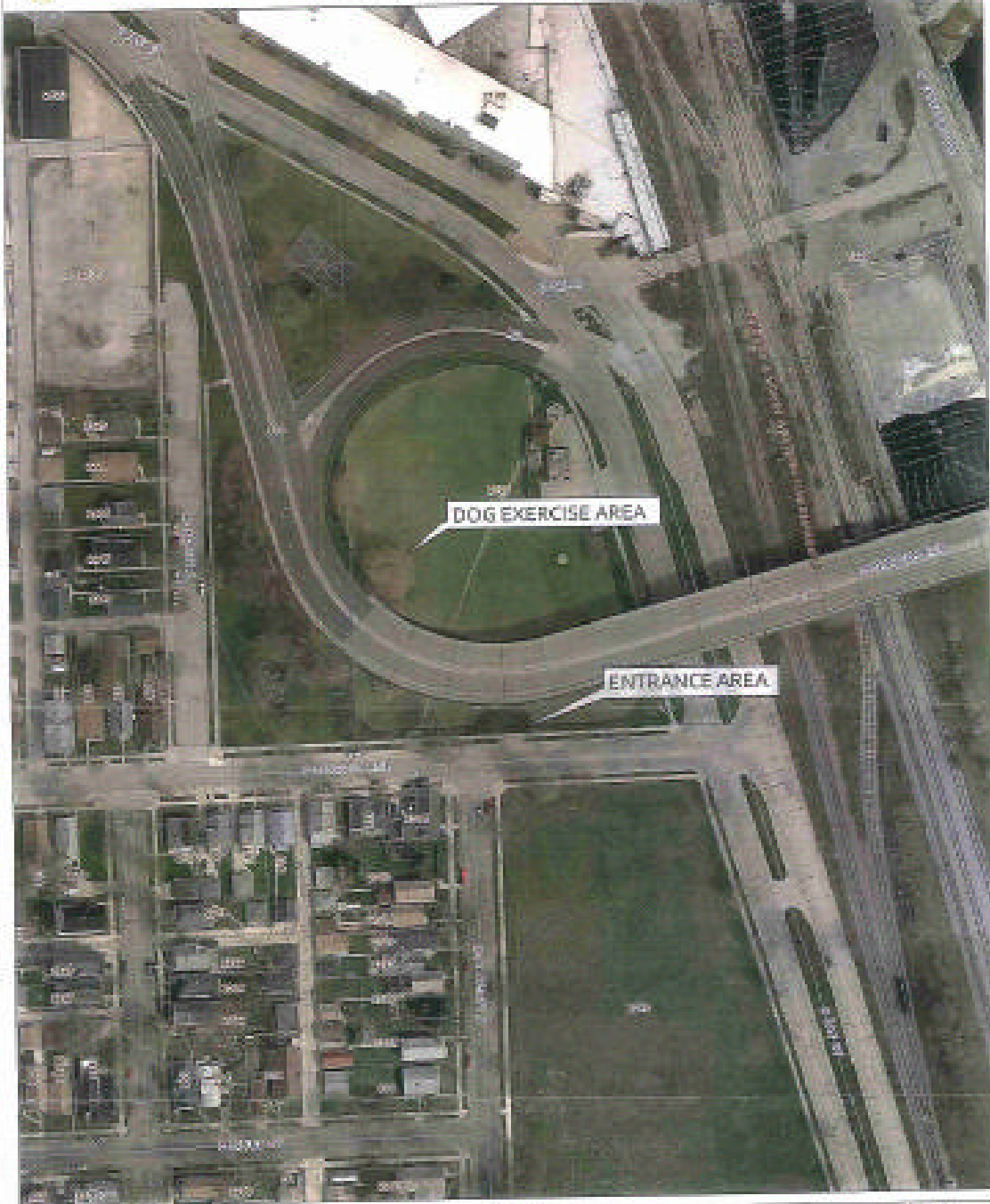
TAX KEY NUMBER: 465-0032-000  
CITY OF MILWAUKEE

TAX KEY NUMBER: 465-0106-000  
CITY OF MILWAUKEE

SCALE: 1" = 150'



# LINCOLN BAY STREET DOG EXERCISE AREA



NO. 0000  
Title: Dog Exercise Area

DATE: 10/15/2014  
PROJECT: 1000000000

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### Legend

- County Boundaries
- Highways, US 80
- Street Centerlines, 1/4 to 3/4
- Railroads
- Water
- Rivers
- Airport
- Landmarks
- County Parks
- Municipal Subdivisions
- Tax Parcels
- 2010ough Road (AAT) CLP

1:5,000