

PILOT AGREEMENT

OWNER: MILWAUKEE SCHOOL OF ENGINEERING,
A Wisconsin Tax Exempt Non-Stock Corporation

OWNER ADDRESS: 1025 N. Broadway
Milwaukee, WI 53202

PROPERTY ADDRESS: 310 E. Knapp Street
Milwaukee, WI 53202

PROPERTY PARCEL
IDENTIFICATION NO: 3921941130

This agreement for payments in lieu of taxes ("PILOT") is made by and between MILWAUKEE SCHOOL OF ENGINEERING ("MSOE"), and the City of Milwaukee, a Wisconsin municipal corporation ("CITY"), as of the ____ day of _____, ____ ("AGREEMENT").

WITNESSETH

WHEREAS, MSOE owns or intends to acquire real property which is legally described in Exhibit A attached hereto (the "PROPERTY"); and

WHEREAS, MSOE and CITY have each determined that it is in their best interests to enter into this AGREEMENT, with the AGREEMENT being subject to: (i) MSOE being the holder of legal title to the PROPERTY; and (ii) CITY determining that the PROPERTY is tax exempt under MSOE's use, occupancy and ownership; and

WHEREAS, CITY has determined that, under the facts and circumstances currently disclosed or known to the CITY and the law currently existing, and under MSOE'S intended ownership, occupancy and usage disclosed to the CITY, the PROPERTY qualifies for real and personal property tax exemption under §70.11(4), Wis. Stats.; and

WHEREAS, the PROPERTY is currently located in the Park East Redevelopment Plan area, which generally disfavors exempt usage. CITY acknowledges that MSOE's usage of the PROPERTY would further enhance the Park East area and create a more vibrant downtown; and

WHEREAS, MSOE recognizes that, notwithstanding property tax exempt status of the PROPERTY, valuable government services and benefits will be provided to it and the PROPERTY, which services and benefits directly or indirectly relate to the public health, safety and welfare, and which include, but are not limited to fire and police protection, paved streets and sidewalks, street lights and snow removal; and

WHEREAS, MSOE wishes to make PILOT payments to CITY in recognition of those services and benefits referred to herein; and

WHEREAS, MSOE and CITY acknowledge that payments in kind in lieu of cash PILOT payments will have a direct benefit to CITY by reducing costs to CITY and serving to benefit the CITY and MSOE by improved public amenities and infrastructure.

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. INCORPORATION OF WHEREAS CLAUSES.

The parties hereby acknowledge that the above clauses are part of this AGREEMENT.

2. CITY SERVICES.

A. Services Typically Covered by Property Tax

It is the parties' intent that CITY will provide public services to MSOE and the PROPERTY subject to the same terms and conditions as apply to properties owned by citizens or the public generally. Such services and benefits include, but are not limited by specific enumeration herein, those typically covered by the property tax such as fire and police protection,

and on public streets, snow removal, street and sidewalk maintenance, and street lighting. CITY shall not have breached its obligations hereunder if it is prevented from providing benefits and/or services to MSOE or the PROPERTY because of typical *force majeure* reasons (e.g. war, flood, fire, labor dispute, supply shortage, act of God, natural disaster, etc.), because of budgetary constraints, or because any person or entity shall assert a right which prevents delivery of such benefits and/or services.

B. Special Assessments, Special Charges and Fees.

Notwithstanding paragraph 2.A. or property tax exempt status of the PROPERTY, MSOE understands that it may be subject to special charges, and special taxes as defined in §74.01, Wis. Stats. (and as also referred to in Ch. 66, Wis. Stats.) and fees charged by CITY in the same manner that such special assessments, special charges, special taxes, and fees are charged for similar services and/or undertakings to commercial properties within CITY. This provision shall not affect CITY's powers, consistent with the law, to determine the services and benefits (other than those typically covered by the property tax) that shall be provided to the PROPERTY and/or similarly situated property pursuant to this paragraph 2.B. Nothing contained herein shall preclude MSOE from appealing, as provided by law, the imposition of such special assessments, special charges, special taxes or fees.

3. PILOT PAYMENTS.

A. Calculation of PILOT Payment.

In recognition of those services and benefits covered by paragraph 2.A. of this AGREEMENT, beginning in the first tax year for which the PROPERTY receives exemption and until termination of this AGREEMENT, MSOE agrees to pay CITY an annual PILOT for the PROPERTY for each tax year (or portion thereof) during which MSOE owns the PROPERTY.

The initial amount of the PILOT payment shall be \$100,000, with a minimum of 25% thereof made as a cash payment to CITY. In each subsequent year of this agreement, the amount of the PILOT payment shall be increased by 2.5%. If MSOE transfers or conveys the PROPERTY, the PILOT for that year will be prorated based upon the number of full months for which MSOE owned the PROPERTY. Notwithstanding the foregoing, this Agreement shall be binding on all tax-exempt successors and assigns of the Property.

B. Payments in Kind.

In lieu of cash payments, MSOE may make Payments in Kind, not to exceed 75% of the PILOT payment due each year, in the form of improvements on its campus and surrounding areas that serve to provide a direct benefit to CITY and its residents.

Public Improvements are those improvements in the public right of way such as curb bump-outs, crosswalk improvements, lighting, hardscaping, and other public infrastructure improvements. Any such proposed Public Improvements and the corresponding estimated value of Payments in Kind must have a clear and direct benefit to CITY and its residents and:

- a. Align with the CITY'S long-term vision for the area, and
- b. Include consultation with CITY'S City Engineer at the Department of Public Works prior to beginning any engineering work, and
- c. Be prior approved by the CITY in writing.

The City shall act reasonably in the approval of all Public Improvements which meet these criteria. The cost of such Public Improvements shall be credited dollar for dollar as a Payment in Kind, said credit not to exceed 75% of the PILOT payment due for that year.

Improvements not typically paid for by CITY (e.g., improvements located wholly on MSOE property) are Private Improvements and may also be credited as Payments in Kind, up to a

maximum of 50% of the total cost thereof, if their primary purpose is to benefit the public and agreement for the same is reached with the Commissioner of Public Works, said credit not to exceed 75% of the PILOT payment due for that year.

C. Payment Due Date.

PILOT payments shall be due and payable (i) in full on or before January 31 of the year following the tax year for which the PILOT payment was calculated, or (ii) if MSOE elects to pay in installments, according to the following schedule: One-tenth of the PILOT payment by the last day of each month for the first 10 months in the year following the tax year for which the PILOT payment was calculated. MSOE shall be deemed to have elected to pay the PILOT payment in installments by making the first full installment payment on or before January 31 in the respective year in which the PILOT payment is due. If a payment is made by a Payment in Kind, MSOE shall provide an accounting of the costs incurred for the goods or services it provided to CITY on or before January 31 of the following year in which it incurred such costs.

For Public Improvements, in the event that the annual credit for a Payment in Kind is less than the total City-approved cost of the Public Improvements, the excess amount shall be credited dollar-for-dollar to MSOE in the subsequent years until exhausted. For Private Improvements, the excess amount shall be credited at 50% of the cost thereof in the subsequent years until exhausted.

All requests for credit for Payments in Kind must be submitted to CITY by October 1st of each year to be credited for that year. Any requests made after that date will be considered for the following year. All requests must include copies of City approvals.

D. Use of PILOT Payment.

CITY may use and expend PILOT payments hereunder in such manner and for such purposes as CITY desires.

4. EXEMPT STATUS.

CITY has determined that, if MSOE acquires a PROPERTY and currently uses or will use it for the purposes described in its preliminary application for exemption, filed with CITY prior to the execution of this AGREEMENT, the PROPERTY does or will qualify for real and personal property tax exemption under Wisconsin law. MSOE understands and acknowledges that: (i) the earliest date that the PROPERTY can qualify for tax exemption is January 1 of the year in which the request for exemption is approved; (ii) under the preamble to §70.11, Wis. Stats., MSOE must, as a condition to securing an exemption, timely file an exemption application with CITY's Assessor; and (iii) CITY reserves all rights under Wisconsin law to grant or deny MSOE's application for exemption. In the event that CITY grants MSOE's application for exemption, CITY Assessor's Office may review and reconsider the PROPERTY's exempt status under §70.11, Wis. Stats., from time to time with the respective January 1 dates being the reference dates for those exemption reviews.

If for any reason, CITY determines that all or any portion of the PROPERTY does not qualify for exemption from property tax: (i) CITY shall provide written notice of such determination to MSOE no later than October 31 in the year preceding the January 1 date upon which CITY intends to treat the PROPERTY as fully or partially taxable; (ii) a reduced PILOT payment commensurate with the reduced exemption shall be due under this AGREEMENT with respect to any year for which exemption, in full or in part, does not apply (e.g., if 20% of the PROPERTY is changed from exempt to taxable, MSOE shall be entitled to a 20% reduction in its PILOT payment); (iii) if a PILOT payment has been paid for such tax years, CITY shall promptly

refund the portion of such PILOT payment or, at the option of CITY, offset such PILOT payment against any property taxes due on the PROPERTY, in which case CITY will treat such offset as having been made under protest; and (iv) the PROPERTY, or any portion thereof which does not qualify for exemption, shall be placed on the property tax rolls for any subsequent years for which an exemption has been determined not to apply. If MSOE disagrees with CITY's determination that the PROPERTY, or any part thereof, no longer qualifies for tax exemption, MSOE may challenge such determination by following any procedure provided under Wisconsin law.

5. TERM.

A. Termination of AGREEMENT.

This AGREEMENT shall remain in effect for a period of ten years, so long as the PROPERTY is fully or partially tax exempt during that period. The parties may mutually agree to extend the term of the agreement for additional five-year terms by written consent. Notwithstanding the foregoing, the AGREEMENT shall terminate on the soonest of any of the following described dates:

(i) The day before the respective January 1 of the year for which the CITY determines that no portion of the PROPERTY qualifies for property tax exemption.

(ii) The effective date of an enactment by the State of Wisconsin of a mandatory payment for municipal services by owners of property exempt from the general property tax or similarly situated owners of exempt property for the type of municipal services covered by this AGREEMENT;

(iii) The effective date of a repeal by the State of Wisconsin of the property tax exemption for the PROPERTY.

B. Payments Due and Payable at Termination Survive Termination.

Notwithstanding any termination of this AGREEMENT, MSOE shall continue to be liable to the CITY for all PILOT payments due and payable under this AGREEMENT calculated as of the effective date of termination hereof; provided, however that, in the event of a non-payment default pursuant to Section 7 hereof, any interest shall continue to accrue until such outstanding PILOT amount plus interest is paid in full.

6. DOCUMENTS, INSPECTION, COOPERATION.

MSOE agrees to cooperate with CITY (including, but not limited to, the City Assessor's Office, the City Attorney's Office, and the City Comptroller's Office) with respect to this AGREEMENT by allowing inspections of the PROPERTY upon reasonable written request by CITY and such documents that CITY and MSOE may reasonably agree are relevant to exemption and valuation determinations. Notwithstanding the foregoing, CITY reserves all its rights in law and equity to inspect and to obtain disclosure, documents, inspection, and information.

7. DEFAULT.

In the event MSOE fails to timely make a cash payment or Payment in Kind, the ability to make Payments in Kind shall be immediately suspended and any outstanding PILOT amount becomes immediately due and owing and shall, at the time of default, begin to accrue interest at a rate equal to the Prime Rate.

8. AMENDMENT.

This AGREEMENT may be modified and amended from time to time as CITY and MSOE shall mutually agree in writing, executed by both parties.

9. GOVERNING LAW.

The laws of the State of Wisconsin and ordinances and regulations of the City of Milwaukee shall be the governing law with respect to this AGREEMENT.

10. AUTHORITY.

MSOE represents and warrants to CITY that its representative executing this AGREEMENT has been duly authorized to so execute and to cause MSOE to enter this AGREEMENT. CITY represents to MSOE that CITY's Common Council has authorized CITY to enter this AGREEMENT pursuant to Section 307-7, Milwaukee Code of Ordinances.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed by duly authorized representatives as of the date and year first written above.

CITY OF MILWAUKEE

MILWAULKEE SCHOOL OF ENGINEERING

BY _____
Cavalier Johnson, Mayor

BY _____
John Y. Walz, PhD, President

Attest: _____
JAMES R. OWCZARSKI,
City Clerk

COUNTERSIGNED:

BY: _____
AYCHA SAWA
City Comptroller

CITY ATTORNEY'S OFFICE
Approved as to form, execution and content
This ____ day of _____, 2023.

Assistant City Attorney