

Document Number

**HISTORICAL MARKER EASEMENT & MAINTENANCE AGREEMENT
(North Division High School Project)**
Document Title

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(North Division High School Project)**

Recording Area

Name and Return Address

Jordan M. Schettle
Office of the City Attorney
200 East Wells Street
Milwaukee, WI 53202

Parcel Identification Number (PIN)

THIS HISTORICAL MARKER EASEMENT & MAINTENANCE AGREEMENT (the “Agreement”) is made and entered into as of this ____ day of _____, 20__ (“Effective Date”) by and between the Wisconsin Historical Society-Programs & Outreach Division, a State of Wisconsin government agency (the “SOCIETY”), the City of Milwaukee, a Wisconsin municipal corporation (the “CITY”), and the Milwaukee School Board of Directors, a public school district organized and existing under Wis. Stat. Chapter 119 and the Constitution of the State of Wisconsin (“MPS”). CITY and MPS are collectively referenced as “GRANTOR.”

WITNESSETH:

WHEREAS, GRANTOR is a public entity with the goal of facilitating public participation in the preservation of buildings significant in the history and culture of the City of Milwaukee, Wisconsin; and

WHEREAS, in furtherance of such purpose, GRANTOR wishes to allow the general public to learn about historically significant sites located throughout the City of Milwaukee, Wisconsin; and

WHEREAS, SOCIETY has expressed interest in installing official Wisconsin State Historical Markers (the “Historical Markers”) in public parkland, public right of way, and City-owned parcels located at various sites within the Milwaukee, Wisconsin, as listed in Exhibit A; and

WHEREAS, one such City-owned site is an MPS-operated school located at 1011 West Center Street, Milwaukee, Wisconsin 53206, also known as North Division High School (“North Division”); and

WHEREAS, SOCIETY’s Historical Marker will highlight North Division’s historical relevance to the Milwaukee Fair Housing Marches of 1967-1968, as further described in Exhibit B; and

WHEREAS, as required under Wis. Stat. § 44.15(4), SOCIETY will be responsible for the funding and maintenance of the Historical Marker, at no cost to GRANTOR; and

WHEREAS, MPS has approved the location of the Historical Marker and will assist in its installation at North Division; and

NOW, THEREFORE, in consideration of the promises, the mutual covenants herein set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, SOCIETY and GRANTOR agree as follows:

1. Grant of Historical Marker Easement. GRANTOR grants and conveys unto SOCIETY, and SOCIETY does accept, on and subject to the terms, covenants, and conditions hereinafter set forth, an easement to place and maintain a Historical Marker similar in size and appearance to the examples shown in Exhibit B at North Division at the location shown in Exhibit A, (“Historical Marker Easement”).

2. Term. This Agreement shall become effective on the Effective Date and shall continue for five (5) years, unless otherwise terminated in accordance with the provisions hereof.

3. Renewal. This Agreement shall automatically renew on a year-to-year basis, unless either party provides the other with written notice of termination at least thirty (30) days prior to the anniversary of the Effective Date.

4. Rent. In consideration of SOCIETY’s installation and maintenance of the Historical Marker, there shall be no lease fee or lease fee equivalent due from SOCIETY to GRANTOR.

5. Insurance. SOCIETY certifies that it is self-insured for the purposes of this Agreement, as described in the attached Exhibit D.

6. Maintenance and Repairs.

(a) Upon installation of the Historical Marker as described in Exhibit C and throughout the duration of this Agreement, SOCIETY shall maintain the Historical Marker in a structurally sound condition with painted elements visually apparent, reasonable wear and tear excepted. MPS shall notify SOCIETY in writing if the Historical Marker fails to meet this standard of condition or is missing, after which SOCIETY agrees to notify MPS of its plans to remedy and repair or replace the Historical Marker in a reasonable timeframe. Notwithstanding the notification provisions set forth immediately above, MPS may make immediate repairs, alterations or improvements to the Historical Marker if the MPS Department of Facilities & Maintenance Services determines that the condition of the Historical Marker presents a potential threat to public safety.

(b) MPS shall maintain the grass or otherwise improved surface areas on the North Division property surrounding or adjacent to the Historical Marker in a manner generally consistent with the maintenance level on other MPS-operated property.

7. Public Access. At all times throughout the Term of this Agreement, GRANTOR acknowledges and accepts that the general public shall have the right to view and access the Historical Marker at no cost and with no

hour or day restrictions, unless the condition of the Historical Marker is determined by Grantor in its discretion to be a potential threat to public safety or is in the process of being repaired. This right of access to the general public includes, but is not limited to, allowing the general public to stand or sit on property for reading, viewing, and photography purposes.

8. Removal and Restoration. Upon termination of this Agreement, SOCIETY agrees to removal of any and all portions of the Historical Marker from North Division. SOCIETY also agrees to fill any hole or cavity created by the removal of the Historical Marker with soil and grass seed.

9. Assignment. Neither party shall have the right to assign this Agreement and its rights herein, in whole or in part.

10. Miscellaneous.

(a) Notices. Any notice provided for herein or given pursuant to this Agreement, shall be deemed in compliance herewith if in writing and sent by United States certified or registered mail, postage prepaid, return receipt requested, electronic mail (“e-mail”), or by receipted personal delivery to the parties as follows:

For CITY: City of Milwaukee
Department of City Development
809 North Broadway
Milwaukee, WI 53202

with a copy to: City of Milwaukee
City Attorney’s Office
841 N. Broadway
Milwaukee, WI 53202
Attn: Jordan M. Schettle
Email: jschet@milwaukee.gov

For MPS: Milwaukee Public Schools
Dept. Of Facilities & Maintenance Services
1124 N. 11th Street
Milwaukee, WI 53233
Attn: Sean Kane
Email: kanest@milwaukee.k12.wi.us

For SOCIETY: Wisconsin Historical Society
816 State St.
Madison, WI 53706
Attn: Angela Titus
Email: angela.titus@wisconsinhistory.org

Any party may change its address or facsimile number for the receipt of notice by written or faxed notice to the other.

(b) Headings. Paragraph and subparagraph headings herein are for convenience and reference only and in no way define or limit the scope or content of this Agreement or in any way affect its provisions.

(c) Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Wisconsin.

(d) Amendments or Further Easements to be in Writing. No agreement or amendment shall be effective to add to, change, modify, waive or discharge this Agreement in whole or in part, unless such agreement is in writing and signed by all parties bound hereby.

(e) Covenants Running With the Land. All of the easements, restrictions, covenants and agreements set forth in this Agreement are intended to be and shall be construed as covenants running with the land, binding upon, inuring to the benefit of, and enforceable by the parties hereto and their respective successors and assigns.

(f) Partial Invalidity. If any provisions, or portions thereof, of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application or such provision, or portion thereof, to any other persons or circumstances shall not be affected thereby and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(g) Severability. If any provision of this Agreement is held invalid, illegal or unenforceable by a court or agency of competent jurisdiction, the validity, legality and enforceability of the remaining provisions of this Agreement will not be affected or impaired in any way if the overall purpose of the Agreement is not rendered impossible and the original purpose, intent or consideration is not materially impaired.

(h) Public Records. The parties understand that GRANTOR and SOCIETY are bound by the Wisconsin Public Records Law, and as such, all of the terms of this Agreement are subject to and conditioned on the provisions of Wis. Stat. § 19.21, et seq. both parties acknowledge that they are obligated to assist the other party in retaining and producing records that are subject to Wisconsin Public Records Law, and that the failure to do so shall constitute a material breach of this Agreement. Except as otherwise authorized, those records shall be maintained in accordance with Wisconsin Statutory Law.

(i) Counterparts. This Agreement may be signed and executed in any number of counterparts, each of which shall constitute an original and all of which shall constitute one and the same Agreement.

(j) Wisconsin Historical Society Photography. SOCIETY shall have, and GRANTOR shall allow, SOCIETY to publish photographs, location information, and address of the marker to be published on the Wisconsin Historical Marker website and held in the program's permanent marker file. GRANTOR also will permit photographs, location information, and address of the marker to be published by individuals or organizations granted such usage by the Wisconsin Historical Markers program.

(k) Change in Ownership. GRANTOR shall provide notice in writing to SOCIETY if GRANTOR relinquishes or sells North Division.

[signature page follows]

IN WITNESS WHEREOF, the undersigned have signed this Agreement to take effect as of the Effective Date.

CITY OF MILWAUKEE

Cavalier Johnson, Mayor

James Owczarski, City Clerk

COUNTERSIGNED:

Aycha Sawa, Comptroller

MILWAUKEE BOARD OF SCHOOL SUPERVISORS

By: _____
Sean Kane, Senior Director

WISCONSIN HISTORICAL SOCIETY

By: _____
Angela Titus, Asst. Deputy Director & Chief Program Officer

EXHIBIT A

State Historical Marker Location

The Society is proposing to place one Wisconsin State Historical on Milwaukee Public School's North Division High School Property. This proposed marker will consist of a 36"x24" One-Post Marker.

The location of the marker was identified by the March on, Milwaukee Committee and WHS Outreach Staff are listed below:





Approximate proposed location of the St. Boniface Catholic Church Wisconsin State Historical Marker

EXHIBIT B

Description of Project

Society receives funding for Wisconsin's State Historical Markers Program

The Society is excited to announce a \$75,190 gift from the William J. Pomeroy Foundation that will support re-envisioning Wisconsin's State Historical Markers program. Over the next three years, Society staff will work alongside community organizations to expand the accessibility of the markers program so that it more fully reflects Wisconsin's rich diversity and history.

The Wisconsin State Historical Marker program supports the Society's mission to connect people to the past by collecting, preserving, and sharing stories in communities across all 72 counties. Since the 1950s, travelers have stopped along roadsides and at points of interest to discover the stories shared by the iconic brown markers with raised cream lettering and the official badger emblem. The historical marker program was authorized in state statute in 1943 and the first marker, which commemorated the 1871 Peshtigo Fire, went up in 1951. As of January 2023, there are 5600 official state historical markers in Wisconsin that carry approved historical inscriptions.

For the past seventy years, the State Historical Marker program has helped communities share their history. The re-envisioning process will build upon that work to increase efforts to reach all regions of the state, with a greater emphasis on developing historical marker applications from traditionally underserved communities. Of the 600 historical markers in Wisconsin, only eight describe events or people associated with Black history and only 10 are dedicated to topics closely related to women's history.

Support from the William G. Pomeroy Foundation will fund the creation and installation of an average of ten to twelve markers each year for a period of three years to address underrepresentation and gaps identified through an analysis of the program. The re-envisioned State Historical Marker Program will emphasize co-curation with community members to identify and create new markers and remove and replace markers that contain inaccurate or outdated language. While grant-funded activities may look different from year to year, activities will include listening sessions with community partners, site visits, historical marker application support, cost-share opportunities, and post-project debriefs and surveys.

About the William G. Pomeroy Foundation

The William G. Pomeroy Foundation is committed to supporting the celebration and preservation of community history and to raising awareness, supporting research, and improving the quality of care for patients and their families who are facing a blood cancer diagnosis.

Example of 36" x 24" Single Post Wisconsin State Historical Marker



One Post Marker Mounting

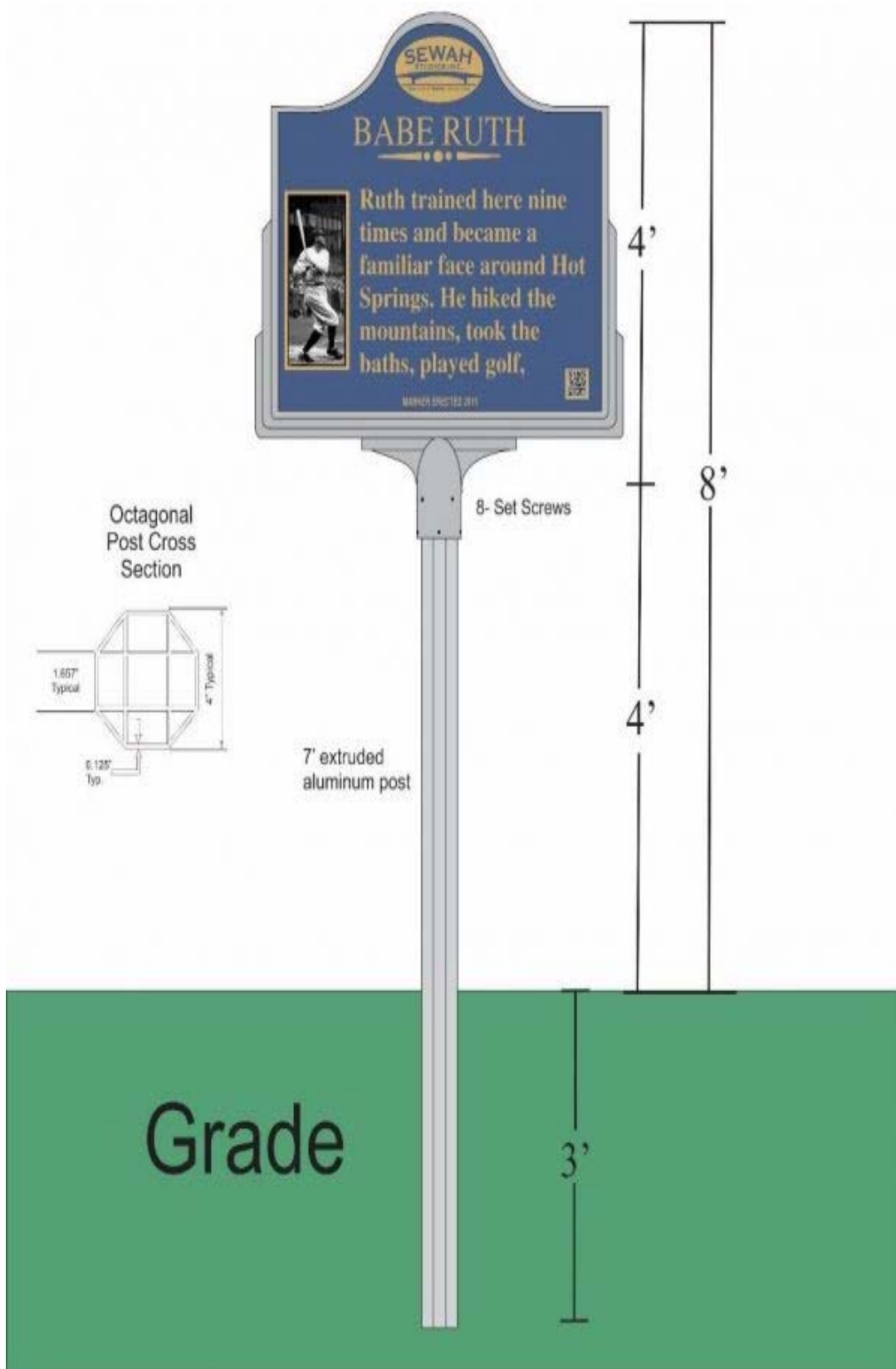


EXHIBIT C

INSTALLATION PROCEDURES FOR ONE-POST MARKERS

The single 7' post historical markers are manufactured to sit down on top of an octagonal extruded aluminum post that has been provided. The marker is secured to the post by eight (8) set screws that are provided with the marker.

The post is designed for 36" insertion in the ground. This leaves approximately 4' of post above ground.

Using a post hole digger, dig a hole 10"- 12" in diameter and 36" deep. Place the post in the hole with one of the flat faces on the post facing the direction that the marker is to face. Place the post in the hole then plumb and brace it.

Fill top of hole with concrete (sacrete works fine). You might cut the bottom out of a 5 gallon plastic bucket to use as a form. Slip the bucket down over the post so it is resting on the ground at the top of the hole. When you fill the top of the hole with concrete, bring the concrete up about 4 – 6" above the ground. When hardened, cut the plastic form away and you have a nice curb around the post which will deter mowers and trimmers from damaging the post.

Before trying to place the marker on the post, use an Allen wrench to back the set screws part way out of their holes. They have been screwed on for shipment and unless they are backed out part way the marker will not sit down on the post.

Place the marker on the post. Check it for alignment looking straight at the marker and then moving 90 degrees to view the edge of the marker. Secure the marker by tightening the set screws. Adjustments in alignment can be made using the set screws.

The marker can be made theft proof by drilling the flats off the set screws after the marker is secured to the post. Simply take a 1/4" drill bit and drill down into the center of the set-screws going only to the bottom of the hole this will prevent removal of the set screws. To remove the marker, the set screws will have to be drilled out.

Install takes less than an hour; allow 24 hours before removing the bracing.

EXHIBIT D



Tony Evers, Governor

Christian W. Overland, Director and CEO

816 State Street, Madison, WI 53706

Phone : (608) 284-6581

Internet : <https://www.wisconsinhistory.org>

August 2, 2023

Re: Certificate of Protection in Lieu of an Insurance Policy

To whom it may concern,

This is to certify that the Wisconsin Historical Society is protected by the State of Wisconsin, Self-Funded Liability and Property Programs. Section 20.505 (2) (k), Wisconsin Statutes, provides funds to pay liability and property claims. In addition, Section 895.46 provides that the state will pay judgments taken against state officers or employees for acts carried out while the officers or employees were acting within the scope of their employment.

Please accept this letter as evidence of protection for applicable liability claims brought against the state, its officers or employees and damage to property for which the state may be responsible. If you need any further assistance or clarification, please feel free to contact this office.

This certificate applies only to state officers, agents, and employees; it does not apply to independent contractors. To the extent provided by law, the State will pay for costs and damages caused by the negligent acts of any officer, employee or agent acting within the scope of his or her State of Wisconsin authority. The State of Wisconsin is self-funded for liability purposes. All Claims must be filed pursuant to applicable Wisconsin Statutes.

Sincerely,

Scott Mau

Scott Mau
Risk and Safety Director
Division of Administrative Services
(608) 284-6581